

Uttar Pradesh Shasan

Sansthaगत Vitta, Kar Evam Nibandhan Anubhag-2

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 Government notification no.Ka.Ni.-2- **594** /XI-9(295)/07-U.P.Ordi.-37-2007-VAT Rules-08-Order-(**6**)-2008 dated February **25** ,2008 for general information:

Notification

No.Ka.Ni.-2- **594** /XI-9(295)/07-U.P.Ordi.-37-2007-U.P. VAT-
Rules-08-Order-(**6**)-2008
Lucknow: Dated: February **25** ,2008:

Whereas, the State Government is satisfied that it is necessary so to do in the public interest;

Now, therefore, in exercise of the powers under section 79 read with section 74 of the Uttar Pradesh Value Added Tax Ordinance, 2007 (U.P. Ordinance no. 37 of 2007) read with section 21 of the Uttar Pradesh General Clauses Act, 1904 (U.P. Act no.1 of 1904), the Governor, is pleased to make the following rules with a view to amending the Uttar Pradesh Value Added Tax Rules, 2008.

The Governor, being satisfied that circumstances exist which render it necessary for him to take immediate action, is further pleased under the proviso to sub-section (3) of section 79 of the said Ordinance to make the aforesaid rules without previous publication:-

The Uttar Pradesh Value Added Tax (First Amendment) Rules, 2008

Short title and commencement

1. (1)- These rules may be called The Uttar Pradesh Value Added Tax (First Amendment) Rules, 2008.
- (2)- They shall be deemed to have come into force on January 1, 2008.

Amendment of rule-2

2. In the Uttar Pradesh Value Added Tax Rules, 2008, hereinafter referred to as the said rules, in rule 2 in sub-rule(1),-
 - (a) in clause (b) for the existing sub-clause (i) set out in column-I below, the sub-clause as set out in Column-II shall be substituted, namely:-

Column-I	Column-II
existing sub rules	sub rules as hereby substituted
(i) - A Joint Commissioner (assessment) appointed and posted by the State Government in a zone to perform the functions and exercise the powers of assessing authority;	(i) - A Joint Commissioner (assessment) appointed and posted by the State Government in a corporate circle to perform the functions and exercise the powers of assessing authority;

- (b) in clause (m) for the existing sub clause(iv) set out in column I below, the sub clause as set out in column II shall be substituted, namely:

Column-I	Column-II
existing sub rules	sub rules as hereby substituted
(iv)- a Joint Commissioner (assessment) posted in a zone empowered to exercise the power of an assessing authority.	(iv)- a Joint Commissioner (assessment) posted in a corporate circle empowered to exercise the power of an assessing authority.

Amendment of rule-3

3. In rule 3 of the said rules, for sub rule (3) set out in column-I below, the sub rule as set out in column-II shall be substituted, namely:-

Column-I	Column-II
existing sub rules	sub rules as hereby substituted
(3) The Commissioner shall determine the respective jurisdiction of an Additional Commissioner or a Joint Commissioner (Special Investigation Branch) or Joint Commissioner (Enforcement) of a Zone, Joint Commissioner(Executive) of a region, Deputy Commissioner of a range, Deputy Commissioner, Assistant Commissioner or Commercial Taxes Officer where there are more than one-	(3) The Commissioner shall determine the respective jurisdiction of an Additional Commissioner or a Joint Commissioner (Special Investigation Branch) or Joint Commissioner (Enforcement) of a Zone, Joint Commissioner(Executive) of a region, Joint Commissioner (Assessment) in a corporate circle , Deputy Commissioner of a range, Deputy Commissioner, Assistant Commissioner or Commercial Taxes Officer where there are more than one-
(a) Additional Commissioner or a Joint Commissioner (Special Investigation Branch) or Joint Commissioner (Enforcement) in a zone; Joint Commissioner (Appeals), Joint Commissioner (Executive) in a region; or	(a) Additional Commissioner or a Joint Commissioner (Special Investigation Branch) or Joint Commissioner (Enforcement) in a zone; Joint Commissioner (Appeals), Joint Commissioner (Executive) in a region; Joint Commissioner (Assessment) in a corporate circle ; or
(b) Deputy Commissioner (Check Post) Deputy Commissioner (Enforcement) or Deputy Commissioner (Special Investigation Branch) in a range; or	(b) Deputy Commissioner (Check Post) Deputy Commissioner (Enforcement) or Deputy Commissioner (Special Investigation Branch) in a range; or
(c) Deputy Commissioner (Assessment), Assistant	(c) Deputy Commissioner (Assessment), Assistant

Amendment of rule-5

Commissioner (Assessment) or Commercial Taxes Officer in a circle, Explanation: In determining the respective jurisdiction of officers under sub-rule (3), it shall be open to the Commissioner to direct that an officer will exercise jurisdiction over such dealers or class of dealers as may be specified by him, and unless directed otherwise, the successor in office shall exercise the same jurisdiction and may proceed with the cases from the stage at which they were left by such officer.	Commissioner (Assessment) or Commercial Taxes Officer in a circle, Explanation: In determining the respective jurisdiction of officers under sub-rule (3), it shall be open to the Commissioner to direct that an officer will exercise jurisdiction over such dealers or class of dealers as may be specified by him, and unless directed otherwise, the successor in office shall exercise the same jurisdiction and may proceed with the cases from the stage at which they were left by such officer.
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4. In the said rules in rule 5,-

(a) for existing sub rule (3) set out in column-I below, the sub rule as set out in column II shall be substituted, namely:-

Column-I	Column-II
existing sub rules	sub rules as hereby substituted
(3) Subject to the provisions of rule 6, Deputy Commissioner, Assistant Commissioner or a Commercial Taxes Officer posted in a circle, shall be the assessing authority in respect of the dealers carrying on business within the limits of his jurisdiction and where Deputy Commissioner, Assistant Commissioner or a Commercial Taxes Officer shall have concurrent jurisdiction over all dealers but the Commissioner may specify the dealers or class of dealers or cases or class of cases in respect of which each such officer shall exercise the powers of an assessing authority.	(3) Subject to the provisions of rule 6, Joint Commissioner (Assessment) posted in a corporate circle , Deputy Commissioner, Assistant Commissioner or a Commercial Taxes Officer posted in a circle, shall be the assessing authority in respect of the dealers carrying on business within the limits of his jurisdiction and where Joint Commissioner (Assessment) posted in a corporate circle , Deputy Commissioner, Assistant Commissioner or a Commercial Taxes Officer shall have concurrent jurisdiction over all dealers but the Commissioner may specify the dealers or class of dealers or cases or class of cases in respect of which each such officer shall exercise the powers of an assessing authority.

(b) for sub rule (5) set out in column-I below, the sub rule as set out in column II shall be substituted, namely:-

Column-I	Column-II
existing sub rules	sub rules as hereby substituted
(5) Officers under column (1) shall be empowered to exercise all or any of the powers under sections 45 and 48 in the jurisdiction mentioned against each of them in column (2) of the table below: -	(5) Officers under column (1) shall be empowered to exercise all or any of the powers under sections 45 and 48 in the jurisdiction mentioned against each of them in column (2) of the table below: -
Table	Table
Officers' designation	Officers' designation
Jurisdiction	Jurisdiction
(1)	(1)
(2)	(2)
Commissioner and Special commissioner	Commissioner and Special commissioner
Whole of the State	Whole of the State
Additional Commissioner, Joint Commissioner, Deputy Commissioner, Assistant Commissioner and	Additional Commissioner, Joint Commissioner, Deputy Commissioner, Assistant
Whole of the State	Whole of the State

Commercial Taxes Officer posted in the office of the Commissioner		Commissioner and Commercial Taxes Officer posted in the office of the Commissioner	
Joint Commissioner (Enforcement), Deputy Commissioner (Enforcement), Deputy Commissioner (check-post), all Deputy Commissioners, Assistant Commissioners, and Commercial Taxes Officers posted in Special Investigation Branch, Mobile Squad or at a check-post or a Barrier	Whole of the State	Joint Commissioner (Enforcement), Deputy Commissioner (Enforcement), Deputy Commissioner (check-post), all Deputy Commissioners, Assistant Commissioners, and Commercial Taxes Officers posted in Special Investigation Branch, Mobile Squad or at a check-post or a Barrier	Whole of the State
Joint Commissioner (Executive)	Region	Joint Commissioner (Executive)	Region
		Joint Commissioner (Assessment) posted in a corporate circle	Corporate circle
Deputy Commissioner, Assistant Commissioner and Commercial Taxes Officer posted in a circle	Circle	Deputy Commissioner, Assistant Commissioner and Commercial Taxes Officer posted in a circle	Circle
All other Officers except Chairman and Members of the Settlement Commission, President and Members of the Tribunal, Additional Commissioner (Appeals), Joint Commissioner (Appeals) and officers of the Settlement Commission and the Tribunal	As the State Government may, specify by notification in the Gazette.	All other Officers except Chairman and Members of the Settlement Commission, President and Members of the Tribunal, Additional Commissioner (Appeals), Joint Commissioner (Appeals) and officers of the Settlement Commission and the Tribunal	As the State Government may, specify by notification in the Gazette.

Amendment of rule-19 5. In the said rules in rule 19 for sub-rule(1) set out in column I below, the sub rule set out in column II shall be substituted, namely:-

Column-I	Column-II
existing sub rules	sub rules as hereby substituted
<p>(1) Amount of input tax, in respect of any goods referred to in clause (c) of sub-section (1) of section 13, shall be computed using the equation: Amount of input tax = (Deemed purchase price of purchase of goods × deemed rate of tax) ÷ 100 Where-</p> <p>(a) "Deemed purchase price of goods" shall be-</p> <p>(i) the sale price, where the registered selling dealer has</p>	<p>(1) Amount of input tax, in respect of any goods referred to in clause (c) of sub-section (1) of section 13, shall be computed using the equation: Amount of input tax = (Deemed purchase price of purchase of goods × deemed rate of tax) ÷ 100 Where-</p> <p>(a) "Deemed purchase price of goods" shall be-</p> <p>(i) the sale price, where the registered selling dealer has</p>

<p>charged any amount as tax, separately on the sale bill or cash memo issued to the dealer, under the Uttar Pradesh Trade Tax Act, 1948;</p> <p>(ii) the purchase price on which the dealer has deposited tax, himself on purchase of such goods, under the Uttar Pradesh Trade Tax Act, 1948;</p> <p>(iii) the purchase price where sale of goods, under the Uttar Pradesh Trade Tax Act, 1948, had been liable to tax at the point of sale to consumer and the dealer had purchased such goods without payment of tax after furnishing declaration in Form III-A, prescribed under the Uttar Pradesh Trade Tax Rules, 1948;</p> <p>(iv) the purchase price where sale or purchase of such goods had been exempt from levy of tax under section 4 of the Uttar Pradesh Trade Tax Act, 1948;</p> <p>(v) the purchase price where goods had been purchased without payment of tax from units enjoying exemption from payment of tax under any of the provision of the Uttar Pradesh Trade Tax Act, 1948;</p> <p>(vi) seventy five percent of the purchase price of goods where-</p> <p>(a) the dealer had purchased such goods from a registered dealer from within the State; and</p> <p>(b) selling dealer has not charged separately any amount as trade tax under the Uttar Pradesh Trade Tax Act, 1948.</p>	<p>charged any amount as tax, separately on the sale bill or cash memo issued to the dealer, under the Uttar Pradesh Trade Tax Act, 1948;</p> <p>(ii) the purchase price on which the dealer has deposited tax, himself on purchase of such goods, under the Uttar Pradesh Trade Tax Act, 1948;</p> <p>(iii) the purchase price where sale of goods, under the Uttar Pradesh Trade Tax Act, 1948, had been liable to tax at the point of sale to consumer and the dealer had purchased such goods without payment of tax after furnishing declaration in Form III-A, prescribed under the Uttar Pradesh Trade Tax Rules, 1948;</p> <p>(iv) the purchase price where sale or purchase of such goods had been exempt from levy of tax under section 4 of the Uttar Pradesh Trade Tax Act, 1948;</p> <p>(v) the purchase price where goods had been purchased without payment of tax from units enjoying exemption from payment of tax under any of the provision of the Uttar Pradesh Trade Tax Act, 1948;</p> <p>(vi) seventy five percent of the purchase price of goods where-</p> <p>(a) the dealer had purchased such goods from a registered dealer from within the State; and</p> <p>(b) selling dealer has not charged separately any amount as trade tax under the Uttar Pradesh Trade Tax Act, 1948.</p> <p>(vii) 55 percent of the closing stock of the trading account prepared for the period ending on 31 December 2007 where the dealer is unable to submit item wise inventory of the stock in the form prescribed by the Commissioner or it is difficult to co-relate the items with bill/invoice/cash memo on account of large number or variety of goods (purchased from registered dealer inside the State within six month preceding the commencement of the Ordinance) relating to trades of hardware, mill-stores, medicines, general merchandise, stationery, electrical goods, readymade garments, spices and condiments.</p>
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<p>(b) "Deemed rate of tax" shall be:</p> <p>(i) rate of tax at which tax had been –</p> <p>(a) charged and shown separately on the sale invoice issued by the selling dealer; or the rate of tax provided under section 4, which ever is less or ;</p> <p>(b) paid by the dealer on purchase of goods under the provisions of the Uttar Pradesh Trade Tax Act, 1948 ; or the rate of tax provided under section 4, whichever is less,</p> <p>(ii) rate of tax prescribed under section 3-A or section 3-D of the Uttar Pradesh Trade Tax Act, 1948 where goods have been purchased from a registered dealer and sale bill or cash memo does not show separately amount of trade tax or the rate of tax provided under section 4 whichever is less.</p> <p>(iii) nil in all other cases.</p> <p>Explanation: Deemed rate under this rule shall not include one percent Development Tax paid or payable under section 3H of the Uttar Pradesh Trade Tax Act 1948</p>	<p>(b) "Deemed rate of tax" shall be:</p> <p>(i) rate of tax at which tax had been –</p> <p>(a) charged and shown separately on the sale invoice issued by the selling dealer; or the rate of tax provided under section 4, which ever is less or ;</p> <p>(b) paid by the dealer on purchase of goods under the provisions of the Uttar Pradesh Trade Tax Act, 1948 ; or the rate of tax provided under section 4, whichever is less,</p> <p>(ii) rate of tax prescribed under section 3-A or section 3-D of the erstwhile Act or the rate of tax provided under section 4 of the Ordinance whichever is less, where, goods have been purchased from a registered dealer and sale bill or cash memo does not show separately amount of trade tax or where the dealer is unable to submit item wise inventory of the stock in the form prescribed by the Commissioner or it is difficult to co-relate the items with bill/invoice/cash memo on account of large number or variety of goods (purchased from registered dealer inside the State within six month preceding the commencement of the Ordinance) relating to trades of hardware, mill-stores, medicines, general merchandise, stationery, electrical goods, readymade garments, spices and condiments.</p> <p>(iii) nil in all other cases.</p> <p>Explanation: Deemed rate under this rule shall not include one percent Development Tax paid or payable under section 3H of the Uttar Pradesh Trade Tax Act 1948</p>
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Amendment of rule-20

6. In the said rules in rule 20,
- (a) for sub rule(1) set out in column I below, the sub rule as set out in column II shall be substituted, namely:-

Column-I	Column-II
existing sub rules	sub rules as hereby substituted
<p>(1) Every dealer shall submit, to his assessing authority a copy of inventories prepared by him under sub-rules (1) and (2) of rule 18 in respect of goods held by him-</p> <p>(a) in opening stock on the date of the commencement of the Ordinance, where the dealer is liable for payment of tax from such date,</p>	<p>(1) Every dealer shall submit, to his assessing authority a copy of inventories prepared by him under sub-rules (1) and (2) of rule 18 in respect of goods held by him-</p> <p>(a) in opening stock on the date of the commencement of the Ordinance, where the dealer is liable for payment of tax from such</p>

<p>within thirty days from the date of the commencement of the Ordinance.</p> <p>(b) in opening stock on the date from which dealer is liable for payment of tax, where such date falls after the date of the commencement of the Ordinance, along with application for registration and;</p> <p>(c) in closing stock on the last day of each assessment year along with annual return of turnover and tax</p>	<p>date, within sixty days from the date of the commencement of the Ordinance.</p> <p>(b) in opening stock on the date from which dealer is liable for payment of tax, where such date falls after the date of the commencement of the Ordinance, along with application for registration and;</p> <p>(c) in closing stock on the last day of each assessment year along with annual return of turnover and tax</p>
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(b) for sub rule(4) set out in column I below, the sub rule as set out in column II shall be substituted, namely:

Column-I	Column-II
existing sub rules	sub rules as hereby substituted
<p>(4) In respect of clauses (a) and (b) of sub-rule (1),</p> <p>(a) If the assessing authority is satisfied that information furnished is correct and complete, he shall, before expiry of four months, pass an order computing the input tax in accordance with the provisions of the Ordinance and rules. A copy of the order so passed shall be served to the dealer.</p> <p>(b) If the assessing authority, on the basis material available on the record, is satisfied that information furnished is incorrect and incomplete or not worthy of credence, he shall, after giving a reasonable opportunity of being heard and making such enquiry as he deems fit, pass an order computing the input tax in accordance with the provisions of the Ordinance and rules made thereunder. A copy of the order so passed shall be served to the dealer.</p> <p>(c) If the assessing authority fails to pass the appropriate order under sub clause (a) or sub clause (b) within prescribed period, the Joint Commissioner (executive) if he is satisfied that the sufficient reasons exist, may permit the assessing authority in general or in specific case to pass the order beyond the period of four month but before the last date prescribed for filing the return of the tax period in which claim of first installment of input tax credit is due.</p>	<p>(4) In respect of clauses (a) and (b) of sub-rule (1),</p> <p>(a) If the assessing authority is satisfied that information furnished is correct and complete, he shall, before expiry of four months from the last date prescribed for filing the inventory as provided under clause(a) of sub rule(1), pass an order computing the input tax in accordance with the provisions of the Ordinance and rules. A copy of the order so passed shall be served to the dealer.</p> <p>(b) If the assessing authority, on the basis material available on the record, is satisfied that information furnished is incorrect and incomplete or not worthy of credence, he shall, after giving a reasonable opportunity of being heard and making such enquiry as he deems fit, pass an order computing the input tax in accordance with the provisions of the Ordinance and rules made thereunder. A copy of the order so passed shall be served to the dealer.</p> <p>(c) If the assessing authority fails to pass the appropriate order under sub clause (a) or sub clause(b) within prescribed period, the Joint Commissioner (executive) if he is satisfied that the sufficient reasons exist, may permit the assessing authority in general or in specific case to pass the order beyond the period of four month but before the last date prescribed for filing the return of the tax period in which claim of first installment of input tax credit is due.</p>

**Amendment of
rule-24**

7. In the said rules for rule 24 set out in column-I below, the rule as set out in column II shall be substituted, namely:

Column-I	Column-II
existing sub rules	sub rules as hereby substituted
<p>Credit of amount of input tax, in respect of goods in respect of which dealer is entitled for claiming input tax credit, shall be claimed as under: -</p> <p>(a) In respect of capital goods required for use in manufacture, in three successive annual installments of equal amount and shall be claimed in the tax return of the first tax period of the assessment year. The first such installment shall be claimed in the tax return of first tax period of the assessment year succeeding the assessment year in which capital goods liable to input tax credit, has been purchased and subsequent installment shall be claimed in first tax period of subsequent assessment year;</p> <p>Provided where manufactured goods are exempt under the Ordinance and such manufactured goods are disposed of in different modes, only partial amount of such annual installments shall be claimed and be allowed to the extent it is related to or proportionate to sale in the course of export out of the territory of India.</p> <p>(b) in respect of goods purchased within six months before the date of the commencement of the Ordinance and held in opening stock on the date of such commencement, in six successive monthly or quarterly installments, as the case may be, of equal amount and first such installment shall be claimed in the tax return of the tax period which starts after expiry of period of four months commencing on the date of the commencement of the Ordinance and subsequent installment shall be claimed in successive return of tax period, monthly or quarterly, as the case may be;</p> <p>(c) in a case in which a dealer becomes liable to pay tax on any date after the date of the commencement of the Ordinance, in respect of goods held in opening stock on the date on which a dealer becomes liable to</p>	<p>Credit of amount of input tax, in respect of goods in respect of which dealer is entitled for claiming input tax credit, shall be claimed as under: -</p> <p>(a) In respect of capital goods required for use in manufacture, in three successive annual installments of equal amount and shall be claimed in the tax return of the first tax period of the assessment year. The first such installment shall be claimed in the tax return of first tax period of the assessment year succeeding the assessment year in which capital goods liable to input tax credit, has been purchased and subsequent installment shall be claimed in first tax period of subsequent assessment year;</p> <p>Provided where manufactured goods are exempt under the Ordinance and such manufactured goods are disposed of in different modes, only partial amount of such annual installments shall be claimed and be allowed to the extent it is related to or proportionate to sale in the course of export out of the territory of India.</p> <p>(b) in respect of goods purchased within six months before the date of the commencement of the Ordinance and held in opening stock on the date of such commencement, in six successive monthly or quarterly installments, as the case may be, of equal amount and first such installment shall be claimed in the tax return of the tax period which starts after expiry of period of five months commencing on the date of the commencement of the Ordinance and subsequent installment shall be claimed in successive return of tax period, monthly or quarterly, as the case may be;</p> <p>(c) in a case in which a dealer becomes liable to pay tax on any date after the date of the commencement of the Ordinance, in respect of goods held in opening stock on the date on which a dealer becomes liable to</p>

<p>pay tax, in six successive monthly or quarterly installments, as the case may be, of equal amount and first such installment shall be claimed in the tax return of the tax period which starts after expiry of period of four months commencing from the month in which registration certificate is issued to such dealer and subsequent installment shall be claimed in successive return of tax period, monthly or quarterly, as the case may be;</p> <p>(d) in respect of goods held in closing stock on the last day of period of composition under section 6, in the tax return of the period in which the day following the last day of the period under composition falls; and</p> <p>(e) in all other cases in the tax return of the tax period in which goods have been purchased.</p> <p>Explanation:</p> <p>(1) For the purposes of clauses (b), (c) and (d) of this rule goods held in stock includes goods, used in manufacture or processing of finished goods or semi-finished goods in the process of manufacture and held in stock</p> <p>(2) For the purposes of clauses (b) and (c) of this rule if fourth month expires in a tax period as defined under clause (b) of sub-rule (1) of rule 45 the first installment shall be claimed in the tax return of the tax period in which fourth month expires.</p>	<p>pay tax, in six successive monthly or quarterly installments, as the case may be, of equal amount and first such installment shall be claimed in the tax return of the tax period which starts after expiry of period of four months commencing from the month in which registration certificate is issued to such dealer and subsequent installment shall be claimed in successive return of tax period, monthly or quarterly, as the case may be;</p> <p>(d) in respect of goods held in closing stock on the last day of period of composition under section 6, in the tax return of the period in which the day following the last day of the period under composition falls; and</p> <p>(e) in all other cases in the tax return of the tax period in which goods have been purchased.</p> <p>Explanation:</p> <p>(1) For the purposes of clauses (b), (c) and (d) of this rule goods held in stock includes goods, used in manufacture or processing of finished goods or semi-finished goods in the process of manufacture and held in stock</p> <p>(2) For the purposes of clauses (b) and (c) of this rule if fifth month expires in a tax period as defined under clause (b) of sub-rule (1) of rule 45 the first installment shall be claimed in the tax return of the tax period in which fifth month expires.</p>
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by orders,

[K.Chandramouli]
Pramukh Sachiv.