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SUPPLEMENT OF THE U.P. GAZETTE EXTRAORDINARY, DATED
JULY 28, 2014 POSITIVELY

UTTAR PRADESH SARKAR
VIDHAYI ANUBHAG- 1
No.1014 (2) /79-V-1-14-2(ka)10/2014
Lucknow: Dated: July 28, 2014

NOTIFICATION

Miscellaneous

In pursuance of the provisions of clause (3) of article 348 of the Constitution, the Governor is pleased to order the publication of the following English translation of the Uttar Pradesh Mulya Samvardhit Kar (Sanshodhan) (Dwitiya) Adhyadesh, 2014 (Uttar Pradesh Adhyadesh Sankhya 6 of 2014) promulgated by the Governor:-

(Here print the annexed)

By order,

(S.B. Singh)
Pramukh Sachiv.

N0.1014 (3)/79-V-1- 14-2(Ka)10/2014 of date

Copy forwarded for information and necessary action :-

1. Mukhya Mantri, Uttar Pradesh.
2. Mukhya Sachiv, Uttar Pradesh Shasan.
- ✓ 3. Pramukh Sachiv, Kar Evam Nibabdhhan Anubhag-2 , Uttar Pradesh Shasan.
4. Pramukh Sachiv, Vidhan Sabha, Uttar Pradesh.
5. Pramukh Sachiv, Vidhan Parishad, Uttar Pradesh.
6. Soochna Nideshak, Uttar Pradesh.
7. Pramukh Sachiv, Rajyapal , Uttar Pradesh.
8. Vidhi Paramarshi Pustakalaya, Uttar Pradesh Sachivalaya.
9. Sansadiya Karya Anubhag-1
10. Bhasha Anubhag-5, Uttar Pradesh Sachivalaya.
11. Vidhayi Anubhag-2, Uttar Pradesh Sachivalaya

By order,

(Badam Singh)

Vishesh Sachiv Evam
Upper Vidhi Paramarshi.

THE UTTAR PRADESH VALUE ADDED TAX (AMENDMENT) (SECOND) ORDINANCE, 2014
(U.P. ORDINANCE NO. 6 OF 2014)

(Promulgated by the Governor in the Sixty-fifth Year of the Republic of India)

AN
ORDINANCE

further to amend the Uttar Pradesh Value Added Tax Act , 2008.

WHEREAS the State Legislature is not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action ;

NOW , THEREFORE , in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor is pleased to promulgate the following Ordinance :-

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|---|---|---|
| Short title and commencement | 1 | (1) This Ordinance may be called the Uttar Pradesh Value Added Tax (Amendment) (Second) Ordinance, 2014.

(2) Sub-clause (i) of clause (c) of section 2, section 7 and section 10 shall be deemed to have come into force on January 01, 2008 and the remaining provisions shall be deemed to have come into force on May 26, 2014. |
| Amendment of section 2 of U.P. Act no.5 of 2008 | 2 | In section 2 of the Uttar Pradesh Value Added Tax Act, 2008, hereinafter referred to as the principal Act,-

(a) in clause (e) after sub-clause (iii) the following sub-clause shall be inserted, namely:-

“(iv) any transaction, even after the closure of business, if it relates to sale of goods acquired during the period in which business was carried out.”

(b) in clause (h) for sub-clause (ix) the following sub-clause shall be substituted, namely:-
“(ix) a railway container contractor, an air cargo operator, a courier service provider, who fails to disclose the name and complete address of consigner or consignee or if discloses such name or address of consigner or consignee is found bogus, forged or not verifiable; or the owner or person in-charge of a vehicle who obtained authorization for transit of goods from the officer in charge of entry check post but failed to deliver the same to the officer in -charge of the exit check post or fails to carry such documents as provided under section 52 and follow such procedure as prescribed;”

(c) in clause (ag),-
(i) in sub-clause (i) for the words "turnover of sales" the words "turnover of sales or purchases or both, as the case may be" shall be substituted, |

(ii) after sub-clause(iii) the following sub-clause shall be inserted, namely:-

" (iv) the amount of cess leviable under section 3-B."

Amendment of section 3 3 In section 3 of the principal Act, in sub-section (3),-

(a) in the table in serial no.8 in column (2) for sub clause (i), the following sub-clause shall be substituted, namely:-

"(i) A railway container contractor, an air cargo operator, a courier service provider, who fails to disclose the name and complete address of consigner or consignee or if discloses such name or address of consigner or consignee is found bogus, forged or not verifiable; or the owner or person in-charge of a vehicle who obtained authorization for transit of goods from the officer in-charge of entry check post but failed to deliver the same to the officer in-charge of the exit check post or fails to carry such documents as provided under section 52 and follow such procedure as prescribed."

(b) in Explanation (I) for the word and figure "sub- section (5)" the word and figure "sub-section (4)" shall be substituted.

Amendment of section 3-A 4 In section 3-A of the principal Act,-

(a) in sub-section (2) clause (b) shall be omitted.
(b) sub-section (5) shall be omitted.

Insertion of new section 3-B 5 After section 3-A the following section shall be inserted, namely:-

" 3-B (1) Notwithstanding anything to the contrary
Levy contained in any other provision of this Act but subject
of to the provisions of sub-section (2), every dealer liable
Cess to pay tax under this Act shall also be liable to pay in
addition to the tax payable under any other provision
of this Act, a cess on sale of petrol or diesel or both, at
such rate not exceeding five rupees per litre and at such
point of sale, as may be specified by the State
Government by notification in the Gazette.

(2) Cess under sub-section (1) shall be levied and paid only for such purposes as may be notified by the State Government and in the manner specified in such notification."

Amendment of section 4 6 In section 4 of the principal Act, in sub-section (1) the second proviso shall be omitted.

Amendment of section 6 7 In section 6 of the principal Act for sub-section (1) the following sub-section shall be substituted, namely:-

"(1) Notwithstanding anything to the contrary contained in any other provision of this Act, but subject to other provisions of this section and the directions of the State Government, the assessing authority may agree to accept a composition money either in lump sum or at an agreed rate on his turnover of sale or purchase or both as the case may be, in lieu of tax that may be payable under this Act by a dealer in respect of such goods or class of goods and for such period as may be agreed upon:

Provided that in the case of a dealer not being a dealer executing works contract, who carries on exclusive business of re-sale of goods within the State after their purchase from a registered dealer within the State and whose turnover of sale of such goods, for any assessment year, does not exceed fifty lakh rupees or his turnover, for the assessment year preceding that assessment year, has not exceeded fifty lakh rupees, the State Government may notify a rate percent on sale of such goods. Different rates may be notified for different goods:

Provided further that any change in the rate of tax which may come into force after the date of such agreement shall have the effect of making a proportionate change in the lump sum or the rate agreed upon in relation to that part of the period of assessment during which the changed rate remains in force."

Insertion of new
section 8-A

8 After section 8 of the principal Act the following section shall be inserted, namely:-

" **8-A (1)** Notwithstanding anything to the contrary **Liability on** contained in any other provisions of this Act and **wrong or** without prejudice to the provisions of section 54, a **false use of** person who issues a false or wrong certificate or **certificate** declaration, prescribed under any provision of this **or** Act or the rules or the notification issued **declaration** thereunder, to another person by reason of which a tax leviable under this Act on the purchase or sale as the case may be, ceases to be leviable or becomes leviable at the concessional rate, shall be liable to pay an amount which would have been payable as tax on such purchase or sale as the case may be, had such certificate or declaration not been issued:

Provided that before taking any action under this section the person concerned shall be given an opportunity of being heard.

(2) No input tax credit shall be claimed or allowed in respect of the amount payable under this section.

Explanation: Where a person issuing a certificate or declaration to use the goods purchased for such purpose as will make the tax not leviable or leviable at a concessional rate, but uses the same for a purpose other than such purpose, the certificate or declaration shall, for the purposes of this section, be deemed to be wrong."

Amendment of
section 13

9 In section 13 of the principal Act,-
(a) for sub-section (11) the following sub-section shall be substituted, namely:-

"(11) Where it appears to the assessing authority that the amount of input tax or amount of input tax credit is incorrect or is not worthy of credence, it may, after giving reasonable opportunity of being heard to such dealer and after making such inquiry as it may deem fit, determine the amount of input tax or amount of input tax credit, as the case may be, by making an order in writing."

(b) after sub-section (11) the following sub-section shall be inserted, namely:-

"(12) Where on account of any order passed under this Act or by depositing tax levied on enhanced turnover of purchase in case of best judgement assessment by the assessing authority or otherwise, the amount of input tax credit varies, the account of input tax credit shall be amended accordingly."

Amendment of section 17 10 In section 17 of the principal Act, in sub-section (14), in Explanation (II),-

(a) after sub-clause (e) the following sub-clause shall be inserted, namely:-

"(f) is proprietor of a business and such business is succeeded by successor or successors of its proprietor on account of disability or death of such proprietor, "

(b) for the words "as the case may be, the partners of such partnership business," the words "the partners of such partnership business or successor or successors, as the case may be," shall be substituted.

Amendment of section 28 11 In section 28 of the principal Act, in sub section (1) the following provisos shall be inserted at the end, namely:-

"Provided that where the aggregate turnover of any dealer, does not exceed rupees twenty five lakh or such larger amount as may be determined by the State Government from time to time, in any assessment year, the Commissioner shall determine the parameters and modalities to select the dealers for the annual assessment after examining the books of accounts or records of such dealers:

Provided further that notwithstanding anything contained in section 26, the dealer not selected under the first proviso shall be deemed to have been assessed, on the last date of assessment year succeeding the assessment year in which the date of filing of annexures of consolidated details of the assessment year falls."

Amendment of section 29 12 In section 29 of the principal Act, in sub-section (12) for the words and figures "as prescribed in section 28" the words "as provided in this section" shall be substituted.

Amendment of section 33 13 In section 33 of the principal Act for the Explanation to sub-section(2), the following Explanation shall be substituted, namely:-

" Explanation : For the purposes of this sub-section , the tax

admittedly payable for a tax period or an assessment year , as the case may be , shall be computed in accordance with provisions of section 15 and shall include the amount payable under section 8-A. "

Amendment of section 42 14 In section 42 of the principal Act after sub-section (14) the following sub-section shall be inserted, namely:-

“(15) (a) The Commissioner may by order amend or cancel the Certificate of Entitlement before or after expiration of period of exemption or reduction in the rate of tax, where it is found that-

(i) facility for refund in lieu of exemption or the reduction in rate of tax has been misused in any manner resulting in wrong amount of refund;

(ii) the eligibility certificate issued or facility of exemption or reduction in rate of tax granted under the erstwhile Act has been cancelled or amended by a competent court or an authority;

(iii) the Certificate of Entitlement has been obtained on the basis of mis-representation or concealment of fact:

Provided that no Certificate of Entitlement shall be amended or cancelled without affording opportunity of being heard to the dealer.

(b) The order passed under clause (a) shall take effect from the date mentioned in the order:

Provided that no order passed under this sub-section shall take effect before the date of incidence warranting amendment or cancellation of the Certificate of Entitlement.

(c) Subject to the provisions of sections 57 and 58, the order passed under clause (a), shall be final.”

Amendment of section 48 15 In section 48 of the principal Act, in sub-section (5) for the words “not exceeding forty percent of the value of such goods ”the words “not exceeding forty percent of the value of such goods or tax payable under the Act on the value of such goods, whichever is higher” shall be substituted.

Amendment of section 50 16 (1) In section 50 of the principal Act,-
(a) in sub-section (2),-
(i) in clause (a) for the words "carry such declarations or documents as may be prescribed" the words "carry duly

filled such declarations or documents as may be prescribed" shall be substituted;

(ii) in clause (b) for the words "likewise carry such certificates and documents as may be prescribed" the words "likewise carry duly filled such certificates and documents as may be prescribed" shall be substituted;

(b) in sub-section (4) for the word "detention" the word "seizure" shall be substituted.

Amendment of section 54 17 In section 54 of the principal Act, in sub-section (1), in the table,-
(a) for entries at serial nos. 5 and 6 the following entries shall columnwise be substituted, namely:-

Sl.no (1)	Wrong (2)	Amount of Penalty (3)
5	Where the dealer has,- (i) failed to issue or has deliberately not issued a tax invoice or sale invoice; or (ii) deliberately not obtained tax invoice inspite of being a registered dealer while purchasing the goods liable to tax under this Act from a registered dealer; or (iii) not issued purchase invoice; in accordance with the provisions of this Act.	Tax payable on the value of goods or 40% of the value of goods whichever is higher
6	The dealer has failed to issue a challan, transfer invoice or transport memo in respect of dispatch or delivery of goods in accordance with the provisions of this Act	Tax payable on the value of goods or 40% of the value of goods whichever is higher

(b) for the entries at serial nos. 14 and 15 the following entries shall columnwise be substituted, namely:-

Sl.no (1)	Wrong (2)	Amount of Penalty (3)
14	Where the dealer or any	(a) In case of registered

other person, as the case may be, -

(i) imports or attempts to import or abets the import of any goods, in contravention of the provisions under section 50 or section 51 with a view to evading payment of tax on sale of-

(a) such goods; or

(b) goods manufactured, processed or packed by using such goods; or

(ii) transports, attempts to transport any taxable goods in contravention of any provisions of this Act;

dealer,-

(i) 15% of the value of goods if goods are of the description as embodied in Schedule-II or Schedule-III ;

(ii) twice the rate of tax leviable on the goods if goods are of the description as embodied in Schedule -V ;

(iii) an amount equal to tax payable on the value of the goods if the rate of tax on goods exceeds forty percent;

(iv) in any other case 40% of the value of the goods.

(b) In case of a person other than the registered dealer tax payable on the value of goods or 40% of the value of goods whichever is higher.

15 Where the driver or person in charge of the vehicle, as the case may be,-

(i) fails to carry documents referred to in section 52 and also fails to prove that goods carried in his vehicle are meant for delivery to dealers or persons outside the State; or

(ii) while carrying such documents for transit of goods through the State undertakes responsibility of handing over such

Tax payable on the value of goods or 40% of the value of goods whichever is higher

goods to a bona-fide person inside the State for carrying them outside the State but fails to hand over such goods to such bona-fide person; or

(iii) being a person, who receives any goods from driver or person in charge of a vehicle for carrying them outside the State, does not carry such goods outside the State; or

(iv) being a transporter or hirer of a vehicle prepares goods-receipt by showing false destination of goods outside the State;

(c) for entries at serial no. 21B the following entries shall columnwise be substituted, namely:-

Sl. no.	Wrong	Amount of Penalty
(1)	(2)	(3)

21B Where the dealer or any other person, as the case may be, has issued or received any tax invoice or sale invoice or any other document pertaining to value of goods, as the case may be, containing value of goods undervalued to the extent more than fifty percent of the value of goods prevalent at the relevant time in the local market area where the transaction has taken place, Tax payable on the value of goods or 40% of the value of goods whichever is higher

with intention to evade
payment of tax;

- | | | |
|----------------------------|----|--|
| Amendment of
section 57 | 18 | <p>In section 57 of the principal Act,-</p> <p>(a) in sub-section (4) for the words and figures "section 42" the words and figures "sub-section(3) and sub-section(15) of section 42" shall be substituted;</p> <p>(b) in sub-section (12), in clause (d) for the words and figures " an order passed under section 42" the words and figures " an order passed by the Commissioner under section 42" shall be substituted.</p> |
| Amendment of
section 70 | 19 | <p>For section 70 of the principal Act the following section shall be substituted, namely:-</p> <p>"70. The State Government may assign commodity code to each category of commodities whether described in any entry of any Schedule of this Act or embodied in Schedule-V."</p> |
| Repeal and
saving | 20 | <p>(1) The Uttar Pradesh Value Added Tax (Amendment) Ordinance, 2014 is hereby repealed.</p> <p>(2) Notwithstanding such repeal, anything done or any action is taken under provisions of the principal Act as amended by the Ordinance referred to in sub-section (1) shall be deemed to have been done or taken under the corresponding provisions of the principal Act as amended by this Ordinance as if the provisions of this Ordinance were in force at all material times.</p> |

U.P. Ordinance
no. 4 of 2014

Ram Naik,
GOVERNOR,
Uttar Pradesh.