

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 Government notification no. Ka.Ni.-2-1718/X1-9(295)/07-U.P.VAT Rules-08-order-(171)-2016 Dated December 15, 2016 :

No. Ka.Ni.-2-1718/X1-9(295)/07-U.P.VAT Rules-08-order-(171)-2016

Dated Lucknow, December 15, 2016

IN exercise of the powers under section 79 of the Uttar Pradesh Value Added Tax Act , 2008 (U.P. Act no. 5 of 2008) 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 Act to make the aforesaid rules without previous publication:-

**THE UTTAR PRADESH VALUE ADDED TAX (SIXTH AMENDMENT)
RULES, 2016**

Short title and
commencement

1. (1) These rules may be called the Uttar Pradesh Value Added Tax (Sixth Amendment) Rules, 2016.

(2) They shall come into force with effect from the date of their publication in the *Gazette*.

Amendment of
rule 12

2. In the Uttar Pradesh Value Added Tax Rules, 2008 hereinafter referred to as the said rules, in rule 12, for the existing sub-rule (2), set out in Column-I below, the sub-rule as set out in Column-II shall be *substituted*, namely:-

COLUMN-I

Existing sub-rule

(2) Subject to provisions of rule (1) unless otherwise expressly provided, any amount payable under the Act or the rules as tax, fee, penalty, interest, composition money, sale proceeds, cost of forms of declaration or certificate or any other money shall be deposited in any of the following manners along with Treasury challan in quadruplicate :

(a) in cash in any treasury or sub-treasury or State Bank of India or its subsidiary bank or any public sector bank, authorized to accept deposits under the Act; or

(b) by the draft drawn in favour of depositor on such bank; or

(c) by cheque either issued by the depositor to self on such bank or drawn in his favour in such bank; or

(d) by book transfer, in case of Government Department, if so desired;

or

(e) by electronic payment

COLUMN-II

Sub-rule as hereby substituted

(2) Subject to provisions of sub-rule (1) unless otherwise expressly provided, any amount payable under the Act or the rules as tax, fee, penalty, interest, composition money, sale proceeds, cost of forms of declaration or certificate or any other money shall be deposited in any of the following manners along with Treasury challan in quadruplicate :

(a) in cash in State Bank of India or its subsidiary bank or any public sector bank, authorized to accept deposits under the Act; or

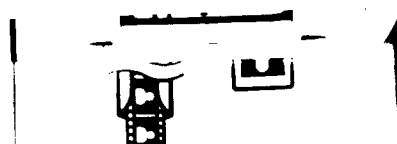
(b) by the draft drawn in favour of depositor on such bank; or

(c) by cheque either issued by the depositor to self on such bank or drawn in his favour in such bank; or

(d) by book transfer, in case of Government Department, if so desired;

or

(e) by electronic payment



3. In the said rules, in rule 38, in sub-rule (8) for the existing clause (a), set out in Column-I below, the clause as set out in Column-II shall be *substituted*, namely:-

Amendment of rule 38

COLUMN-I

Existing Clause

(a) Where a railway container contractor, an air cargo operator or a courier service provider, receives any goods from any person for carrying to any destination, he shall require the person to submit a declaration in Form XVII and likewise where a railway container contractor, an air cargo operator or a courier service promoter receives any good for delivery he shall obtain declaration in form XVIII from the person to whom goods are delivered;

COLUMN-II

Clause as hereby substituted

(a) Where a railway container contractor, an air cargo operator or a courier service provider, receives any goods from any person for carrying it to any destination, he shall keep complete name and address, TIN no. (if applicable) and such other particulars in his records as are required for identification of such person and likewise where a railway container contractor, an air cargo operator or a courier service provider receives any goods for delivery thereof he shall keep complete name and address, TIN no. (if applicable) and such other particulars in his records as are required for identification of the person to whom the goods are delivered.

4. In the said rules, for the existing rule 72, set out in Column-I below, the rule as set out in Column-II shall be *substituted*, namely:-

Amendment of rule 72

COLUMN-I

Existing rule

72. The service of any notice, summons or order under the Act or the Rules may be affected by any of the following methods, namely:

COLUMN-II

Rule as hereby substituted

72. The service of any notice, summon or order under the Act or the rules may be affected by any of the following methods, namely:-

(a) By sending scanned copy or electronically generated and digitally signed copy of the order or notice by e-mail or by facsimile message-

Where an order, notice or any communication is made electronically and addressed to the dealer by e-mail which is provided to the department by the dealer, then such order, notice or communication, shall be deemed to have been served on the addressee. For the purpose of this clause, the provisions of section 13 of the Information Technology Act, 2000 (Act no. 21 of 2000) shall be applicable.

COLUMN-I*Existing rule*

(a) Service to be on dealer or person concerned in person when practicable, or on his agent-

Wherever it is practicable service shall be made on the dealer or person concerned in person, unless he has an agent empowered to accept service, in which case service on such agent shall be sufficient.

(b) Service on agent by whom dealer or person concerned carries on business-

In a case relating to any business or work against a person who does not reside within the local limits of the jurisdiction of the authority from which the notice, summons or order is issued, service on any manager or agent, who, at the time of service, personally carries on such business or work for such person within such limits, shall be deemed good service.

(c) Service on an adult member of dealer or concerned person's family

Where in any case the dealer or person concerned is absent from his residence at the time when the service of notice, summons or order is sought to be effected at his residence and there is no likelihood of his being found at the residence within a reasonable time and he has no agent empowered to accept service of the notice, summons or order on his behalf, service may be made on any adult member of the family, whether male or female, who is residing with him.

Explanation: A servant is not a member of the family within the meaning of this rule.

(d) Person served to sign acknowledgement-

Where the process server delivers or tenders a copy of the notice, order or summons to the dealer or person concerned personally, or to an agent or

COLUMN-II*Rule as hereby substituted*

(b) Service to be on dealer or person concerned in person when practicable, or on his agent-

Wherever it is practicable service shall be made on the dealer or person concerned in person, unless he has an agent empowered to accept service, in which case service on such agent shall be sufficient.

(c) Service on agent by whom dealer or person concerned carries on business-

In a case relating to any business or work against a person who does not reside within the local limits of the jurisdiction of the authority from which the notice, summon or order is issued, service on any manager or agent, who, at the time of service, personally carries on such business or work for such person within such limits, shall be deemed good service.

(d) Service on an adult member of dealer or concerned person's family-

Where in any case the dealer or person concerned is absent from his residence at the time when the service of notice, summon or order is sought to be effected at his residence and there is no likelihood of his being found at the residence within a reasonable time and he has no agent empowered to accept service of the notice, summon or order on his behalf, service may be made on any adult member of the family, whether male or female, who is residing with him.

Explanation :-A servant is not a member of the family within the meaning of this clause.

(e) Person served to sign acknowledgement-

Where the process server delivers or tenders a copy of the notice, order or summons to the dealer or person concerned personally, or to an agent or

COLUMN-I

Existing rule

other person on his behalf, he shall require the signature of the person to whom the copy is so delivered or tendered to an acknowledgement of service endorsed on the original notice, order or summons.

(c) Procedure when dealer or person concerned refuses to accept or cannot be found-

Where dealer or concerned person or his agent or such other person as aforesaid refuses to sign the acknowledgement, or where the process server, after using all due and reasonable diligence, cannot find the dealer or person concerned who is absent from his place of business or residence at the time when service is sought to be effected on him and there is no likelihood of his being found within a reasonable time and there is no agent empowered to accept service of the notice or order or summons on his behalf, nor any other person on whom service can be made, the process server shall affix a copy of the notice, order or summons on the outer door or some other conspicuous place in the house in which the dealer or person concerned ordinarily resides or carries on business or personally works for gain, and shall then return the original to the authority from which it was issued, with a report endorsed thereon or annexed thereto stating that he has so affixed the copy, the circumstances under which he did so, and the name and address of the person (if any) by whom the house was identified and in whose presence the copy was affixed.

(f) Endorsement of time and manner of service-

The process server shall, in all cases in which the notice, order or summons has been served under clause (d), endorse or annex, or cause to be endorsed or annexed, on or to the original notice, order or summons, a return stating the time when and the manner in which the notice, order or summons was served, and the name and address of the person (if any) identifying the person served and witnessing the delivery or tender of the notice, order or summons.

COLUMN-II

Rule as hereby substituted

other person on his behalf, he shall require the signature of the person to whom the copy is so delivered or tendered to an acknowledgement of service endorsed on the original notice, order or summon.

(f) Procedure when dealer or person concerned refuses to accept or cannot be found-

Where dealer or concerned person or his agent or such other person as aforesaid refuses to sign the acknowledgement, or where the process server, after using all due and reasonable diligence, cannot find the dealer or person concerned who is absent from his place of business or residence at the time when service is sought to be effected on him and there is no likelihood of his being found within a reasonable time and there is no agent empowered to accept service of the notice or order or summon on his behalf, nor any other person on whom service can be made, the process server shall affix a copy of the notice, order or summon on the outer door or some other conspicuous place in the house in which the dealer or person concerned ordinarily resides or carries on business or personally works for gain and shall then return the original to the authority from which it was issued with a report endorsed thereon or annexed thereto stating that he has so affixed the copy, the circumstances under which he did so and the name and address of the person (if any) by whom the house was identified and in whose presence the copy was affixed.

(g) Endorsement of time and manner of service-

The process server shall, in all cases in which the notice, order or summon has been served under clause (d), endorse or annex, or cause to be endorsed or annexed on or to the original notice, order or summon, a return stating the time when and the manner in which the notice, order or summon was served and the name and address of the person (if any) identifying the person served and witnessing the delivery or tender of the notice, order or summon.

COLUMN-I*Existing rule*

(g) Examination of the process server-

Where a notice, order or summons is returned under clause(e), the authority shall, if the return under that rule has not been verified by the affidavit of the process server, and may, if it has been so verified, examine the process server on oath, or cause him to be so examined by another authority, touching his proceedings, and may make such further enquiry in the manner as it thinks fit: and shall either declare that the notice, order or summons has been duly served or order such service as it thinks fit.

(h) Simultaneous issue of notice or order or summon for service by post in addition to personal service-

(i) The authority shall, in addition to, and simultaneously with, the issue of notice, order or summons for service in the manner provided under this rule, also direct the notice, order or summons to be served by registered post, acknowledgement due, addressed to the dealer or person concerned, or his agent empowered to accept the service, at the place where the dealer or person concerned, or his agent, actually and voluntarily resided or carries on business or personally works for gain.

Provided that nothing in this sub-clause shall require the authority to issue a notice, order or summons for service by registered post, where, in the circumstances of the case, the authority considers it unnecessary.

(ii) when an acknowledgement purporting to be signed by the dealer or person concerned or his agent is received by the authority or the postal article containing the notice, order or summons is received back by the authority with an endorsement purporting to have been made by a postal employee to the effect that the dealer or person concerned or his agent had refused to take delivery of the postal article containing the notice, order or summons, when tendered to him, the authority issuing the notice, order or summons shall declare that the notice, order or summons had been duly served on the dealer or person concerned.

COLUMN-II*Rule as hereby substituted*

(h) Examination of the process server-

Where a notice, order or summon is returned under clause(f), the authority shall, if the return under that rule has not been verified by the affidavit of the process server and may, if it has been so verified, examine the process server on oath or cause him to be so examined by another authority touching his proceedings and may make such further enquiry in the manner as it thinks fit and shall either declare that the notice, order or summon has been duly served or order such service as it thinks fit.

(i) Simultaneous issue of notice or order or summon for service by post in addition to personal service-

(i) The authority shall, in addition to, and simultaneously with the issue of notice, order or summon for service in the manner provided under this rule, also direct the notice, order or summon to be served by registered post, acknowledgement due addressed to the dealer or person concerned, or his agent empowered to accept the service, at the place where the dealer or person concerned or his agent actually and voluntarily resided or carries on business or personally works for gain:

Provided that nothing in this sub-clause shall require the authority to issue a notice, order or summon for service by registered post where in the circumstances of the case the authority considers it unnecessary;

(ii) when an acknowledgement purporting to be signed by the dealer or person concerned or his agent is received by the authority or the postal article containing the notice, order or summon is received back by the authority with an endorsement purporting to have been made by a postal employee to the effect that the dealer or person concerned or his agent had refused to take delivery of the postal article containing the notice, order or summon, when tendered to him, the authority issuing the notice, order or summon shall declare that the notice, order or summon had been duly served on the dealer or person concerned:

COLUMN-I*Existing rule*

Provided that where the notice, order or summon was properly addressed, prepaid and duly sent by registered post, acknowledgement due, the declaration referred to this sub-rule shall be made notwithstanding the fact that the acknowledgement having lost or mislaid, or for other reasons, has not been received by the authority within thirty days from the date of issue of the notice, order or summon.

(i) Substituted service-

(i) Where the authority is satisfied that there is reason to believe that the dealer or person concerned is keeping out of the way for the purpose of avoiding service, or that for any other reason the notice, order or summons cannot be served in the ordinary way, the authority shall order the notice, order or summons to be served by affixing a copy thereof in some conspicuous place in the office premises, and also upon some conspicuous part of the house (if any) in which the dealer or person concerned is known to have last resided or carried on business or personally worked for gain, or in such other manner as the authority thinks fit;

(ii) Where the authority acting under sub-clause (i) orders service by an advertisement in a newspaper, the newspaper shall be a daily newspaper circulating in the locality in which the dealer or person concerned is last known to have actually and voluntarily resided, carried on business or personally worked for gain;

(iii) Effect of substituted service- Service substituted by the order of authority shall be as effectual as if it had been made on the dealer or concerned person;

(iv) Time for appearance to be fixed- Where service is substituted by the order of authority, the authority shall fix such time for the appearance of the dealer or the concerned person as the case may require.

COLUMN-II*Rule as hereby substituted*

Provided that where the notice, order or summon was properly addressed, prepaid and duly sent by registered post, acknowledgement due, the declaration referred to this clause shall be made notwithstanding the fact that the acknowledgement having lost or misplaced, or for other reasons, has not been received by the authority within thirty days from the date of issue of the notice, order or summon.

(j) Substituted service-

(i) Where the authority is satisfied that there is reason to believe that the dealer or person concerned is keeping out of the way for the purpose of avoiding service or that for any other reason the notice, order or summon cannot be served in the ordinary way the authority shall order the notice, order or summon to be served by affixing a copy thereof in some conspicuous place in the office premises and also upon some conspicuous part of the house (if any) in which the dealer or person concerned is known to have last resided or carried on business or personally worked for gain or in such other manner as the authority thinks fit;

(ii) Where the authority acting under sub-clause (i) orders service by an advertisement in a newspaper, the newspaper shall be a daily newspaper circulating in the locality in which the dealer or person concerned is last known to have actually and voluntarily resided, carried on business or personally worked for gain;

(iii) Effect of substituted service- Service substituted by the order of authority shall be as effectual as if it had been made on the dealer or concerned person;

(iv) Time for appearance to be fixed- Where service is substituted by the order of authority, the authority shall fix such time for the appearance of the dealer or the concerned person as the case may require

COLUMN-I

Existing rule

(j) Service of notice, order or summon where the dealer or person concerned resides within the jurisdiction of another authority-

A notice, order or summons may be sent by the authority by which it is issued, whether within or without the State, either by one of its process server or by post to any authority having jurisdiction in the place where the dealer or person concerned resides.

(k) Duty of authority to which notice, order or summon is sent-

The authority to which a notice, order or summons is sent under clause (j) shall, upon receipt thereof, proceed as if it has been issued by such authority and shall then return the notice, order or summons to the issuing authority, together with the record (if any) of its proceedings with regard thereto.

(l) Service on dealer or person concerned in prison-

Where the dealer or person concerned is confined in a prison, the notice, order or summons shall be delivered or sent by post or otherwise to the officer in charge of the prison for service on the dealer or person concerned.

(m) Service on civil public officer or on servant of railway or local authority-

Where person concerned is a public officer (not belonging to the Indian military, naval or air forces), or is a servant of a railway or local authority, the authority may, if it appears to it that the notice, order or summons may be most conveniently so served, send it for service on the person concerned to the head of the officer in which he is employed together with a copy to be retained by the person concerned.

(n) Duty of a person to whom notice, order or summon is delivered or sent for service-

(i) Where a notice, order or summons is delivered or sent to any person for service under clause (l) or (m) above, such person shall be bound to serve it if possible, and to return it under his signature, with the written acknowledgement of the dealer or person concerned, and such signature shall be deemed to be evidence of service.

COLUMN-II

Rule as hereby substituted

(k) Service of notice, order or summon where the dealer or person concerned resides within the jurisdiction of another authority-

A notice, order or summon may be sent by the authority by which it is issued, whether within or without the State, either by one of its process server or by post to any authority having jurisdiction in the place where the dealer or person concerned resides.

(l) Duty of authority to which notice, order or summon is sent-

The authority to which a notice, order or summon is sent under clause (k) shall, upon receipt thereof, proceed as if it has been issued by such authority and shall then return the notice, order or summon to the issuing authority, together with the record (if any) of its proceedings with regard thereto.

(m) Service on dealer or person concerned in prison-

Where the dealer or person concerned is confined in a prison, the notice, order or summon shall be delivered or sent by post or otherwise to the officer in charge of the prison for service on the dealer or person concerned.

(n) Service on civil public officer or on servant of railway or local authority-

Where person concerned is a public officer (not belonging to the Indian Military, Naval or Air Forces), or is a servant of a railway or local authority, the authority may, if it appears to it that the notice, order or summon may be most conveniently so served, send it for service on the person concerned to the head of the office in which he is employed together with a copy to be retained by the person concerned.

(o) Duty of a person to whom notice, order or summon is delivered or sent for service-

(i) Where a notice, order or summon is delivered or sent to any person for service under clause (m) or (n), such person shall be bound to serve it if possible and to return it under his signature with the written acknowledgement of the dealer or person concerned and such signature shall be deemed to be evidence of service;

COLUMN-I

Existing rule

- (ii) Where for any reason service is impossible, the notice, order or summons shall be returned to the authority with a full statement of such reason and of the steps taken to procure service, and such statement shall be deemed to be evidence of nonservice.
- (o) Substitution of letter for notice, order or summon-
- (i) The authority may, notwithstanding anything hereinbefore contained, substitute for a notice, order or summons a letter signed by the authority where the dealer or person concerned is, in the opinion of the authority, of a rank entitling him to such mark of consideration;
- (ii) A letter substituted under sub-clause (i) shall contain all the particulars required to be stated in a notice, order or summons, and, subject to the provisions of sub-clause (iii), shall be treated in all respects as a notice, order or summons;
- (iii) A letter so substituted may be sent to the dealer or person concerned by post or by a special messenger selected by the authority, or in any other manner which the authority thinks fit; and, where the dealer or the concerned person has an agent empowered to accept service, the letter may be delivered or sent to such agent.

COLUMN-II

Rule as hereby substituted

- (ii) Where for any reason service is impossible, the notice, order or summon shall be returned to the authority with a full statement of such reason and of the steps taken to procure service, and such statement shall be deemed to be evidence of nonservice.
- (p) Substitution of letter for notice, order or summon-
- (i) The authority may, notwithstanding anything hereinbefore contained, substitute for a notice, order or summon a letter signed by the authority where the dealer or person concerned is, in the opinion of the authority, of a rank entitling him to such mark of consideration;
- (ii) A letter substituted under sub-clause (i) shall contain all the particulars required to be stated in a notice, order or summon and subject to the provisions of sub-clause (iii), shall be treated in all respects as a notice, order or summon;
- (iii) A letter so substituted may be sent to the dealer or person concerned by post or by a special messenger selected by the authority or in any other manner which the authority thinks fit and where the dealer or the concerned person has an agent empowered to accept service, the letter may be delivered or sent to such agent.
- (q) The Commissioner shall have power to issue instructions regarding service of any notice, summon or order.

5. Form numbers-XVII and XVIII shall be *omitted*.

Omission of
Form No.-XVII
and XVIII

By order,
BIRESH KUMAR,
Pramukh Sachiv.

पी०एस०यू०पी०-ए०पी० 635 राजपत्र (हि०)-2016-(1509)-599 प्रतियां (क०/टी०/आ०)।

पी०एस०यू०पी०-ए०पी० 36 सा० वित्त कर एवं निबन्धन-2016-(1510)-4000 प्रतियां (क०/टी०/आ०)।