

CHAPTER VII

CHECK-POST

49. Establishment of check-posts and barriers

The State Government, if it is of opinion that it is necessary so to do with a view to preventing evasion of tax or other dues payable under this Act in respect of the -

- (i) sale of goods brought or received from outside the State;
- (i) Sale of goods processed or manufactured by using goods brought or received from outside the State; or
- (ii) sale or purchase of goods produced or manufactured within the State,

may by notification in the Gazette, direct the establishment of check-posts or barriers at such places within the State, as may be specified in the notification.

50. Import of goods into the state by road against declaration

- (1) Any person (hereinafter in this section referred to as the importer) who intends to bring, import or otherwise receive, into the State from any place outside the State any goods other than the goods exempt from payment of tax under clause (a) of section 11, in such quantity or measure or of such value, as may be notified by the State Government in this behalf, in connection with business, shall obtain the prescribed form of declaration, on payment of the prescribed fee, from the assessing authority having jurisdiction over the area, where his principal place of business is situated or, in case there is no such place, where he ordinarily resides:

Provided that where the importer intends to bring, import or otherwise receive such goods otherwise than in connection with business, he may, at his option, in the like manner obtain the prescribed form of certificate.

- (2) Where such goods are to be consigned by road, -
- (a) the importer shall furnish to the consignor the declaration in the prescribed form in duplicate duly filled in and signed by him, and the driver or any other person in-charge of any vehicle carrying any such goods shall carry with him the copies of such declaration

duly verified by the consignor in the prescribed manner together with such other documents as may be prescribed, and shall deliver one copy of such declaration, -

(i) where such goods are brought by a road on which a check post or barrier is established, to the officer in-charge of such check-post or barrier before crossing check-post or barrier; and

(ii) where such goods are brought by a road on which no check post or barrier is established, to the officer -in- charge of the nearest check-post or barrier established under the said section before transporting such goods further within the State,

and other copy of declaration and the remaining documents along with goods to the importer or his agent.

(b) subject to provision of sub-section (4) of section 52, the officer in-charge of the check-post or barrier shall grant a receipt for the copy of declaration delivered to him and it shall not be necessary for the driver or the person in-charge of the vehicle to deliver any copy of the declaration at the other check-post or barrier that he may cross, if he shows such receipt to the officer-in- charge of such other check-post or barrier.

(c) the importer shall preserve the other copy of the declaration and other documents delivered to him or to his agent under clause (a) for such period as may be prescribed and produce them before the assessing authority whenever demanded by it within such period.

(3) Where such goods are brought into the State as personal luggage, the person bringing them shall carry with him the declaration in the prescribed form duly filled in and signed by the importer, and the importer shall submit the same for endorsement by the officer authorised in this behalf by the Commissioner, by the next working day.

(4) Where any person intends to bring, import or otherwise receive into the State from any place without the State any goods referred to in sub-section (1) otherwise than in connection with business and obtains the prescribed form of certificate, the provisions of sub-sections (2), (3) and (4) shall mutatis

mutandis apply as if the word "certificate" is substituted for the word "declaration" used therein.

- (5) The driver or other person-in-charge of any vehicle carrying any goods referred to in the preceding sub-sections shall stop the vehicle at every such check-post or barrier or, when so required by an officer authorised under sub-section (1) of section 45 or sub-section (1) of section 48, at any other place, and keep it stationary for so long as may be considered necessary by the officer in-charge of the check-post or barrier or the officer authorised under sub-section (1) of section 45 or sub-section (1) of section 48, as the case may be, and allow him to search the vehicle and inspect the goods and all documents referred to in the preceding sub-sections and shall, if so required, give his name and address and the names and addresses of the owner of the vehicle and of the consignor and the consignee of the goods.
- (6) Where the officer making the search or inspection under this section finds any person transporting or attempting or abetting to transport any goods to which this section applies without being covered by the proper and genuine documents referred to in the preceding sub-sections and if, for reason to be recorded, he is satisfied after giving such person an opportunity of being heard that such goods were being so transported in an attempt to evade assessment or payment of tax due or likely to be due under this Act, he may order detention of such goods
- (7) The provisions of sub-sections (3), (7), (8), (9) and (10) of section 48 shall mutatis mutandis apply to goods detained under sub-section (6), as they apply to goods seized under that section.
- (8) Where the assessing authority or an officer empowered under this section, is satisfied that any dealer bringing or importing or otherwise receiving into the State from any place outside the State, any goods has, with a view to evade payment of tax, shown the estimated sale value of such goods in the "declaration form for import" accompanying such goods less than the fair price of such goods or has not shown the estimated sale value in such form and the presumed sale value of such goods is less than the fair price of such goods, such authority or officer may acquire such goods on payment of 105 per centum of such estimated sale value or presumed sale value, as the case may be, to the dealer.

(9) The power under sub-section (8) shall not be exercised unless the dealer is afforded an opportunity of being heard.

(10) The goods acquired under sub-section (8) shall be disposed of in such manner as may be specified by the Commissioner.

Explanation :- For the purpose of sub-section (8) :

(i) "Fair price" shall mean the value, determined in such manner as may be specified by the Commissioner.

(ii) "Presumed sale value" shall be equal to 110 per centum of the purchase price shown in the declaration form.

51. Import of goods into the state by rail, river, air, post or courier

(1) Where any goods except goods exempt from payment of tax on sale or purchase under clause (a) of section 11 (hereinafter in this section referred to as taxable goods) are consigned by rail, river, air or post or courier from a place outside the State for delivery to a dealer inside the State, the receiving dealer shall not -

(a) obtain or cause to be obtained delivery thereof unless he furnishes or causes to be furnished to such officer, as may be authorised in this behalf by the Commissioner, a declaration in the form prescribed under clause (a) of sub-section (2) of section 50 in duplicate duly filled in and signed by him for endorsement by such officer; and

(b) after taking delivery, carry goods away or cause the goods to be carried away from the railway station, steamer or boat station, air port, post office or couriers' office, as the case may be, unless a copy of the declaration duly endorsed by such officer is carried with goods.

(2) Where any taxable goods are brought into the State by rail, river or air as personal luggage, the person bringing them shall carry with him the declaration in the prescribed form duly filled in and signed by the importer, and the importer shall submit the same for endorsement by the officer by the officer authorised under sub-section (1) by the next working day.

- (3) Where any person intends to bring or receive into the State from any place outside the State by rail, river, air, post or by courier any taxable goods otherwise than in connection with business and obtains the form of certificate prescribed under sub-section (2) of section 50, the provision of sub-section (1) and (2) shall mutatis-mutandis apply as if word "Certificate" is substituted for the word declaration used therein.
- (4) Where an officer authorised under sub-section (1) of section 45 or an officer referred to in sub-section (1) of section 48 or section 50 while making inspection or search finds any taxable goods, in respect of which declaration before the officer authorised under sub-section (1) has not been made or goods being carried as personal luggage are not accompanied by the form of declaration referred to in clause (a) of sub-section (1) and where after giving reasonable opportunity of being heard to the person in charge of the goods at the time of inspection of goods or the owner of the goods, as the case may be, such officer (officer making inspection or search) is satisfied that such taxable goods are being imported in an attempt to evade payment of tax under this Act, he may, after recording such reasons, detain the goods.
- (5) Provisions of {sub-sections (3), (7), (8), (9) and (10) of section 48} section 48 shall mutatis mutandis apply to such detention of goods as they apply to goods seized under that section.

52. Issue of authorisation for transit of goods through the state

- (1).The driver or person in charge of a vehicle carrying any taxable goods consigned from a place outside the State and destined to a place outside the State, shall, after entry of goods into the State and before crossing the first check- post(*hereinafter referred to as entry check-post*) obtain in the prescribed form and manner an authorisation for transit of goods through the State(*hereinafter in this section referred to as transit authorisation*), in two copies from the officer in-charge of the entry check-post or barrier and shall, before leaving the State, produce both copies of such transit authorisation along with goods mentioned in the transit authorisation before the officer-in-charge of the last check-post or barrier (*hereinafter in this section referred to as the exit check-post*) for endorsement by such officer:

- (2) Where any goods consigned from any place outside the State are brought into the State at any place by railway, air, post, boat or steamer or courier for carrying outside the State by road, the driver or person in-charge of vehicle carrying goods from railway station, airport, post-office, steamer or boat station or couriers' office, as the case may be, to place outside the State shall obtain transit authorisation in duplicate in the prescribed form and manner from the assessing authority in whose jurisdiction such railway station, airport, post-officer, steamer or boat station or couriers' office is located, and shall produce it along with goods before the officer-in charge of the *exit check-post* for endorsement.
- (3) Where any taxable goods brought from a place outside the State by road are to be transported through the State by rail, river, air, post or courier to a place outside the State, the driver or the person in-charge of the vehicle, while obtaining transit authorisation at the entry check-post shall state the fact to this effect in the application for obtaining transit authorisation and shall, after handing over such goods to the railway, airway, postal authority, steamer or boat or courier, as the case may be, present two copies of transit authorisation along with goods-receipt issued by the agency to whom goods were handed over for carrying outside the State, for endorsement by the officer authorised by the Commissioner in this behalf.
- (4).Where any taxable goods being carried from a place outside the State are to be delivered to any person inside the State but during transit the vehicle carrying such goods, after entry into the State, has to leave the State one or more times, the driver or the person in charge of the vehicle shall obtain transit authorisation each time he enters and shall produce the transit authorisation before the officer in-charge of the exit check-post. For each such fragment of journey, provisions of sub-section (1) shall be applicable. In such a case the driver or the person in-charge of the vehicle shall carry with him the documents prescribed under sub-section (1) of section 50. In such a case original copy of declaration shall be endorsed at the check-post where vehicle enters finally inside the State.

(5).With a view to prevent evasion of tax on sales of goods inside the State in the garb of transit authorisation, the officer in-charge at the entry check post, officer authorised under sub-section (1) of section 45, officer empowered to exercise powers under sub-section (1) and sub-section (2) of section 48, or officer-in-charge of the exit check -post may inspect the goods and where goods are found materially different from the goods stipulated in the transit authorisation such officer may, after considering explanation of the driver or the person in-charge of the vehicle if such officer is satisfied that goods relate to tax evasion, it may seize such goods:

Provided that difference due to quality of goods shall not be deemed to be material difference for the purpose of seizure of goods under this sub-section.

(6) Where during inspection of goods under sub-section (5), if Officer in-charge of entry check-post is of the view that goods are according to the quantity or measure disclosed in the application for transit authorisation but value of goods disclosed is less than fifty percent of the market value prevalent at the relevant time, he can estimate the market value of such goods and put a note in this regard on the transit authorisation. In such a case if driver or person in-charge of the vehicle fails to produce such goods during transit or before the officer in-charge of the exit check-post, value of goods estimated and mentioned on the transit authorisation by the officer-in-charge of the entry check-post shall be deemed actual value of goods for all purposes under this Act.

(7).In respect of goods seized under this section, provisions of sub-sections (3), (7), (8), (9) and (10) of section 48 shall mutatis mutandis apply as they apply to goods seized under that section.

(8).In a case in which vehicle has been hired by a transporter for carrying goods only upto a place inside the State and the driver or the person in-charge of vehicle does not own responsibility of taking goods outside the State, the officer in-charge of the entry check-post, before issuing transit authorization, may, in appropriate cases, require the transporter, hiring the vehicle, to furnish security in the interest of revenue.

- Provided that security may be furnished by the person inside the State, who after receiving the goods is to carry such goods outside the State.
- (9) The amount of security demanded under sub-section (8) shall not exceed the estimated amount of tax payable on the retail sale value of such goods within the State.
- (10) In a case in which security has been accepted under sub-section (8), the Officer in-charge of the entry check-post shall put a note to this effect on all copies of transit authorization and the officer in-charge of the exit check-post shall, after the vehicle along with goods leaves the State, communicate the fact by speedy mode of communication to the Officer-in-charge of the entry check-post. Upon receiving the communication, the Officer in-charge of entry check-post shall return or refund the security to the person from whom it was accepted.
- (11).In case of a vehicle whose driver or the person in-charge has earlier obtained any transit authorisation and information has been received in respect of such transit authorisation that the same has not been produced before the Officer in-charge of the exit check-post along with the goods mentioned in it, if the driver or person in-charge of such vehicle requests for issue of transit authorisation in respect of some different goods on some other occasion, the officer in-charge of the entry check-post may, after giving reasonable opportunity of being heard, require the driver or the person in-charge of the vehicle to furnish security in the interest of revenue for issue of transit authorization. Provisions of sub-sections (9) and (10), shall mutatis mutandis apply to security demanded under this sub-section as they apply to security demanded under sub-section (8).
- (13) Where after obtaining transit authorization under this section, goods under the transit authorisation are not transported outside the State, it shall be presumed that such goods have been sold inside the State.

53. Power to seek assistance from police etc.

An officer exercising powers under the provisions of sections 45, 48, 50, 51, or 52 may take the assistance of police or other officers or officials of the State.