

## CHAPTER –VIII

### OFFENCES AND PENALTIES

#### 54. Offences and prosecution

- (1) Any person who-
- (a) without reasonable cause, fails to pay the tax assessed on him within the time allowed; or
  - (b) being liable to pay tax under this Act, carries on business -
    - (i) without applying for registration; or
    - (ii) after his application for registration has been rejected; or
    - (iii) registration certificate granted to him has been cancelled.
  - (c) upon requiring by the officer empowered under this Act, to inspect, examine and obtain copy, refuses or neglects -
    - (i) to produce any book, document or account; or
    - (ii) to operate his computer used in connection with business; or
    - (iii) to allow copies or print outs etc. ;or
  - (d) fails to issue a tax invoice, sale invoice, transport memo, challan or transfer invoice in accordance with the provisions of this Act, or
  - (e) with the intention to prevent inspection under this Act, closes or leaves place of business or being a driver or person in-charge of a vehicle carrying goods leaves the vehicle,
- shall be punishable with fine which may extend to five thousand rupees, and where the offence is continuing one, to a further fine which may extend to one hundred rupees for every day after the first day during which the offence continues.
- (2) A person who willfully -
- (a) submits a false return of his turnover under this Act; or
  - (b) being liable to pay the tax, fails to submit, without reasonable cause, return of his turnover in the manner provided under this Act; or
  - (c) maintains or produces false accounts, registers or documents; or

- (d) issues or furnishes a false or wrong certificate or form of declaration prescribed under this Act, by reason of which a tax on sale or purchase of goods ceases to be leviable either in whole or in part; or
- (e) makes a false verification, declaration or attestation in any matter connected with this Act; or
- (f) evades payment of the tax; or
- (g) obstructs or prevents an officer empowered under this Act from performing any of the functions under this Act or the rules made thereunder; or
- (h) tampers with any seal put under sub-section (6) of section 45; or
- (i) demands or charges on the sale or purchase of any goods any amount of tax in contravention of provisions of this Act; or
- (j) refuses or neglects to furnish any information which is in his knowledge or possession or furnishes false information; or
- (k) carries on or continues to carry on business without furnishing the security demanded under section 19; or
- (l) issues a false tax invoice or sale invoice without making actual sale of goods; or
- (m) issues a false transport memo, challan or transfer invoice without actual dispatch or delivery of goods;
- (n) receives a false tax invoice, sale invoice from a dealer without actual purchase of goods; or
- (o) receives a transport memo, challan or transfer invoice without actual receipt of goods; or
- (p) uses or furnishes a prescribed form of declaration or certificate which has not been obtained by him or his authorised agent from the prescribed authority in the prescribed manner ; or
- (q) transfers a prescribed form of declaration or certificate to any other dealer or person except for lawful purposes ; or
- (r) possesses a prescribed form of declaration or certificate which has not been obtained in accordance with the provisions of this Act or the rules made thereunder ; or

(s) fails to obtain authorisation for transit of goods through the State as provided under section 52 and also fails to prove that the goods are meant for delivery outside the State ; or

(t) fails to -

- (i) carry goods outside the State after obtaining authorisation for transit of such goods; or
- (ii) hand over the goods to a bonafide person for carrying such goods outside the State against his such undertaking given while obtaining authorisation for transit of the goods; or
- (iii) carry goods outside the State after receiving such goods along with authorisation for transit of goods; or

(u) does not stop the vehicle carrying taxable goods when so required by an officer empowered to inspect goods; or

(v) prepares a goods-receipt disclosing false destination of goods outside the State; or

(w) imports or transports or abets to import or transport any taxable goods inside the State in contravention of the provisions of this Act; or

(x) claims an input tax credit on the basis of false tax invoice; or

shall, in addition to recovery of tax or any other dues payable by him under this Act, be punishable with simple imprisonment which may extend to one year or with fine, or both and where offence is a continuing one, to a further fine which may extend to two hundred rupees for every day after the first day during which the offence continues.

(3) No prosecution under this Act shall lie except with the previous sanction of the Commissioner, and no court inferior to that of a Magistrate of 1st class shall take cognizance of any such offence.

## **55. Offences by companies**

- (1) If the person committing an offence under this Act is a company, the company as well as every person in-charge of, and responsible to the company for the conduct of its business at the time of commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed with out this knowledge or that he exercised all due diligence to prevent the commission of such offence.

- (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act, has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect of any other officer of the company, such director, manager, managing agent or such other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and be punished accordingly.

Explanation - For the purpose of this section:

- (a) "company" means any body corporate and includes a firm or other association of individuals; and
- (b) "Director" in relation to a firm means a partner in the firm.

## **56. Penalties in certain cases**

- (1) Where any dealer or other person-

- (a) has without reasonable cause failed to deposit the tax due for any tax period within the time prescribed or extended; or.
- (b) having deposited the tax due under this Act, has without reasonable cause failed to submit the return for any tax period in the prescribed manner; or.
- (c) has concealed particular of his turnover or has deliberately furnished inaccurate particulars of such turnover; or
- (d) has maintained or produced false accounts, registers or documents ;  
or
- (e) has without reasonable cause failed, to pay, within the time allowed, the tax assessed and due; or

- (f) fails to issue a tax invoice or sale invoice in accordance with the provisions of this Act ; or
- (g) 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 ; or
- (h) (i) being liable for registration under this Act has failed to apply in the prescribed manner and within the prescribed time; or
- (ii) being liable for registration carries on or continues to carry on business –
  - (a) after his application for registration has been rejected; or
  - (b) after his registration certificate has been cancelled; or
  - (c) without furnishing the security demanded for grant or continuation of registration;or
- (i) upon requiring by the officer empowered under this Act, to inspect, examine and obtain copy, refuses or neglects -
- (i) to produce any book, document or account; or
  - (ii) to operate his computer used in connection with business; or
  - (iii) to allow copies or print outs etc.; or
- (j) obstructs or prevents an officer empowered under section 45 or section 48 or an officer in-charge of a check-post or barrier from performing any of his functions under this Act ; or .
- (k) refuses or neglects to furnish any information, which is in his knowledge or possession or furnishes false information ; or.
- (l) (i) issues or furnishes a false or wrong certificate or form of declaration prescribed under the Act, by reason of which a tax on sale or purchase, ceases to be leviable, whether in full or in part; or
- (ii) issues a tax invoice or sale-invoice without actual sale of goods ; or
- (iii) issues a transport memo, challan or transfer invoice without actual dispatch or delivery of goods ; or
- (iv) receives a tax invoice or sale-invoice without actual purchase of goods; or

- (v) receives a transport memo, challan or transfer invoice without actual receipt of goods; or
- (m) (i) makes use of a prescribed form of declaration or certificate which has not been obtained by him or by his principal or agent in accordance with the provisions under this Act ; or
  - (ii) transfers a prescribed form of declaration or certificate to any other person except for lawful purposes; or
  - (iii) possesses a prescribed form of declaration or certificate which has not been obtained by him in accordance with the provisions under this Act ; or
- (n) (i) closes or leaves place of business with an intention of avoiding inspection under this Act; or.
  - (ii) being a driver or person in-charge of vehicle leaves the vehicle with an intention of avoiding inspection of goods and documents; or
  - (iii) willfully does not stop the vehicle carrying taxable goods when so required by an officer empowered to inspect goods; or
- (o) (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 an intention of 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 ; or.
- (p) (i) fails to obtain authorisation for transit of goods through the State and also fails to prove that goods are meant for delivery to dealers or persons outside the State ; or
  - (ii) fails to obtain authorisation for transit but proves that goods are meant for delivery to dealers or other persons outside the State ; or
  - (iii) while obtaining authorisation for transit of goods through the State undertakes responsibility of handing over such goods to a bonafied person inside the State for carrying them outside the

State but fails to hand over such goods to such bonafide person;  
or

- (iv) 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
- (v) being driver or person in-charge of a vehicle or a transporter who receives goods inside the State for carrying them outside the State, fails to produce copies of authorisation for transit of goods along with goods before the officer in-charge of the exit check-post but proves that goods have been carried outside the State ;  
or
- (vi) being a transporter or hirer of a vehicle prepares goods-receipt by showing false destination of goods outside the State; or
- (q) realises any amount as tax in contravention of the provisions of this Act; or
- (r) fails to keep stationary a vehicle for inspection of goods and, or for search of such vehicle ; or
- (s) makes a false verification, declaration or attestation in any matter connected with this Act; or
- (t) does not maintain books, accounts or documents in the prescribed manner, or
- (u) wrongly claims an amount as input tax credit, or
- (v) carries or transports goods without filling relevant columns on a transport memo, challan or transfer invoice; or
- (w) otherwise acts in contravention of the provisions off this Act or rules,

the assessing authority may, after such enquiry, as it may deem necessary, direct that such dealer or person shall pay, by way of penalty in addition to the tax if payable, an amount determined in accordance with provisions under the 'Table' given below-

*TABLE*

SR.NO.	CLAUSE	SUB- CLAUSE	AMOUNT OF PENALTY
1	2	3	4
(1)	(a)	-	(i) Sum not less ten percent but not exceeding twenty five percent of the amount of tax payable where amount of tax payable does not exceed ten thousand rupees; or (ii) Sum not less than ten percent but not exceeding fifty percent of the amount of tax payable where amount of tax payable exceeds ten thousand rupees.
(2)	(b)	-	an amount of one thousand rupees.
(3)	(c)	-	a sum equal to three times of the amount of tax treating the concealed turnover liable to tax.
(4)	(d)	-	a sum equal to three times the amount of tax treating concealed turnover liable to tax.
(5)	(e)	-	(i) a sum not less than ten percent but not exceeding twenty five percent of the amount of tax payable where amount of tax does not exceed ten thousand rupees ; or (ii) a sum not less than ten percent but not exceeding fifty percent of the amount of tax where amount of tax payable exceeds ten thousand rupees.
(6)	(f)	-	a sum equal to three times of the amount of tax or forty percent of the value of goods which ever is higher.
(7)	(g)	-	a sum equal to three times of the amount of tax or forty percent of the value of goods whichever is higher.
(8)	(h)	(i )and (ii)	a sum of rupees one hundred for each month or part thereof for default during the first three months and rupees five hundred for every month or part thereof after the first three months during which the default continues.
(9)	(i)	(i), (ii) or (iii)	a sum of five thousand rupees



(10)	(j)		a sum of ten thousand rupees
(11)	(k)		a sum of five thousand rupees
(12)	(l)	(i), (ii), (iii), (iv) or (v)	a sum equal to three times of tax treating the value of goods as taxable turnover of goods or forty percent of the value of goods whichever is higher:
(13)	(m)	(i), (ii) or (iii)	(i) if value of goods is mentioned on such form of declaration or certificate a sum equal to three times of the amount of tax treating the value as taxable turnover of goods or forty percent of the value of goods mentioned on it, whichever is higher; or (ii) if form of declaration or certificate is blank a sum of fifty thousand rupees
(14)	(n)	(i), (ii) or (iii)	a sum not exceeding five thousand rupees
(15)	(o)	(i) or (ii)	a sum equal to three times the amount of tax involved or forty percent of value of goods whichever is higher.
(16)	(p)	(ii)	a sum of five hundred rupees.
	(p)	(i), (iii), (iv), (v) or (vi)	a sum equal to three times of the amount of tax treating the value of goods taxable turnover or forty percent of the value of goods whichever is higher.
(17)	(q)	-	a sum equal to twice the amount of tax so realized.
(18)	(r)		a sum of ten thousand rupees.
(19)	(s)		a sum of ten thousand rupees.
(20)	(t)		a sum of one thousand rupees.
(21)	(u)		a sum equal to three times of amount of input tax credit.

(22)	(v)		a sum of two thousand rupees.
(23)	(w)		a sum not exceeding two thousand rupees.

**EXPLANATION** – For the purpose of this section -

- (I) the assessing authority includes an officer not below the rank of an officer appointed and posted by the Commissioner at a check-post or an officer empowered to exercise powers under sections 45, 46, 47, 48, 50, 51, 52 and 54 of the Act;
  - (II) where amount of penalty is to be determined on the basis of turnover of goods, value of goods shown or determined whichever is higher, shall be deemed to be turnover of taxable goods and relating to taxable sale or purchase.
  - (III) for the purposes of clauses ( I ), (m), (n) and (o) value of goods written on such documents and if value is not written then estimated market value prevalent at the relevant time in local market, shall be deemed the turnover of sales or purchases of taxable goods relating to taxable sale or purchase.
- (2) A copy of the order passed under sub-section (1) shall be served on the dealer or person concerned and the amount imposed by way of penalty shall be deposited by such dealer or person in the prescribed manner within thirty days of such service, failing which it may be recovered in the manner provided under section 33.
- (3) No order shall be made under sub-section (1) unless the dealer or other person concerned has been given a reasonable opportunity of being heard.

- (4) No prosecution under section 54 shall be instituted in respect of the same facts on which a penalty imposed under this section has been paid in addition to the tax due.
- (5) The provisions of this section shall mutatis mutandis be applicable to the executor, administrator and the legal representative referred to in section 55,
- (6) Where any penalty order passed by assessing authority either under this section or any other section of this Act, is quashed by any authority or court in exercise of powers vested in it on the ground that show cause notice issued to dealer or any other person is not in accordance with the provisions of this Act, the assessing authority may pass fresh order of penalty after issuing proper notice within one year from the date of receipt of order quashing such earlier order by due process.
- (7) where in case of a sick unit as referred to in section 76, any penalty order has been passed exparte and appeal has not been filed against such order, if the State Government issues direction to the assessing authority to set aside such order and to pass fresh order of penalty, assessing authority shall pass such fresh order of penalty within a period of one year from the date on which it receives the order or direction by due process from the State Government.

#### **57. Composition of offences**

The assessing authority may accept from any person who has committed or is reasonably suspected of having committed an offence under this Act, by way of composition of such offence -

- (a) Where the offence consists of failure to pay any tax recoverable under this Act, a sum of money not exceeding double the amount of tax in addition to the tax so recoverable.
- (b) Where the offence consists of an evasion of any tax recoverable under this Act, a sum of money not exceeding Rupees 5000 (five thousand) or triple the amount of tax recoverable whichever is greater in addition to the amount of the tax recoverable;
- (c) Where the offence consists of import or transport or abetment to import or transport of any goods in contravention of the provisions of section 50 or section 51, a sum of money not less than the amount of tax that can be evaded and not exceeding three times of the amount of such tax or forty percent of the value of goods whichever is higher.