

## CHAPTER I

### PRELIMINARY

#### 1. Short title, extent and commencement

(i) This Act may be called the Uttar Pradesh Value Added Sales Tax Act,

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(ii) It extends to the whole of Uttar Pradesh.

(iii) It shall come into force on such date as the State Government may, by notification in the official Gazette, appoint.

Provided that the State Government may appoint different dates for different provisions.

#### 2. Definitions

In this Act, unless there is anything repugnant in the subject or context: -

(a) "**appellate authority**" means the authority to whom an appeal lies under section 59.

(b) "**assessing authority**" means any person,

(i) appointed and posted by the State Government; or

(ii) appointed by the State Government and posted by the Commissioner; or

(iii) appointed and posted by the Commissioner,

to perform all or any of the functions of the assessing authority under this Act.

(c) "**assessment year**" means the financial year beginning from first April and ending with Thirty first March.

(d) "**business**" In relation to business of buying or selling goods includes-

(i) any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture, whether or not such trade, commerce, manufacture, adventure or concern is carried on with a motive to make profit and whether or not any profit

accrues from such trade, Commerce, manufacture, adventure or concern;

- (ii) the execution of any works contract or the transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;
  - (iv) any transaction of buying, selling or supplying plant, machinery, raw materials, processing materials, packing materials, empties, consumable stores, waste or by-products, or any other goods of a similar nature or any unserviceable or obsolete or discarded machinery or any parts or accessories thereof or any waste or scrap or any of them or any other transaction whatsoever, which is ancillary to or is connected with or is incidental to, or results from such trade, commerce, manufacture, adventure or concern or works contract or lease, but does not include any activity in the nature of mere service or profession which does not involve the purchase or sale of goods.
- (e) "**Commissioner**" means the person posted by the State Government as Commissioner of Commercial Taxes and includes a Special Commissioner Commercial Taxes, an Additional Commissioner Commercial Taxes and a Joint Commissioner Commercial Taxes.
- (f) "**capital goods**" means plant, machinery, equipments, apparatus, components, moulds required by a dealer for use in manufacture or processing of goods for sale by him or for use in packing of such goods.
- (g) "**dealer**" means any person who carries on in Uttar Pradesh (whether regularly or otherwise) the business of buying, selling, supplying or distributing goods directly or indirectly, for cash or for deferred payment or for commission, remuneration or other valuable consideration and includes
- (i) a local authority, body corporate, company, any co-operativesociety or other society, club, firm, Hindu Undivided Family or other association of persons which carries on such business;
  - (ii) a factor, broker, arhati, commission agent, del credere agent, or any other mercantile agent, by whatever name called, and whether of the same description as hereinbefore mentioned or not, who carries on the business of buying, selling, supplying or

distributing goods belonging to any principal, whether disclosed or not;

- (iii) an auctioneer who carries on the business of selling or auctioning goods belonging to any principal, whether disclosed or not, and whether the offer of the intending purchaser is accepted by him or the principal or nominee of the principal;
- (iv) a Government which, whether in the course of business or otherwise, buys, sells, supplies or distributes goods, directly or otherwise, for cash or for deferred payment or for commission, remuneration or other valuable consideration;
- (v) a person who acts within the State as an agent of a dealer residing outside the State, and buys, sells, supplies or distributes goods in the State or acts on behalf of such dealer as-
  - (a) a mercantile agent; or
  - (b) an agent for handling of goods or documents of title relating to goods; or
  - (c) an agent for the collection or the payment of the sale price of goods or as a guarantor for such collection or such payment;
- (vi) a firm or a company or other body corporate, the principal office or head quarter whereof is outside the State, having a branch or office in the State, in respect of purchases or sales, supplies or distribution of goods through such branch or office;
- (vii) a person who carries on the business of transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;
- (viii) a person who carries on the business of transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash or for deferred payment or other valuable consideration;

Provided that a person who sells agricultural or horticultural produce grown by himself or grown on any land in which he has an interest, whether as owner, usufructuary mortgagee, tenant, or otherwise,

or who sells poultry or dairy products from fowls or animals kept by him shall not, in respect of such goods, be treated as a dealer;

- (h) "**declared goods**" means goods declared under section 14 of the Central Sales Tax Act, 1956, to be of special importance in the inter-state trade or commerce;
- (i) "**document**" means any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, intended to be used, or which may be used for the purpose of recording that matter and includes electronic document.
- (j) "**goods**" means every kind or class of movable property and includes all materials, commodities and articles involved in the execution of a works contract, and growing crops, grass, trees and things attached to, or fastened to anything permanently attached to the earth which, under the contract of sale, are agreed to be severed, but does not include newspapers, actionable claims, stocks, shares, securities or postal stationery sold by the Postal Department;
- (k) "**importer**" in relation to any goods means the dealer who makes the first sale of such goods after their import into the State;
- (l) "**input tax**" means the aggregate of following:
  - (i) amount of tax charged under this Act by the registered selling dealer from the purchasing dealer on the turnover of sale of goods; and
  - (ii) amount of tax paid or payable directly to the State Government by the purchasing dealer himself on the turnover of purchases of goods, liable to tax under this Act.
- (m) "**lease**" means any agreement or arrangement whereby the right to use any goods for any purpose is transferred by one person to another (whether or not for specified period) for cash , deferred payment or other valuable consideration without the transfer of ownership and includes a sub-lease but does not include any transfer on hire purchase or any system of payment by instalments;
- (n) "**lessee**" means any person to whom the right to use goods for any purpose is transferred under a lease;
- (o) "**lessor**" means any person by whom the right to use any goods for any purpose is transferred under a lease;

- (p) "**manufacture**" means producing, making, mining, collecting, extracting, altering, ornamenting, finishing, or otherwise processing, treating or adapting any goods; but does not include such manufacture or manufacturing processes as may be prescribed;
- (q) "**manufacturer**" in relation to any goods means the dealer who makes the first sale of such goods in the State after their manufacture;
- (r) "**mercantile agent**" means a mercantile agent having in the customary course of business as such agent authority either to sell goods, or to consign goods for the purpose of sale, or to buy goods, or to raise money on the security of goods;
- (s) "**officer-in-charge of a check post or barrier**" includes an officer not below the rank of assessing authority posted at a check post or barrier,
- (t) "**prescribed**" means prescribed under the rules made under this Act;
- (u) "**place of business**" means any place where a dealer carries on business and includes-
- (i) any shop, ware-house, godown or other place where a dealer stores his goods;
  - (ii) any place where a dealer produces or manufactures goods;
  - (iii) any place where a dealer keeps his books of accounts and documents;
  - (iv) any place where a dealer executes the works contract or where the right to use goods is exercised; and
  - (v) in a case of a dealer who carries on business through an agent (by whatever name called), the place of business of such agent;
- (v) "**purchase price**" means the amount payable by a purchaser to a seller as consideration for the purchase of any goods made by or through him after deducting the amount, if any refunded to the purchaser by the seller in respect of any goods returned to such seller within such period as may be prescribed.

Explanation: Purchase price does not include:

- (i) the amount representing the cost of outward freight or cost of installation, charged by the seller to the purchaser of goods if such amount has been shown separately on sale invoice or tax invoice issued by the seller;

(ii) amount of tax if such amount is shown separately on the sale invoice or Tax invoice.

**(w) "registered dealer"** means a dealer registered under section 17 of this Act;

**(x) "registering authority"** means the officer empowered under the rules to deal with issue, suspension, cancellation or any other matter related to registration and includes an assessing authority;

**(y) "re-sale"** means a sale of any goods by a dealer in the same form and condition in which such goods were purchased by such dealer;

**(z) "return"** means any return prescribed or required to be furnished under this Act or the rules made thereunder;

**(aa) "rules"** means rules made under this Act by the State Government to carry out the purposes of this Act.

**(ab) "sale"** with its grammatical variations and cognate expressions, means any transfer of property in goods (otherwise than by way of a mortgage, hypothecation, charge or pledge) by one person to another, for cash or for deferred payment or for any other valuable consideration and includes, -

- (i) a transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration;
- (ii) a transfer of property in goods( whether as goods or in some other form) involved in the execution of a works contract;
- (iii) delivery of goods on hire purchase or any other system of payment by instalments;
- (iv) a transfer, delivery or supply of goods under a contract of transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;
- (v) supply of goods by an association or body of persons (whether incorporated or not) to a member thereof for cash, deferred payment or other valuable consideration;
- (vi) supply, by way of or as part of any service or in any other manner whatsoever of goods, being food or any other article for human consumption or any drink(whether or not intoxicating) where such supply or service is for cash, deferred payment or other valuable consideration

and such delivery, transfer or supply of any goods under clause (i) to clause (vi) above shall be deemed to be sale of those goods by the person making the delivery, transfer or supply and a purchase of those goods by the person to whom such delivery, transfer or supply is made.

Explanation : Expressions-

- (i) purchase or sale of goods in the course of inter state trade or commerce;
- (ii) purchase or sale of goods outside the State; and
- (iii) sale of goods in the course of export of the goods out of, or purchase or sale of goods in the course of import of the goods into, the territory of India,

shall have same meanings as assigned to them under sections 3, 4 and 5 of the Central Sales Tax Act, 1956 respectively.

**(ac).** "sale price" means the amount payable to a dealer as consideration for the sale of any goods, less any sum allowed as cash discount according to the practice normally prevailing in the trade, but inclusive of any sum charged for anything done by the dealer in respect of goods at the time of or before the delivery thereof, other than cost of outward freight or delivery or cost of installation in cases where such cost is separately charged;

Explanation:

- (i) In a case in which any amount of any duty payable by a dealer is deferred for a period or point of payment of any duty is shifted, amount of such duty shall be deemed part of the sale price;
- (ii) The price of packing material in which any goods are packed shall be deemed part of sale price of goods sold.
- (iii) Sale price of goods in relation to transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract, shall be determined after deducting the aggregate of actual amount incurred towards labour and services, amount of profit relating to supply of labour and services and such

other amounts as may be prescribed from the total amount received or receivable in respect of such works contract.

(iv) In respect of transfer of right to use goods, any goods for any purpose (whether or not for a specified period) sale price means the valuable consideration received or receivable in respect of such transfer of right to use goods but does not include any sum payable as a penalty or as compensation or damages for breach of contract.

**(ad) "section"** means section of this Act;

**(ae) "Settlement Commission"** means the Commission constituted under section 67 of this Act.

**(af) "State"** means the State of Uttar Pradesh;

**(ag) "tax"** means tax leviable under this Act, on the sale or purchase of goods other than newspapers; and includes –

(a) lump sum (composition money) accepted in lieu of actual amount of tax due on turnover of sales or purchases or both, as the case may be; or

(b) amount of reverse input tax credit ; or

(c) amount of Special Additional Tax.

**(ah) "taxable goods"** means goods other than the goods the sale or purchase of which is exempt from tax under clause (a) of section 11 of this Act;

**(ai) "taxable turnover"** means turnover obtained after deducting from the gross turnover such amounts as may be prescribed;

**(aj) "tax invoice"** means a bill or cash memo issued by a registered selling dealer to a purchasing dealer as prescribed under this Act, in respect of sale of taxable goods other than Aviation Turbine Fuel, Diesel Oil and Petrol.

**(ak) "tax period"** means a period under this Act;

**(al) "Tribunal"** means the Tribunal constituted under section 61 of this Act;

**(am) "turnover of sales"** means the aggregate of amount of sale prices of goods, sold or supplied or distributed by way of sale by a dealer, either directly or through another, whether on his own account or on account of others,

**(an) "turnover of purchase"** with its cognate expressions means the aggregate of the amounts of purchase prices paid or payable in respect of purchase of goods made by a dealer either directly or through another dealer,



whether on his own account or on account of others, after deducting the amount, if any, refunded to such seller in respect of any goods returned to such seller within such period as may be prescribed;

**(ao) "vehicle"** means any kind of mode of transportation used for carriage of goods including motor vehicle, pull or push cart including animal drawn cart, animal, trailer, trolley, bicycle, tricycle and a carrier but does not include a train.

**(ap) "vessel"** includes any container, ship, barge, boat, raft, timber, bamboo or floating materials propelled in any manner.

**(aq)"works contract"** includes any agreement for carrying out, for cash, deferred payment or other valuable consideration, the building construction, manufacture, processing, fabrication, erection, installation, fitting out, improvement, modification, repair or commissioning of any movable or immovable property.