

CHAPTER X
OFFENCES AND PENALTIES

Offences.

- 90.** If a person or dealer –
- (a) being liable to pay tax under this Act, fails to get himself registered;
 - (b) not being a registered dealer, represents, when purchasing goods, that he is a registered dealer; or
 - (c) being a registered dealer, represents when purchasing goods or class of goods not covered by his certificate of registration that such goods are covered by his certificate of registration that such goods are covered by such certificate; or
 - (d) contravenes the terms of any declaration made by him under the provisions of this Act or violates any condition or furnishes inaccurate particulars in any document furnished by him under this Act.
 - (e) fails to furnish without reasonable cause any return or statement as required under section 35 in the prescribed manner and within the prescribed time; or
 - (f) fails to pay without reasonable cause the tax payable by him under sub-section (1) of section 35 or under any notice of demand issued under section 47 within the time allowed for such payment; or
 - (g) conceals any part of his gross turnover or taxable turnover or any particulars thereof or furnishes incorrect particulars of such turnover in any return or statement furnished under section 35 or make any incorrect claim for exemption, reduction in the tax payable or other relief under any provision of this Act; or
 - (h) transports any goods in contravention of the provision of section 75;
 - (i) violates the provisions of section 88.
 - (j) Violates the provisions of sub-section (1) of section 105.

Penalties.

- 91.** (1) Whoever, not being a registered dealer falsely represents that he is or was a registered dealer at the time when he sells or buys goods shall, on conviction, be punished with rigorous imprisonment for a terms which shall not be less than six months but which may extend to three years and with fine.
- (2) Whoever, knowingly furnishes a false return shall, on conviction, be punished –
- (a) in case where the amount of tax, which could have been evaded if the false return had been accepted as true, exceeds Rs. 10,000/-with rigorous imprisonment for a term which shall not be less than six months but which may extend to three years and with fine;
 - (b) in any other case, with rigorous imprisonment for a term, which shall not be less than three months but which may extend to one year and with fine.

- (3) Whoever, knowingly produces before the Commissioner, false bill, cash-memorandum, voucher, declaration, certificate or other document for evading tax payable under this Act shall on conviction, be punished –
 - (a) in case where the amount of tax which could have been evaded, if the documents referred to above had been accepted as true, exceed Rs. 50,000 during the period of a year, with rigorous imprisonment for a term which shall not be less than six months but which may extend to three years and with fine.
 - (b) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to one year and with fine.
- (4) Whoever, knowingly keeps false account of the value of the goods bought or sold by him in contravention of the provisions of this Act, shall, on conviction, be punished with rigorous imprisonment for a term which shall not be less than three months but which may extend to one year and with fine.
- (5) Whoever, knowingly produces false accounts, registers or documents or knowingly furnishes false information, shall, on conviction, be punished –
 - (a) in case where the amount of tax which could have been evaded, if the accounts, registers or documents or information referred to above had been accepted as true, exceeds Rs. 50,000 during the period of a year, with rigorous imprisonment for a term which shall not be less than six months but which may extend to three years and with fine;
 - (b) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to one year and with fine.
- (6) Whoever, issues to any person certificate or declaration under the Act, rules or notifications or a false bill, cash-memorandum, voucher, delivery Challan, lorry receipt or other document which he knows or has reason to believe to be false, shall, on conviction, be punished with rigorous imprisonment for a term which shall not be less than six months but which may extend to three years and with fine.
- (7) Whoever, -
 - (a) willfully attempts, in any manner whatsoever, to evade any tax leviable under this Act, or
 - (b) willfully attempts, in any manner whatsoever, to evade any payment of any tax, penalty or interest or all of them under this Act or shall on conviction, be punished –
 - (i) in case where the amount involved exceeds Rs. 50,000 during the period of a year, with rigorous imprisonment for a term which shall not be less than six months but which may extend to three years and with fine;

- (ii) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to one year and with fine.
- (8) Whoever aids or abets or induces any person in commission of any act specified in sub-sections (1) to (7) shall, on conviction, be punished with rigorous imprisonment which shall not be less than three months but which may extend to one year and with fine.
- (9) Whoever –
 - (a) is engaged in business as a dealer without being registered in willful contravention of section 31, or
 - (b) fails without sufficient cause to furnish any returns as required by section 31, by the date and in the manner prescribed,
 - (c) fails without sufficient cause, when directed to keep any accounts or record, in accordance with the provisions of this Act, or
 - (d) fails without sufficient cause, to comply with any requirements made of him under section 84, or
 - (e) voluntarily obstructs any officer making inspection or search or seizure under section 84,shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fine.
- (10) Whoever fails, without sufficient cause, to furnish any return by the date and in the manner prescribed under this Act shall on conviction, be punished with simple imprisonment for a term which may extend to one year and with a fine, which shall not be less than,-
 - (a) rupees two thousand, if the tax due for the period covered by the return does not exceed rupees twenty thousand;
 - (b) rupees five thousand, if the tax due for the period covered by the return exceeds rupees twenty thousand but does not exceed rupees one lakh;
 - (c) (i) rupees ten thousand, if the tax due for the period covered by the return exceeds rupees one lakh
- (11) Whoever commits any of the acts specified in sub-sections (1) to Sub-Section (10) and the offence is a continuing one under any of the provisions of these sub-sections, shall, on conviction, be punished with daily fine not less than rupees one hundred during the period of the continuance of the offence, in addition to the punishments provided under this section.
- (12) Notwithstanding anything contained in sub-sections (!) to (11), no person shall be proceeded against these sub-sections for the acts referred to therein if the total amount of tax evaded or attempted to be evaded is less than Rs. 200 during the period of a year.
- (13) Where a dealer is accused of an offence specified in sub-sections (1) to (11) the person deemed to be the manager of the business of such dealer shall also be deemed to be

guilty of such offence, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission thereof.

- (14) In any prosecution for an offence under this section, which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state, but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Explanation - Culpable mental state includes intention, motive or knowledge of fact or belief in, or reason to believe a fact and a fact is said to be proved only when the court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

Offences by companies.

92. (1) Where an offence under this Act or the rules has been committed by a company, every person who at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company 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 provided in this Act if he proves that the offence was committed without his 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 is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation - For the purpose of this section -

'company' means a body corporate, and includes a firm or other association of individuals; and

'director' in relation of a firm means a partner in the firm.

- (3) Where an offence under this Act has been committed by a Hindu Undivided Family, the Karta thereof 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 the Karta liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence ;

Provided further that, where an offence under this Act has

- been committed by a Hindu Undivided Family and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any adult member of the Hindu Undivided Family, such member shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- Cognizance of offences.** 93. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences punishable under this Act or Rules made thereunder shall be cognizable and bailable
- Imposition of Fine** 94. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, it shall be lawful for the Metropolitan Magistrate or Magistrate of the First Class to pass on any person convicted of an offence under section 76 or Section 100 a sentence of fine as provided in the relevant section, in excess of his powers under section 29 of the said Code.
- Investigation of offences.** 95. (1) Subject to conditions, if any, as may be prescribed, the Commissioner may authorize either generally or in respect of a particular case or class of cases any officer or person subordinate to him to investigate all or any of the offences punishable under this Act.
(2) Every officer so authorized shall, in the conduct of such investigation, exercise the power conferred by the Code of Criminal Procedure, 1973 upon an officer in charge of a police station for the investigation of a cognizable offence.
- Compounding of offences.** 96. (1) The Commissioner may, either before or after the institution of proceedings for any offence punishable under section 90 or under any rules made under this Act, accept from any person charged with such offence by way of composition of offence a sum not exceeding five thousand rupees or double the amount of tax which would have been payable on the sale or purchase turnover to which the said offence relates, whichever is greater.
(2) On payment of such sum as may be determined by the Commissioner under sub-section (1), no further proceedings shall be taken against the accused person in respect of the same offence and any proceedings, if already taken, shall stand abated.
- Remission.** 97. (1) The State Government, for reasons to be recorded in writing, may remit the whole or part of the amount of the tax or penalty payable in respect of any period by any registered dealer who has suffered heavy loss due to any natural calamity.
(2) The State Government may, by rules, provide that in such circumstances and subject to such conditions as may be prescribed, a draw back, set off, or a refund of the whole or any part of the tax paid in respect of any purchase of raw materials under this Act for use by any dealer in the manufacture of goods for sale, be granted to such dealer.