

CHAPTER IX

Accounts, Inspection, search and seizure and power to call for information.

Inspection, Search and Seizure.

- 84.** (1) In order to enforce provisions of this Act, the Commissioner or any officer authorized by the Commissioner-
- (a) shall have, at all times during normal working hours and at all reasonable times without any prior notice to any person full and free access to any premises, place, goods, books, record, computer or any electronically stored data.
 - (b) may make an extract or copy from any book, record or computer-stored information to which access is obtained under clause (a)
 - (c) may seize and confiscate any goods not accounted for and seize any books or records that, in his opinion, affords evidence that may be material in determining the liability of any person under this Act.
 - (d) may retain any such book or record for a period of one month for determining a person's liability or for any proceeding under this Act; in the event this period needs to be extended the permission of the next higher authority must be obtained for each additional month the book or record is retained; and
 - (e) may, where a hard copy or computer disk of information stored on a computer is not provided, seize and retain the computer for a period of one month to copy the information required; in the event this period needs to be extended the permission of the next higher authority must be obtained for each additional month such record is retained.
- (2) No officer shall exercise the power under sub-section (1) of this section of this Act in respect of residential premises not being shop or business premises without authorization in writing from the Deputy Commissioner.
- (3) The owner, manager, or any other person on the premises or at the place entered or proposed to be entered under this section shall provide all reasonable facilities and assistance for the effective exercise by the Commissioner or any Officer of the powers under this section of this Act.
- (4) A person whose books, records, or computer have been removed and retained under sub-section (1) of this Section of this Act may examine them and make copies or extracts from them during regular office hours under such supervision as the Commissioner or authorized officer may determine.
- (5) The Commissioner or any officer authorized by the Commissioner may, by notice in writing require any person,

whether or not liable to pay tax under this Act:-

- (a) to furnish any information that may be required by the notice; or
 - (b) to attend at the time and place designated in the notice for the purpose of being examined on oath by the Commissioner or by any officer authorized by the Commissioner, concerning the tax affairs of that person or any other person, and for that purpose the Commissioner or any authorized officer may require the person examined to produce any book, record, or computer-stored information in the control of the person.
- (6) Where the notice requires the production of a book of record, it is sufficient if that book or record is described in the notice with reasonable certainty.
- (7) A notice duly signed and issued under this section shall be sent to the person to whom it is directed, or left at the person's last and usual place of business or abode.
- (8) All books of account and documents referred to in sub-section (1) and all declarations and other relevant documents shall be preserved by the dealer for a period of not less than eight years from the end of the year to which they relate; Provided that where an assessment, reassessment, appeal, revision for any period is pending at the end of the aforesaid period of eight years such books of account, documents and declarations shall be preserved till such pending proceedings are finally disposed of.

Disposal of seized goods.

- 85.** (1) If any goods are seized under section 82 or 84, the Commissioner or any officer authorised by the Commissioner, by an order in writing impose upon the person from whom such goods are seized, or the owner of such goods, where the particulars of the owner of such goods are available, or possession, after giving reasonable opportunity of being heard, a penalty not exceeding fifty per centum of the value of such goods as may be determined by him in accordance with rules made under this Act.
- (2) If the penalty is not paid by the date specified in the notice issued under sub-section (1) the Commissioner or the officer authorised by him, may in such manner and subject to such restrictions and conditions as may be prescribed, sell the goods so seized in open auction and remit the sale proceeds thereof to a State Govt. Treasury.
- (3) Notwithstanding anything contained in sub-section (2), the Commissioner may, subject to such rules as may be made under this Act, where the goods seized are :-
- (a) of perishable nature
 - (b) required to be used by a specified date.
- sell such goods in open auction before the occurrence of, or expiry of such period as he may consider fit and proper or, if he is of the opinion that such may become unusable or unsaleable on detention, destroy such goods, if the

said goods become unsaleable before the sale in open auction actually takes place.

- (4) The proceeds of sale of the goods under sub-section (2) and (3) shall be applied in the prescribed manner for payment in the following order of priority,
 - (a) first for incidental charges, if any, relating to auction sale of such goods;
 - (b) secondly, for expenses, if any, for storage of such goods;
 - (c) thirdly, for penalty imposed under sub-section (1); and
 - (d) the balance of the proceeds of the sale, if any, shall be paid to the owner of the goods or, if his particulars are not available, to the person from whom such goods were seized upon application within one year from the date of sale or within such further period as may be allowed by the Commissioner for cause shown to his satisfaction.
- (5) Notwithstanding anything contained under sub-sections (1), (2) or (3), the Commissioner or any officer authorised by him may, for reason to be recorded in writing, direct release of the goods seized on such terms and conditions as he may deem fit.

- Audit of accounts.** 86. (1) Where in any particular year, the gross turnover of a dealer exceeds such other amount as the Commissioner may, by a notification in the official Gazette specify, then such dealer shall get his accounts, in respect of that year audited by an accountant within six months from the end of that year and obtain a report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed.
- (2) A true copy of such report shall be furnished by such dealer to the Commissioner by the end of the month after expiry of the period of six months during which the audit would have been completed.
- (3) If any dealer liable to get his accounts audited under sub-section (1) fails to get his accounts audited and furnish a true copy of the audit report within the time specified in sub-section (2), the Commissioner shall, after giving the dealer a reasonable opportunity of being heard, impose on him, in addition to any tax payable, a sum by way of penalty equal to 0.1% of the turnover as he may determine to the best of his judgement in his case in respect of the said period.

Explanation: - For the purpose of this section, "Accountant" means a Chartered Accountant within the meaning of the Chartered Accountant' Act, 1949 and includes a person who by virtue of the provisions of sub-section (2) of section 226 of the Companies Act, 1956, is entitled to be appointed to act as an auditor of Companies registered under the said Act.

- Dealer to declare the** 87. (1) Every dealer, who is liable to pay tax, and who is a Hindu

name of his business manager.

Undivided Family or an association of persons, club or society, firm or company, or who is engaged in business as the guardian or trustee or otherwise on behalf of another person, shall within the period prescribed, furnish a declaration in the manner prescribed stating the name of the person or persons who shall be deemed to be manager or managers of such dealer's business for the purposes of this Act.

- (2) Such declaration shall be furnished at the time of registration, wherever applicable and shall be revised from time to time.
- (3) The statement furnished under this sub-section shall also contain the name and address with designation in relation to the business of such persons who are authorised to receive notice and other documents under this Act and such service on whom shall be binding on the dealer

Compulsory issue of tax invoice, cash memo or bill.

- 88.**
- (1) If a registered dealer sell any goods to any person, he shall issue to the purchaser a serially numbered tax invoice in the prescribed form, signed and dated by him or his regular employee, showing such particulars as may be prescribed, and he shall also keep a counterfoil or duplicate of such cash memorandum or bill, duly signed and dated; or
 - (2) A dealer, not being a registered dealer, whose turnover of sales has exceeded in any year fifty per centum of the taxable quantum referred to in sub-section 5 of section 3. Sells any goods to any person, he shall issue to the purchaser a serially numbered invoice or cash memorandum or bill, signed and dated by him or his regular employee, showing such particulars as may be prescribed, and he shall also keep a counterfoil or duplicate of such cash memorandum or bill, duly signed and dated:

Provided that if the State Government is of the opinion that the requirement under this section shall cause hardship to a certain class or classes of dealers included in sub section (2) and that such requirement should, subject to fulfillment by any class or classes of dealers of certain conditions and restrictions to be imposed to ensure that there is no evasion of tax, be dispensed with, it may prescribe by rules such class or classes of dealers and such conditions and restriction subject to which the requirement of sub section (2) in respect of such class or classes of dealers shall be dispensed with.

Electronic record.

- 89.** Every dealer who maintains the records electronically shall retain them in electronically readable format for the period specified in section 84.