

CHAPTER - VIII

OFFENCES AND PENALTIES

67. Imposition of penalty by authorities. - (1) Notwithstanding anything contained in section 71 if any authority empowered under this Act is satisfied that any person, -

- (a) being a person required to register himself as a dealer under this Act, did not get himself registered; or
- (b) has failed to keep true and complete accounts; or
- (c) has failed to submit any return as required by the provisions of this Act or the rules made thereunder; or
- (d) has submitted an untrue or incorrect return; or
- (e) has made any bogus claim of input tax credit, special rebate or refund; or
- (f) has continued the business during the period of suspension of registration; or
- (g) has failed to return the un used statutory Forms and Declarations under this Act after the cancellation or suspension of the registration; or
- (h) has not stopped any vehicle or vessel when required to do so; or
- (i) has failed to comply with all or any of the terms of any notice or summons issued to him by or under the provisions of this Act or the rules made there under; or
- (j) has acted in contravention of any of the provisions of this Act or any rule made there under, for the contravention of which no express provision for payment of penalty or for punishment is made by this Act; or
- (k) has abetted the commission of the above offences, or
- (l) has abetted or induced in any manner another person to make and deliver any return or an account or a statement or declaration under this Act or rules made there under, which

is false and which he either knows to be false or does not believe to be true,

such authority may direct that such person shall pay, by way of penalty, an amount not exceeding twice the amount of tax or other amount evaded or sought to be evaded where it is practicable to quantify the evasion or an amount not exceeding ten thousand rupees in any other case:

Provided that the authority empowered under this section shall dispose off the case within one year from the date of detection of offence mentioned under this section except where the extension of time is granted by the Deputy Commissioner.

(2) Notwithstanding anything contained in sub-section (1), where on completion of an assessment in relation to a dealer under sections 22, 23, 24 or 25, it is found that the tax so determined on such assessment was not paid by the dealer, the assessing authority may direct such dealer to pay, in addition to the tax so determined, a penalty, in the case of a dealer who has made part payment, at twice the balance amount of tax so determined, and in the case of a dealer who has not paid any amount, twice the complete amount so assessed.

Explanation: - The burden of proving that any person is not liable to the penalty under sub-section (1) shall be on such person.

(3) No order under sub-sections (1) or (2) shall be passed unless the person on whom the penalty is proposed to be imposed is given an opportunity of being heard in the matter.

68. Penalty for default of payment of tax. - (1) Where an assessee makes default in payment of tax or any other amount due under this Act within the time specified in the notice of demand, he shall, in addition to the tax or other amount in arrears and the amount of interest payable under sub-section (5) of section 31, be liable to pay, by way of penalty such

amount and in the case of a continuing default, amount at such rate for every day during which the default continues, as the assessing authority may direct, so, however, that the total amount of penalty shall not exceed the amount of tax or other amount in arrears.

(2) No penalty under sub-section (1) shall be imposed without giving the assessee a reasonable opportunity of being heard.

69. Penalty for transport of goods without records. - (1) If any officer empowered under sub-section (1) of section 47 finds on inspection of any vehicle or vessel that any transporting agency or contract carriage transporting any goods without the documents required under sub-section (3) of section 46, such officer may without prejudice to any action that may be taken under section 47, impose by an order in writing on such transporting agency, or contract carriage, or the owner of the vehicle a penalty equal to twice the amount of the tax due on such goods subject to a minimum of five thousand rupees.

(2) Where a transporting agency or contract carriage or the owner of the vehicle or vessel is subsequently guilty of the offence under sub-section (1) for more than one occasion, the officer referred to in that sub-section may, in addition to the penalty that may be imposed under the said sub-section, by an order in writing detain the vehicle or vessel for a period of thirty days from the date of inspection of the vehicle or vessel, whether the vehicle or vessel used for the Commission of the offence on subsequent occasion is the same or not.

(3) The vehicle or vessel detained under sub-section (2) shall be kept in safe custody by the officer detaining the vehicle on a place notified by the Government.

(4) No order under sub-section (1) or sub-section (2) shall be passed unless such person affected by such order shall be given an opportunity of being heard.

(5) The vehicle or vessel detained under this section shall, after the expiry of thirty days from the date of detention, release to the person from whom it was detained.

Explanation: - Transporting agency for the purposes of the section shall include parcel agency.

70. Penalty for prevention or obstruction of survey, inspection etc.- Any person who, -

- (a) prevents or obstructs survey, inspection, entry, search, seizure or checking of invoices by an officer empowered under this Act, or
- (b) prevents or obstructs inspection of any vehicle or vessel or goods transported, otherwise or seizure of goods by an officer in charge of a check post or barrier or any officer empowered under this Act, or
- (c) prevents or obstructs any other act of an officer which he is empowered to perform under this Act,

shall, pay by way of penalty an amount not exceeding twenty five thousand rupees, as may be imposed by an officer not below the rank of an assessing authority.

Provided that no order under this shall be passed unless the person affected by such order is given an opportunity of being heard.

70A. Penalty for non-issuance of sale bill.-(1) Any officer during the course of any inspection or search of any business place, building, godown or any other place, or checking of goods under transport or verification of the bills at any place finds that the seller has not issued a sale bill or an invoice or cash memorandum in respect of any sale, in violation of section 40 A of the Act, the dealer shall, without prejudice to any other provisions in the Act, be liable to pay by way of penalty, an amount not exceeding twice the amount of tax

evaded or sought to be evaded or one thousand rupees for the first offence, whichever is higher, an amount not exceeding thrice the amount of tax evaded or sought to be evaded or two thousand rupees for the second offence, which ever is higher, and so on in arithmetic progression, for every subsequent commissions of the above offence.

(2) No penalty under sub-section (1) shall be imposed without giving the person affected a reasonable opportunity of being heard.

(3) Notwithstanding anything contained in sub-section (1), the dealer shall have an option to get the offence compounded, on the spot, on the payment of fifty per cent of penalty payable under sub-section (1).

(4) Where an offence has been compounded under sub-section (3), no further penal proceedings under sub-section (1) shall be taken against the dealer in respect of such offence.

(5) A dealer who commits the offence in sub-section (1) for more than ten occasions shall be liable to cancellation of his registration.

71. Punishment for submitting untrue return etc: - (1) Any person who, -

- (a) knowingly submits an untrue return or fails to submit return as required by the provisions of this Act or the rules made there under; or
- (b) fails to keep true and complete accounts; or
- (c) dishonestly objects to or fails to comply with the terms of a notice issued to him under sub-section (1) of section 35, or
- (d) being a person obliged to register himself as a dealer under this Act does not get himself registered; or
- (e) fails to stop any vehicle or vessel when required to do so by an officer empowered in this behalf; or
- (f) wilfully acts in contravention of any of the provisions of this Act or the rules made there under, for the contravention of which no express provision for

punishment is made by this Act, shall, on conviction by a Magistrate, be liable to fine which may extend to twenty five thousand rupees.

(2) Any person who –

(a) makes any bogus claim of input tax credit, special rebate or refund, or

(b) continues the business during the period of suspension of registration, or

(c) prevents or obstructs survey, inspection, entry, search, checking of tax invoice or seizure by an officer empowered under this Act, or

(d) prevents or obstructs inspection of any vehicle or vessel or goods transported otherwise or seizure of goods by an officer in charge of a check post or barrier or by any officer empowered under this Act, or

(e) fraudulently evades the payment of tax, fee or other amount due from him under this Act, or

(f) carries on business as a dealer without furnishing the security demanded under sub-section (1) of section 17, shall, on conviction by a Magistrate, be punished with simple imprisonment for a period which may extend to six months or to fine not less than the tax or other amounts due but not exceeding fifty thousand rupees or to both.

72. Penalty for illegal collection of tax. - (1) If any person collects any sum by way of tax or purporting to be by way of tax in contravention of sub-section (2) or sub-section (3) or sub-section (4) of section 30, he shall, in addition to the forfeiture of such illegal collection, be liable to pay penalty not exceeding five thousand rupees:

Provided that no penalty or forfeiture shall be ordered under this sub-section if the assessing authority is satisfied that the sum so collected has been returned to the person from whom it was collected.

(2) No penalty or forfeiture shall be ordered under this sub-section against any person unless such person is given an opportunity of being heard

(3) Where any sum is forfeited to the Government under sub-section (1), any person from whom the amount was collected in contravention of the provisions of sub-section (2) or sub-section (3) or sub-section (4) of section 30 may apply to the assessing authority for reimbursement of such sum and the amount shall be reimbursed to such person in the prescribed manner.

(4) No prosecution for an offence under this Act shall be instituted in respect of the same facts on which a penalty has been imposed or forfeiture has been ordered under this section.

73. Punishment for abetment. - Any person who,

(a) abets or induces in any manner another person to make and deliver any return or an account or a statement or declaration under this Act or rules made there under, which is false and which he either knows to be false or does not believe to be true, or

(b) abets or induces in any manner another person or persons to prevent or obstruct survey, inspection, entry, search, checking of tax invoice or seizure by an officer empowered under this Act, or

(c) abets to act in contravention of any of the provisions of this Act or the rules made there under,

shall, on conviction by a Magistrate be punished with simple imprisonment for a period which may extend to six months or with fine not exceeding fifty thousand rupees or with both.

74. Composition of offences. - (1) The assessing authority or other officer or authority authorized by the Government in this behalf may accept from any person who has committed or is reasonably suspected of having committed an offence against

this Act, other than those specified under clause (e) of sub-section (1) or clauses (b), (c) or (d) of sub-section (2) of section 71, by way of compounding of such offence, -

(a) where the offence consists of the evasion of any tax payable under this Act, in addition to the tax so payable a sum of money equal to the amount of tax so payable subject to a minimum of rupees five hundred and maximum of rupees two lakhs: and

(b) in other cases, a sum of money not exceeding ten thousand rupees:

Provided that the Commissioner may by order authorize any officer to compound the offence under this section on payment of a reduced amount.

(2) On payment of such amount under sub-section (1), no further penal or prosecution proceedings shall be taken against such person, in respect of that offence.

75. 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 the 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 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 that the commission of the offence is attributable to any neglect on the part of, any

director, manager, managing agent or any other officer of the company, such director, manager, managing agent or any 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 purposes of this section-

- (a) “Company” means anybody corporate and includes a firm or other association of individuals; and
- (b) “Director” in relation to a firm, means a partner in the firm.

AMENDMENT VIDE FINANCE ACT 2006
<p>(1) after section 70, the following section shall be inserted, namely:—</p> <p>“70A. <i>Penalty for non-issuance of sale bill.</i>—(1) Any officer during the course of any inspection or search of any business place, building, godown or any other place, or checking of goods under transport or verification of the bills at any place finds that the seller has not issued a sale bill or an invoice or cash memorandum in respect of any sale, in violation of section 40 A of the Act, the dealer shall, without prejudice to any other provisions in the Act, be liable to pay by way of penalty, an amount not exceeding twice the amount of tax evaded or sought to be evaded or one thousand rupees for the first offence, whichever is higher, an amount not exceeding thrice the amount of tax evaded or sought to be evaded or two thousand rupees for the second offence, which ever is higher, and so on in arithmetic progression, for every subsequent commissions of the above offence.</p> <p>(2) No penalty under sub-section (1) shall be imposed without giving the person affected a reasonable opportunity of being heard.</p> <p>(3) Notwithstanding anything contained in sub-section (1), the dealer shall have an option to get the offence compounded, on the spot, on the payment of fifty per cent of penalty payable under sub-section (1).</p> <p>(4) Where an offence has been compounded under sub-section (3), no further penal proceedings under sub-section (1) shall be taken against the dealer in respect of such offence.</p> <p>(5) A dealer who commits the offence in sub-section (1) for more than ten occasions shall be liable to cancellation of his registration.”;</p> <p>(2) in sub-section (2) of section 74, after the words “no further” the words “penal or prosecution” shall be inserted ;</p>