

Production and inspection of accounts, impounding of documents, search of premises and seizure of goods.

46. (1) The Commissioner or the designated officer, as the case may be, may, subject to such conditions, as may be prescribed, require any taxable person, registered person or any other person to produce before him any account and document or to furnish any information, relating to stocks of goods or sale, purchase and delivery of goods or payments made or received by the person or any other information relating to his business, as may be necessary.

(2) All accounts, registers and documents relating to stocks of goods or purchase, sale and delivery of goods, payments made or received by any taxable person, registered person or any other person and all goods kept in any place of business of any person, shall at all reasonable times be provided for inspection by an officer referred to in sub-section (1), and that officer may take or cause to be taken such copies or extracts of the said accounts, registers or documents and such inventory of the goods, as appear to him to be necessary.

(3) If the officer referred to in sub-section (1), has reason to believe that any taxable person, registered person or any other person has evaded or is attempting to evade the payment of any tax due from him, he may, for reasons to be recorded in writing, seize such accounts, registers or documents, as may be necessary and shall issue a receipt for the same. The said officer shall retain such accounts, registers or documents for a period not exceeding thirty days in case of current account books and sixty days for old account books. The officer may, however, in case he finds any information necessary for further investigation, retain a photocopy of the documents, which shall be authenticated by the person himself and shall be treated as original.

(4) For the purpose of sub-section (2) or sub-section (3), the said officer may enter and search any place of business or any other place where he has reason to believe that the taxable person or registered person keeps or is for the time being keeping any accounts, registers or documents of his business or stocks of goods relating to his business:

Provided that no officer shall enter and search any premises, without prior permission of the Commissioner or of such other officer not below the rank of Assistant Excise and Taxation Commissioner, as the Commissioner may, authorize in writing.

(5) Where any books of accounts, documents, cash or goods are found in the possession or control of any person in the course of any search, it shall be presumed, unless the contrary is proved, that such books of accounts, documents, cash or goods belong to such person whose place of business is inspected.

(2) Any officer empowered to act under sub-section (2) or sub-section (3), shall have power to seize any goods, which are found in any office, shop, godown, vessel, vehicle or any other place of business, but not accounted for by the person in his books, accounts, registers, records and other documents:

Provided that a list of all the goods seized under this sub-section, shall be prepared by such officer and be signed by the officer and two independent witnesses, and a receipt of the goods shall be given to the person from whose possession or control these are seized.

(3) The officer shall have the power to record the statement of a person or any person connected with his business, including a bailee or a transporter, and such statement may, after giving the affected person a reasonable opportunity of being heard, be used for the purpose of determining his liability to tax.

(4) The Officer after seizing the goods, may hand over the goods on sapurdari to the owner of the goods or a person duly authorized by such owner with the direction that he shall not part with the goods till verification is done or inquiry is made by such officer. The Officer shall make necessary verification or inquiry within a period of fifteen days from the date of handing over the seized goods.

(5) The officer may release the goods, seized under sub-section (6), to the owner of the goods or to the person duly authorised by such owner, during the course of the proceedings, on furnishing security for an amount equal to the value of the goods to the satisfaction of such an officer.

(6) If the officer, on inquiry or verification is satisfied that the seized goods are not accounted for or that the person has attempted to evade payment of tax in respect of such goods, he shall, after giving the person an opportunity of being heard, impose penalty as per provisions of this Act.

(7) The penalty referred to under sub-section (10), shall be deposited by the person in the prescribed manner within a period of thirty days from the service of the notice. If the person does not deposit the penalty, the officer shall cause the goods to be sold in such manner, as may be prescribed and apply the sale proceeds thereof towards the penalty and tax and refund the balance, if any, to the owner or the person

duly authorised by the owner of such goods, subject to provisions of section 37. In the event of the goods having been released against security under sub-section (9), the amount of penalty imposed, shall be recovered out of such security.

(8) Where the officer, seizing the goods or any other officer, as the case may be, is of the opinion that the goods are subject to speedy and natural decay or where the tax or penalty, as the case may be, is not deposited in accordance with the provisions of this Act, he may, without prejudice to any other action that may be taken in accordance with other provisions of this Act, cause the goods to be sold by public auction in the prescribed manner. The sale proceeds of such goods shall be adjusted towards the expenses of auction and amount of tax, penalty and interest, if, any. The balance, if any, shall be refunded to the person concerned in accordance with the provisions of this Act.

(9) Notwithstanding anything to the contrary contained in this Act, all the provisions of this section shall mutatis mutandis apply to an un-registered person, who has failed to apply for registration for VAT or TOT, if the designated officer is satisfied on the basis of definite information that such a person is liable to pay tax under this Act.