

Value Added Tax Act, 2003

Section 52 - Production and Inspection of Documents and Powers of Entry, Search and Seizure

- (1) Any officer authorised by the Commissioner in this behalf shall have the power.-
- (a) to enter and inspect the place of business of any dealer, or any other place, where it is believed by such Officer that business is being carried on or accounts including documents are being kept by such dealer.
 - (b) to direct such dealer to produce at such time and at such place accounts, registers and documents relating to his business activities for examination.
 - (c) to enter and inspect the goods in the possession of the dealer or in the possession of any other person on behalf of such dealer, wherever such goods are kept.
 - (d) to enter and search such places including the dealers place of residence, and including the search of the dealer or person acting on behalf of the dealer found there, where concealment of facts relating to the business are suspected.
 - (e) to seize any accounts, registers or documents from the dealer, where he has reason to suspect that a dealer is attempting to avoid or evade tax or is concealing his tax liability in any manner, after recording such reasons in writing, and give the dealer or any other person from whose custody such accounts, records or documents are seized, a receipt for and, if requested, copies of the same and may retain them in his custody for examination, inquiry, prosecution or other legal proceedings for such period as he considers necessary.
 - (f) to seal any box or receptacle, godown or building or any part of the godown or building in which accounts or taxable goods are suspected to be kept or stored, where the owner or the person-in-charge of the business or any other person-in-charge of the business or any other person-in-occupation either leaves the premises or is not available or fails or refuses to open any box or receptacle, godown or building or any part of the godown or building when called upon to do so.
 - (g) to break open the receptacle, godown or building or part of the godown or building where the owner or the person-in-charge of the business or the person in occupation leaves the premises or, after an opportunity having been given to him to do so, fails to open the receptacle, godown or building or part of the godown or building, and to prepare a list of the goods and documents found therein.
 - (h) to record the statement of any dealer or his manager, agent or servant, to take extracts from the records found in any premises and to put identification marks on accounts, registers, documents or goods.
 - (i) to take samples of goods from the possession of any dealer, where he considers it necessary to protect the revenue against mistake or fraud, and provide a receipt for any samples so taken, and the samples shall, except where an offence is found, be returned to the dealer or be disposed of by the Commissioner with the consent of such dealer.
 - (j) to seize any stock of goods liable to tax, which are found in possession of a dealer or in the possession of any person on behalf of a dealer and which are not accounted for in his accounts, records or documents maintained in the course of his business, the value of which shall not exceed his tax liability and any penalty, including interest, and a list of goods so seized shall be prepared by such officer and a copy thereof shall be given to the dealer or any other person from whose custody such goods are seized.

(k) in circumstances where it is not possible to seize the accounts, records or documents under sub-section (1) or the goods under sub-section (3), to serve on the owner or the person who is in immediate possession or control thereof, an order that he shall not remove, part with or otherwise deal with them except with the prior consent of such Officer, and after serving such order to take such steps as are deemed necessary to secure the items referred to in the order.

(l) to issue an protective assessment as specified in sub-section (5) of Section 38.

(2) Where the records and accounts under Sections 31 and 33 are maintained by electronic means, the dealer shall provide such access to such accounts and records as may be required by the officer authorised under sub-section (1).

(3) The powers conferred on the officer under clauses (d) to (g), (i) and (j) of sub-section (1) shall be exercised in accordance with the provisions of the Code of Criminal Procedure, 1973, (Central Act 2 of 1974) and the power to enter a dealers place of residence shall be authorized by an officer not below the rank of a Joint Commissioner.

(4) The accounts, registers, records, including computer hardware and software, and other documents seized under sub-section (1) shall not be retained by such officer for a period exceeding one hundred and eighty days from the date of seizure, unless the reasons for retaining the same beyond the said period are recorded by him, in writing and the approval of the next higher authority is obtained and such approval in any case shall not be for more than sixty days at a time.

(5) There shall be a presumption in respect of goods, accounts, registers or documents found at any place of business that they relate to that business, unless the contrary is proved by the dealer whose business occupies that place.

(6) The dealer or person from whom goods have been seized under clause (j) of sub-section (1) shall have a period of seven days to appeal against seizure of the goods.

(7) Subject to sub-section (6), after the expiry of the prescribed period, if any tax assessed or penalty or interest due is not paid, the officer shall dispose of the goods in public auction and adjust the sale proceeds towards any such amount due, and the excess amount shall, after deducting the charges incurred by the State, be refunded in the manner prescribed.