

**CHAPTER - VIII**  
**SURVEY, INSPECTION OF ACCOUNTS, DOCUMENTS, SEARCH OF PREMISES**  
**AND ESTABLISHMENT OF CHECK-POSTS**

72. **Survey : (1)** With a view to identifying dealers who are liable to pay tax under this Act, but have remained unregistered, the Commissioner shall from time to time cause a survey of unregistered dealers to be undertaken.

- (2) For the purpose of survey the Commissioner may by general or special notice require any dealer or class of dealers to furnish the names, addresses and such other particulars as he may find necessary relating to the persons and dealers who have purchased any goods from or sold any goods to such dealer or class of dealers during any given period.
- (3) For the purpose of survey, the Commissioner may call for details and particulars regarding the services provided by public utilities and financial institutions including banking companies which, he is of the opinion, shall be relevant and useful for the purposes of the survey. He may from time to time cause the results of the survey to be published in any manner that he thinks fit so as not to disclose or indicate the identity of any particular unregistered dealer identified during the survey.
- (4) The Commissioner may for the purpose of survey enter any place where a person is engaged in business. whether such place be the principal place of business or not of such person and require any proprietor, employee or any other person who may at that time and place be attending in any manner to, or helping in the business,-
  - (i) to provide him with the necessary facility to inspect such books of accounts or other documents as he may require and which may be available at such place;
  - (ii) to provide him with the necessary facility to check or verify the cash, stock or other valuable articles or things which may be found therein; and
  - (iii) to furnish such information as he may require as to any matter which may be useful for, or relevant to any proceedings under this Act.

*Explanation, -* For the purposes of this section, a place of business includes a place where a person is engaged in business through an agent by whatever name called or otherwise, the place of business of such agent, a warehouse, godown or other place where the dealer or the agent stores his goods, or any place where the dealer or the agent keeps the books of accounts.

- (5) The Commissioner shall enter the place where the person is carrying on business only during the hours at which such place is open for business and in case of the said or any other place only after sunrise and before sunset. The Commissioner may make or cause to be made extracts or copies from books of accounts and other documents inspected by him, make an inventory of any cash, stock or things checked or verified by him, and record the statement of any person which may be useful, for, or relevant to, any proceedings under this Act.
- (6) The Commissioner, in exercise of the powers under this section, shall on no account, remove or cause to be removed from the place where he has entered, any books of accounts, other documents or any cash, stock or other valuable article or thing.

73. **Cross checking of transactions : (1)** With a view to preventing evasion of tax and ensuring proper compliance with the provisions of this Act, the Commissioner may from time to time collect information regarding sales and purchases effected by any class of dealers and cause any of such transactions of sale and purchase to be cross-checked.

- (2) For this purpose, the Commissioner may from time to time by notification in the Official Gazette require any class of dealers to furnish such information, details and particulars as may be specified therein regarding the transactions of sales and purchases effected by them during the period mentioned in the said notification in such form to such authority and by such date as may be specified. The Commissioner may cause such transactions to be crosschecked with the help of the automated data processing system to the extent possible.

- (3) The Commissioner may cause any of such transactions to be cross-checked by reference to the books of accounts of the purchasing and selling dealers. For this purpose, the Commissioner shall so far as he may, send an intimation in writing in the prescribed form to the dealer whose books of accounts are required to be verified for the purpose of crosschecking, stating therein the details of the transactions proposed to be cross-checked and the time and date on which the dealer may attend with books of accounts and sale and purchase invoices. The intimation shall also specify that if the dealer fails to attend, then the place and date on which any officer or person duly authorised to cross-check the transaction shall visit the place of business where the books of accounts are ordinarily kept by the dealer.
- (4) The Commissioner, may as far as possible, arrange that for any given dealer, not more than two dates are fixed during any year for cross-checking the transaction with reference to the books of accounts and other evidence by calling the dealer and two dates for visiting the said place of business of the dealer if the dealer has failed to attend in response to the intimation. The Commissioner may communicate such dates to the dealer.

**74. Production and inspection of accounts and documents and search of premises : (1)**

The Commissioner or any authority appointed under sub-section (1) of section 3 to assist him may, subject to such conditions as may be prescribed, require any dealer or any other person to produce before him any accounts, registers or documents, or to furnish any information, relating to stocks of goods, or to sale, purchase and delivery of goods or to payments made or received by the dealer or any other information relating to his business, as may be necessary for the purpose of this Act.

- (2) All accounts registers and documents including electronic records relating to stocks of goods, or to purchase, sale and delivery of goods, or to payments made or received by any dealer, and all goods and cash kept in any place of business of any dealer, shall at all reasonable time be open to inspection by any authority referred to in sub-section (1), and the dealer shall render all possible assistance to such authority in carrying out the inspection.

*Explanation.-* Such authority may take or cause to be taken such copies or extracts of the said accounts, registers or documents and such inventory of the goods and cash found as appears to him necessary for the purpose of this Act.

- (3) (a) If any authority referred to in sub-section (1) has reasons to believe that any dealer has evaded or is attempting to evade the payment of any tax due from him and is keeping or has kept his accounts in such a manner as is likely to cause evasion of tax payable under this Act, such authority may, for reasons to be recorded in writing, seize such accounts, registers, documents including electronic records or computer of the dealer, as may be necessary, and shall grant a receipt for the same and obtain acknowledgement of the receipt so given to him;

Provided that if the dealer or person from whose custody the books of accounts, registers, documents including electronic records or the computer are seized refuses to give an acknowledgement, such authority may leave the receipt at the premises and record this fact,

- (b) The authority referred to in sub-section (1), shall keep in his custody the books of accounts, registers, documents including electronic records or the computer seized and shall retain the same for so long as may be necessary in connection with any proceedings under this Act or for the prosecution of the dealer, under any law and shall thereafter be returned to the dealer or any other person from whose custody they were seized, in the prescribed manner;

Provided that the authority seizing any books of accounts, registers, documents including electronic records or the computer is any authority other than the Commissioner, such authority may, for reasons to be recorded by him in writing and with the prior approval of the Commissioner, retain such books of accounts, registers, documents including electronic records or the computer for a period exceeding one hundred twenty days;

Provided further that on application of the dealer, the Commissioner shall on payment of fees as may be prescribed, provide him with true copies of the said books of accounts, registers or documents including electronic records.

- (c) The authority referred to in sub-section (1) may, before returning such books of accounts, registers or other documents as aforesaid, place or cause to be placed such marks of identification thereon as appear to him to be necessary;

Provided that such authority may, before returning the books of accounts, registers and other documents, require that the dealer or the person, as the case may be, shall give a written undertaking that the books of accounts, registers and other documents shall be presented whenever required by any competent authority for any proceedings under this Act:

Provided further that such authority shall not return such books of accounts, registers and other documents before expiry of ninety days calculated from the date of issuance of Demand Notice by such authority:

Provided also that on application of the dealer such authority may release such books of accounts, registers and other documents before expiry of ninety days with prior approval from the Government.

**Amendment:** In section 74, the second and third proviso has been inserted by Assam Act No. XLVII of 2005 published in the Assam Gazette vide Notification No. LGL.6/2003/Pt./66 Dtd. 23<sup>rd</sup> December.

- (4) For the purpose of sub-section (2) or sub-section (3), the authority referred to in sub-section (1) may, enter and search any place of business of any dealer or any other place where such authority has reason to believe that the dealer keeps or is for the time being keeping any account, registers or documents of his business or stocks of goods relating to his business;

Provided that no such authority below the rank of the Commissioner shall enter and search any residential accommodation (not being a place of business cum residence) unless such authority is specifically authorised in writing by the Commissioner in this regard.

Provided further that the power conferred by this subsection, shall include the power,-

- (i) to search any person who leaves or is about to enter such place of business, residence or any other place or the dealer or his agent and employees present, and if such person is a woman, the search shall be made by another woman, with strict regard to decency;
- (ii) to make a note or inventory of any thing including goods found as a result of such search;
- (iii) to record the statement of a dealer or any person connected with his business, 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.
- (5) (a) The authority referred to in sub-section (1), shall have the power to seize any goods,-
- (i) which are found in a dealer's place of business or vehicle; or
- (ii) which such authority has reason to believe to belong to the dealer and which are found in any place of business or vehicle or any other building or place;
- but are not accounted for by the dealer in his accounts or registers or other documents maintained in the ordinary course of his business;

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 not less than two witnesses.

- (b) The authority referred to in clause (a) shall as soon as possible, after seizure of the goods under clause (a), serve upon the dealer, a notice to show cause within a period of thirty days of service of such notice as to why a penalty equal to three times of the amount of tax as may be calculated on the price which such goods would have fetched on their assumed sale in the State, on the date of seizure, be not imposed on him for the dealer's default in not making entries in respect of such goods in his books of accounts or registers or other documents, as the case may be maintained by him in the course of his business.
- (c) The authority seizing the goods shall record the statement, if any, given by the owner of the goods or his representative, if the authority referred to in clause (a), after taking into consideration the explanation of the dealer and after giving him a reasonable opportunity of being heard, is satisfied that the entries relating to the said goods were not made in the books of accounts, registers or other documents of the dealer without any proper justification, such authority shall pass an order imposing penalty mentioned in clause (b) and direct him to deposit, in addition to the penalty, advance tax calculated on the deemed sale value of the goods at applicable rate of tax on sales of such goods which shall be adjustable with the liability to tax incurred on the purchase or the sale of such goods or the sale of goods manufactured there from and in case he finds otherwise, he shall order release of the goods.

**Amendment:** In sub-section (5), in clause (c) between the words “such authority shall” and “direct” the words “pass an order imposing penalty mentioned in clause (b) and”, has been inserted and the words “computed by multiplying the value of the goods with the rate of tax applicable on sale of” has been substituted by the words “calculated on the deemed sale value of the goods at applicable rate of tax on sales of such” by Assam Act No. XLVII of 2005 published in the Assam Gazette vide Notification No. LGL.6/2003/Pt./66 Dtd. 23<sup>rd</sup> December, 2005.

- (d) The authority referred to in clause (a) may, at any time after the service of the notice under clause (b) and before passing an order imposing penalty and for payment of advance tax under clause (c), release the goods seized if the dealer or the person from whom the goods were seized furnishes security equivalent to penalty and advance tax in the form of call deposit receipt drawn on a Scheduled Bank or a Bank guarantee from such a Bank to the satisfaction of such authority, and on payment by the dealer of the penalty and advance tax under clause (c), the security furnished shall be released.
- (e) Where no security is furnished under clause d), the dealer shall pay the amount of penalty and advance tax, within ten days of the service of the order imposing penalty and for payment of advance tax on him, and on payment of such amount the goods seized shall be released forthwith.
- (f) If the dealer fails to pay within the period specified in clause (e) the penalty and advance tax, the authority referred to in clause (a) shall, subject to other provisions of this section, dispose of the goods by way of sale in open auction in such manner as may be prescribed;

Provided that if the goods, in respect of which seizure is made, are of a perishable nature or subject to speedy and natural decay or when the expenses of keeping them in custody are likely to exceed their value, the same may be ordered to be auctioned as soon as it is practicable soon after an order of seizure of such goods is made.

- (g) The proceeds of sale of the goods referred to in clause (f) shall be applied in the prescribed manner for payment in the following order of priority,-first, for incidental charges, if any, relating to auction sale of such goods; secondly, for expenses, if any, for storage of such goods, thirdly, for advance tax and penalty imposed under clause (b) and clause (c); and the balance of the proceeds of sale, if any, shall be remitted to a Government account and shall be paid to the owner of the goods or, if his particulars are not available, to the persons 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. Any amount of advance tax directed to be paid and penalty imposed under clause (c), which remains unpaid or which cannot be recovered in accordance with the provisions of this sub-section, shall be recoverable as an arrear of land revenue.

- (h) Any authority referred to in clause (a), seizing the goods shall take all the measures necessary for their safe custody. Where it is not feasible for such authority, to take possession of such seized goods, the said authority may, in writing, give custody of such seized goods to such person from whom the seizure of goods has been made on the express condition that he shall keep such seized goods,-
- (i) where the custody is given to the person from whom the goods are seized, in the warehouse or any other place where the seizure has been made or in any other place as may be indicated by such authority in the zimmanama; or
  - (ii) where the custody is given to any other person, in the warehouse or place as may be indicated by such authority in the zimmanama. and such zimmadar shall not dispose of such goods in any manner and that he shall remain personally liable to return the goods to the authority on demand in the condition in which the goods were at the time of giving zimma;

Provided that the authority referred to in this subsection may take physical possession of such seized goods from the custody of such person even before the conclusion of the proceedings where such person communicates, in writing, to such authority his difficulty in keeping such seized goods in his custody, or such authority finds it expedient to take custody of the goods or to transfer the custody from that person to some other person, for any reason.

- (6) Where any books of accounts, other documents, money 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, other documents, money or goods belong to such person.
- (7) (a) The authority referred to in sub-section (1), shall have the power to seal the place of business, goods vehicle or any box, locker, safe, alimirah, or other receptacle found in such place of business or goods vehicle in which he has reason to believe that any books of accounts, registers or other documents or goods are kept or contained, if the owner or other person in occupation or in-charge of such office, shop, godown, vessel, goods vehicle or box, locker, safe, alimirah or other receptacle leaves the place or is not available or fails or refuses to open it when called upon to do so;

Provided that the power to seal shall be exercised in presence of two witnesses.

- (b) Where any place of business, godown, warehouse, goods vehicle or any box, locker, safe, alimirah or other receptacle has been sealed, the authority referred to in sub-section (1), on an application made by the owner or the person in occupation or in-charge of such place of business, godown, warehouse, goods vehicle or any box, locker, safe, alimirah or other receptacle, may order de-sealing thereof on such terms and conditions as may be directed.
- (8) The authority referred to in sub-section (1), shall also have the power to break open the lock of any door, box, locker, safe, alimirah or other receptacle where the owner or other person in occupation or in-charge of the office, shop, godown, vessel or goods vehicle or the box, locker, shelf, alimirah or other receptacle found in the place of business or vehicle, is present but leaves the place or after a reasonable opportunity having been given to him to do so, fails to open such office, shop, godown, vessel or goods vehicle or the box, locker, safe, alimirah or other receptacle as the case may be. Such authority shall prepare a list of the goods and documents found therein which shall be signed by such authority and not less than two witnesses.

- (9) The Commissioner or any authority appointed to assist him may requisition the services of any police officer or any public servant, or of both in making search and seizure or for safe custody of goods seized under this Act and such public servant or police, officer shall render necessary assistance to him.
- (10) The Commissioner or any authority appointed to assist him while making entry, search and seizure under this section shall, as far as may be, follow the procedure prescribed in the Code of Criminal Procedure, 1973. (Central Act 2 of 1974)

**75. Establishment of check-posts:** (1) If the Government, considers it necessary that, with a view to preventing or checking evasion of tax under this Act in any place or places in the State, it is necessary so to do, it may, by notification in the Official Gazette, direct the establishment of a check-post or the erection of a barrier, or both, at such place or places as may be notified.

- (2) At every check-post or barrier, or at any other place when so required by any officer empowered by the Commissioner in this behalf, the driver or any other person-in-charge of a goods vehicle shall stop the vehicle, as the case may be, and keep it stationary as long as may be required by the officer-in-charge of the check post or barrier or the officer empowered as aforesaid, to examine the contents in the vehicle, by breaking open the package or packages, if necessary, and inspect all records relating to the goods carried which are in the possession of such driver or other person-in-charge, who shall, if so required, give his name and address and, the name and address of the owner of the goods vehicle as well as those of the consignor and consignee of the goods and also furnish such other information, as may be required by the aforesaid officer, who may also search the goods vehicle or part thereof and the driver or the person-in-charge of the goods vehicle or the goods, if he considers it necessary. Explanation,- The officer-in-charge of the check post shall be an officer appointed to assist the Commissioner and posted to the check-post, but not below the rank of the Superintendent of Taxes.
- (3) The owner or the person in charge of a goods vehicles shall carry with him,-
  - (a) such documents as may be prescribed, and
  - (b) a goods vehicle record, a trip sheet or a log book, as the case may be, containing such particulars as may be prescribed in respect of the goods carried in the goods vehicle and produce the same before any officer-in-charge of a check-post or barrier or any other officer as may be empowered by the Commissioner in this behalf.
- (4) (a) If it appears to the officer-in-charge of the check-post or any officer empowered by the Commissioner in this behalf that the driver or the person-in-charge of the goods vehicle is not giving the correct name and address of the owner of the goods vehicle or of the consignor or consignee of the goods, and if the said authority after making such enquiry as he deems fit, finds that in order to prevent any evasion of tax payable under this Act and to ascertain the correct name and address of the owner of the goods vehicle or of the consignor or the consignee of the goods it is necessary to detain the goods, he shall detain the goods either in the check-post or elsewhere as long as may be necessary.

Provided that no such goods shall be detained by the said authority for more than forty eight hours except with the permission of the next higher authority, (b) When any goods are detained under clause (a), the authority detaining the goods shall issue to the owner of the goods, if present, or, if the owner of the goods is not present, to his representative or the driver or other person-in-charge of the goods vehicle a receipt specifying the description and quantity of the goods so detained and obtain an acknowledgement, from such person or if such person refuses to give an acknowledgement, record the fact of refusal in the presence of two witnesses.

- (5) If on examination of the contents in the goods vehicle or the inspection of records relating to the goods carried, the officer-in-charge of a check-post or barrier or any officer empowered by the Commissioner in this behalf has reason to believe that the owner or the person-in- charge of such goods vehicle is not carrying the documents as

required by sub-section (3) or is not carrying proper and genuine documents or is attempting to evade payment of the tax due under this Act, or that the sale or purchase of the goods for the purpose of payment of the tax under this Act has not been properly accounted for, he may, for reasons to be recorded in writing seize the goods and documents relating to the goods and the documents of the vehicle;

Provided that a list of all the goods and the documents seized under this sub-section shall be prepared by such officer and be signed by the officer and not less than two witnesses.

- (6) The officer detaining or seizing the goods shall record the statement, if any, given by the owner of the goods or his representative or the driver or other person-in-charge of the vehicle. If, after the inquiry including an inquiry into the nature of the transaction which occasioned the movement of goods, such officer finds that there has been an attempt to evade the tax under this Act, he shall, by an order, impose on the owner of the goods and in case the owner is not forthcoming or his identity is not disclosed by the person-in-charge of the goods or the driver or person-in-charge of the vehicle, in which the goods are being carried, on the person-in-charge of the goods or the goods vehicle or the driver deeming such person to be the owner of the goods, a penalty calculated on the value of the goods at three times the rate of tax applicable on sale or purchase of such goods, a penalty calculated on the value of the goods at three times the rate of tax applicable on sale or purchase of such goods, and direct him to deposit, in addition to the penalty, advance tax calculated on the deemed sale value of the goods at applicable rate of tax on sales of such goods which shall be adjustable with the liability to tax incurred on the purchase or the sale of such goods or the sale of goods manufactured therefrom, and in case he finds otherwise, he shall order the release of the goods.

Provided that no penalty shall be imposed and no advance tax shall be required to be deposited unless the owner of the goods or his representative or the person-in-charge of the goods or the goods vehicle or the driver, as the case may be, has been given a reasonable opportunity of being heard.

**Amendment:** In section 75, in sub-section (6), in the last part, for the words “computed by multiplying the value of the goods with the rate of tax applicable on sale or purchase of goods” has been substituted by “calculated on the deemed sale value of the goods at applicable rate of tax on sales of such goods” by Assam act No. XLVII of 2005 published in the Assam Gazette vide Notification No. LGL.6/2003/Pt./66 Dtd. 23<sup>rd</sup> December, 2005.

- (7) The officer in charge of the check-post or the officer empowered by the Commissioner under sub-section (2) may release the goods to the owner of the goods or to any person duly authorised by such owner on payment of the penalty and the advance tax under sub-section (6).
- (8) The goods detained or the goods and documents so seized may be released by the officer detaining or seizing the goods, if the owner or his agent or the person-in-charge of the goods vehicle requests for time to adduce further evidence in respect of goods ordered to be detained under clause (a) of sub-section (4) or seized under sub-section (5) subject to furnishing of security to the satisfaction of such officer in the form of a bank draft or a call deposit or a guarantee from a Scheduled Bank, equivalent to penalty and advance tax calculated in the manner laid down in sub-section (6).
- Provided that where the owner or his agent or the person-in-charge of the goods vehicle exercises the option of paying tax and penalty as per provision of subsection (6), the officer-in-charge of the check-post or the officer empowered in this behalf instead of detaining or seizing the goods or the documents relating to the goods shall release the same.
- (9) If the tax and penalty imposed under sub-section (6) is not paid or the security as provided in sub-section (6) is not furnished forthwith or the goods are not claimed by any person, the officer-in-charge of the check-post or any officer empowered by the Commissioner shall arrange for safe custody and sale of the goods by public auction

and for this purpose the provisions contained in clause (f), clause (g) and clause (h) of sub-section (5) of section 74, in so far as may be applicable, shall apply.

- (10) Where any goods are in movement within the territory of the State, an officer empowered by the Commissioner in this behalf may stop the goods vehicle or the carrier or the person carrying such goods, for inspection, at any place within his jurisdiction and provisions of this section in respect of detention, seizure or disposal of such goods shall mutatis mutandis, apply.
- (11) Where a transporter, while transporting goods, is found to be in collusion with any dealer to avoid or evade tax, the officer-in-charge of the check-post or the officer empowered by the Commissioner, shall detain the goods vehicle or the carrier of such transporter, and after affording him a reasonable opportunity of being heard and with prior approval in writing of the Commissioner, may confiscate such goods vehicle or carrier.
- (12) (a) Where goods are delivered to a carrier or other bailee for transmission, the movement of the goods shall be deemed to commence at the time of such delivery and terminate at the time when delivery is taken from such carrier or bailee. Where before delivery is taken from him, a carrier or bailee to whom goods are delivered for transmission, keeps the said goods in any office shop, godown, vessel, receptacle goods vehicle or any other place of business or any building or place, any officer appointed to assist the Commissioner under subsection (1) of section 3 shall have power to enter and search such office, shop, godown, vessel, receptacle, goods vehicle or other place of business or building or place, and to examine the goods and inspect all documents relating to such goods, and inspect all documents relating to such goods. The carrier or bailee or the person-in-charge of the goods and records shall give all facilities for such examination or inspection and shall, if so required, produce the documents referred to in sub-section (3) and give a declaration containing such particulars as may be prescribed regarding the goods and give his name and address and the name and address of the carrier or the bailee and the consignee,
- (b) The power conferred by clause (a) shall also include,-
- (i) power to seize any books of accounts,
  - (ii) power to seize any goods;
  - (iii) power to break open the lock of any door, box, locker, safe, almirah or other receptacle in the office, shop, godown, vessel, vehicle, place of business, building or place where goods are kept by a transporter or bailee;
  - (iv) power to seal the place of business, goods vehicle or any box, locker, safe, almirah or other receptacle found in such place of business;
  - (v) power to levy tax and penalty;
  - (vi) power to auction goods; and
- for this purpose, all the provisions of section 74 and of this section in this regard shall, mutatis mutandis, apply.

76. **Transit of goods by road through the state and issue of transit pass :** (1) Where a goods vehicle is carrying goods taxable under this Act,-
- a) from any place outside the State and is bound for any place outside the State, and in course of its movements passes through the State; or
  - (b) imported into the country from any place outside the country and such goods are being carried through the State to any place outside the State;
- the driver or the person-in-charge of such goods vehicle or the transporter shall make, in the prescribed manner a declaration that the goods being so transported in his goods vehicle shall not be unloaded, delivered or sold in the State and obtain a transit pass containing such particulars as may be prescribed, from the officer-in-charge of the first check-post or barrier on entry into the State (hereinafter referred to as the entry check-post) or where there is no check-post from such officer as empowered by the Commissioner in this regard, after entry of the goods vehicle into the State, and shall produce it along with goods mentioned in such transit pass before the officer-in-charge of the check-post or barrier or such officer empowered by the Commissioner, before his



exit from the State (hereinafter referred to as the exit check-post) and obtain his endorsement with his seal and signature, in proof of such exit from the State.

- (2) Where any goods consigned from any place outside the State are brought into the State at any place by railway or by air or by post or by steamer or boat for transport outside the State by road, the driver or person-in-charge of the goods vehicle or the transporter carrying goods from railway station or airport or post office, or steamer or boat station, as the case may be, to the place outside the State shall obtain transit pass in the prescribed manner and in the prescribed form, from such officer as empowered by the Commissioner, in whose jurisdiction such railway station or airport, or post office, or steamer or boat station is situated, and shall produce the goods vehicle along with the goods mentioned in such transit pass before the officer-in-charge of the check-post or barrier, or where there is no such check-post or barrier, before such officer as empowered by the Commissioner, in this regard, before exit of the goods vehicle from the State (hereinafter referred to as the exit check-post) and obtain his endorsement with his seal and signature, in proof of such exit from the State. For the purpose of this sub-section, the office of the officer empowered by the Commissioner and having jurisdiction over the area in which such railway station or airport or post office, or steamer or boat station is situated shall be deemed to be the entry check-post.
- (3) Where any goods are brought from a place outside the State by road and after entry of such goods into the State the same are to be transported to a place outside the State either by railway or by air or by post or by river, the driver or the person-in-charge of the vehicle, or the transporter while obtaining transit pass from the entry check-post shall state the fact to this effect in the application for obtaining transit pass. The driver or the person-in-charge of such vehicle, or the transporter shall also mention the authority before whom, the transit pass along with copy of goods receipt is to be produced for endorsement. For the purpose of this sub-section, the office of the officer as empowered by the Commissioner in this regard and having jurisdiction over the area in which such railway station or airport or post office, or steamer or boat station is situated shall be deemed to be the exit check-post. The officer in-charge of the entry check-post after making such enquiries as he deems fit shall issue transit pass. The driver or the person-in-charge of the vehicle, after handing over goods to railway or airway or post office or steamer or boat, as the case may be, produce copies of the transit pass along with goods receipt note issued by railway or airport authority or post-office or steamer owner before such officer empowered by the Commissioner to be deemed officer-in-charge of the exit check-post mentioned in the transit pass for endorsement on them.
- (4) Where it appears to the officer-in-charge of the entry check-post or barrier or to the officer empowered by the Commissioner in this regard that the driver or the person-in-charge of the vehicle, or the transporter is not giving correct and complete documents relating to the consignment of the goods and correct information about the ownership of the goods and their destination and also in a case where the transporter of the goods has no permanent address within the State, the officer-in-charge of the entry check-post or the officer empowered by the Commissioner shall before issuing the transit pass, require the driver or the person-in-charge of the vehicle, or the transporter to furnish a security equivalent to the amount of tax calculated on the goods at the rate of tax prevailing in the State, in the form of a demand draft, call deposit or guarantee from a Scheduled Bank.

The security so furnished shall be released to the person who furnished the security on submission of the transit pass as per provision of sub-section (6). If however, the transit pass is not submitted in time as provided in the said sub-section or is submitted without due endorsement(s) as provided in the same subsection, the amount of such security shall be adjusted against the amount of tax that may be assessed under sub-section (6) and shall be deposited into the Government account.

- (5) Where goods carried by a goods vehicle coming from any place outside the State are required to be unloaded temporarily at any place within the State for the purpose of transshipment or for any other purpose, the driver or the person-in-charge of the goods

vehicle shall give a declaration to this effect before the officer-in-charge of the entry check-post or barrier or the officer empowered by the Commissioner in this regard, mentioning the exact place of such temporary unloading while applying for the transit pass. Before unloading, even temporarily, any goods for which transit pass has been issued, at any place within the State, the driver or the person-in-charge of the vehicle, or the transporter of the goods shall inform the officer empowered by the Commissioner in this regard, under whose jurisdiction the place of such unloading falls and such unloading and subsequent loading in the same goods vehicle or in a different goods vehicle shall be done in presence of the such officer and an endorsement of such officer to this effect with his seal and signature shall be obtained on the transit pass;

Provided that where any transshipment of goods is made by the driver or the person in-charge of the vehicle, or the transporter under any compelling circumstances and if the fact of such transshipment was not declared by him at the entry check-post or before the officer empowered by the Commissioner in this behalf, he shall adduce reasons for doing so before such officer along with supporting evidence wherever necessary, and if such officer is satisfied with the reasons adduced or evidence produced by the driver or the person-in-charge of the vehicle, or the transporter, he shall make an endorsement on the document containing the declaration as required and return the same to the driver or the person-in-charge of the goods vehicle or the transporter and allow the movement of the vehicle, carrying such goods outside the State.

Provided further that the Commissioner may, for the purpose of this sub-section, constitute a separate group[ of officers for any place in the State, who shall supervise such unloading and re-loading at that place and shall put the endorsement on the transit pass accordingly.

- (6) The driver or the person-in-charge of the goods vehicle or the transporter of the goods shall submit the transit pass with the endorsement of the officer-in-charge of the exit check-post or barrier, or any officer empowered by the Commissioner in this behalf and also the endorsement of such officer as provided in sub-section (5). In case of a transshipment of the goods within the State, to the officer-in-charge of the concerned entry check-post within thirty days from the date of its issue failing which it shall be presumed that the goods carried by the goods vehicle have been sold within the State by the driver or the person in-charge of the goods and a provision of this Act shall, so far as may be applicable be applicable as if such driver or the person-in-charge of the vehicle, or transporter were a dealer within the meaning of clause (15) of section 2 and the officer-in-charge of the entry check-post or barrier, or the officer empowered by the Commissioner in this behalf were the Prescribed Authority with power of assessment having jurisdiction in respect of this dealer to assess his liability to tax and to impose interest or penalty.
- (7) If the officer-in-charge of the entry check-post or any other officer from whom transit pass was obtained is satisfied that the owner, driver or person-in-charge of the vehicle, or the transporter has failed to submit the transit pass with endorsements in time as provided under sub-section (6) without any reasonable cause, such officer may, after giving the person concerned a reasonable opportunity of being heard, impose upon him, in addition to tax, a penalty equal to three times of such tax.
- (8) If the owner, driver or the person-in-charge of the vehicle, or the transporter fails to obtain a transit pass without any reasonable cause, in a case where he was liable to obtain such a transit pass under this section, the officer-in-charge of the entry check-post or deemed entry check-post or any officer empowered by the Commissioner in this behalf shall after giving the person concerned reasonable opportunity of being heard, impose upon him a penalty equal to three times of the tax calculated on the goods carried by the goods vehicle at the rate of tax prevailing in the State and shall also realise security equivalent to the amount of tax so calculated. If the person concerned fails to pay the penalty and the security, the goods shall be seized under the provision of sub-section (5) and shall be disposed of as per provision of sub-section (9) of section 75.
- (9) If, at the exit check post or deemed exit check post or at any point of movement of the goods carried by the vehicle, within the State or at the place of transshipment of the

goods, the goods are not found in accordance with the transit pass, it shall be presumed that the goods carried by such goods vehicle have been sold within the State and in such case the officer-in-charge of the exit check-post or any other officer as may be empowered, may, after giving the driver or the person-in-charge of the vehicle, or the transporter a reasonable opportunity of being heard, impose upon him in addition to tax, a penalty equal to three times of such tax on the portion of the goods not found in accordance with the transit pass and also on any unaccounted for goods carried by the goods vehicle without obtaining transit pass.

For the purpose of this sub-section, the driver or the person-in-charge of the vehicle, or the transporter shall be deemed to be a dealer within the meaning of clause (15) of section 2 and the officer-in-charge of the exit check-post or deemed exit check-post or the officer empowered by the Commissioner in this behalf shall be deemed to be the prescribed Authority with power of assessment having jurisdiction in respect of this dealer to assess his liability to tax and to impose interest or penalty.

77. **Import of goods into the state by Road, Rail, River, Air or Post:** (1) No person shall transport from any railway station, steamer station, airport, port, post office or any other place whether of a similar nature or otherwise, any consignment of goods except in accordance with such restrictions and conditions as may be prescribed, with a view to ensure that there is no evasion of tax payable under this Act.
- (2) Where any taxable goods are consigned by road, rail, river, air or post from a place outside the State for delivery to a dealer inside the State, the importer shall not,-
- (a) obtain or cause to be obtained delivery thereof unless he furnishes or causes to be furnished to the prescribed officer or any such officer empowered by the Government in this behalf, a declaration in the prescribed form, in duplicate, duly filled in and signed by him along with relevant consignment note, railway receipt, bill of lading or air note as the case may be, and the invoice or bill or other document for endorsement by such officer, and
- (b) after taking delivery, carry such goods away or cause the goods to be carried away from the railway station, steamer or boat station or airport or post office, as the case may be, unless a copy of the declaration duly endorsed by such officer is carried with the goods.

**Amendment:** In section 77, in the marginal note and in sub-section (2) the word and punctuation mark "Road" has been inserted by Assam Act No. X of 2007, published in the Assam Gazette vide Notification No. LGL.6/2003/Pt./106 Dtd. the 29<sup>th</sup> March, 2007.

78. **Power to purchase goods in case of under valuation :** (1) Where in respect of any taxable goods, carried in a goods vehicle or held in stock by any dealer or on his behalf by any other person, or held in the custody of any transporter, the Prescribed Authority or any authority to assist the Commissioner under sub section (2) of section 3, has reason to believe that the value disclosed in invoice, challan, stock transfer memo or any other related document is lower than the prevailing market price or Maximum Retail Price in case of packaged goods by a difference of thirty percent or more of the prevailing market price of Maximum Retail Price, as the case may be, such authority, for reasons to be recorded in writing, may purchase such goods. No such order for purchase shall be passed unless the person or dealer being dispossessed of such goods, is afforded a reasonable opportunity of being heard.
- Explanation,-* "Prevailing market price" shall mean the wholesale price at which the goods are generally bought and sold in the nearest wholesale market of the State by the dealers in such goods during the time when proceedings are taken to purchase such goods.

"Maximum Retail Price" (or 'MRP') shall mean the price marked on the package in which the goods are contained.

- (2) The price payable for purchase of such goods shall be the total price as mentioned in the invoice, challan, delivery note, or any other related document, plus the cost of transportation of the goods incurred up to the time of purchase, if any.

- (3) The person in possession of such goods, shall be bound to sell the goods to such authority and if he refuses, fails or does not deliver the goods, he shall be liable to a penalty which shall be double the amount of differences between the prevailing market price or Maximum Retail Price in the opinion of such authority and the price offered to such person for purchase of such goods.
- (4) The authority purchasing the goods, shall dispose of such goods in public auction and the sale proceeds so realized shall forthwith be paid into the Government account.