



DEMANDS AND RECOVERY



LEARNING OUTCOMES

After studying this Chapter, you will be able to –

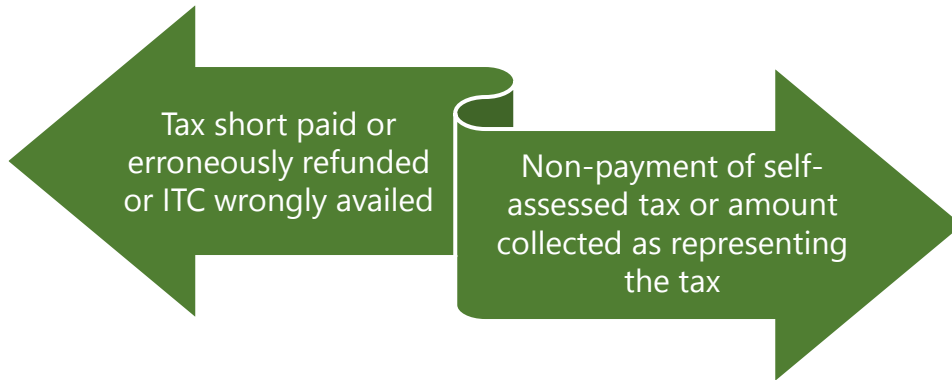
- understand the provisions relating to determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised whether for any reason other than fraud or wilful-misstatement or suppression of facts, or otherwise.
- explain the consequences in case where tax is collected but not paid to Government.
- describe the provisions of tax wrongfully collected and paid to the Government.
- explain the recovery proceedings.
- elaborate the facility of payment of tax and other amount in instalments.
- identify the cases where the transfer of property is void.
- explain provisions relating to provisional attachment to protect revenue.



1. INTRODUCTION

- ✓ Though it is the duty of every taxable person to assess and pay his GST liabilities voluntarily, tax administration occasionally comes across situations where the tax dues are not paid correctly by the tax payers. While in most of these cases, such non-payment is due to the bonafide belief of the person that his activities do not attract any tax liability under the GST law; or he is entitled to certain exemption, etc., in some cases, such non-payment is deliberate with an intention to evade payment of such tax.
 - ✓ To minimize the inadvertent short payment of taxes, the concept of 'matching' the details of 'outward supplies' of supplier with the details of 'inward supplies' of recipient has been introduced in the GST Act.
 - ✓ Moreover, the self-assessed tax has to be paid by the due date prescribed under the GST law and in case of any failure to pay the same by the due date, the Input Tax Credit (ITC) will not be available to customers and also the tax payer will not be able to file any return for further period. Effectually, these provisions work as a self-policing system and take care of any mis-match in the payment of taxes.
 - ✓ However, despite these provisions, there may arise some instances where the tax was not paid correctly. To deal with such situations, Revenue must be empowered to demand the tax liability and recover such tax from the defaulter.
 - ✓ On one hand, there is a dire need to have a robust demand and recovery mechanism in place in order to empower the Revenue to exercise said powers, at the same time, care must also be taken that there should not be arbitrary exercise of such powers by the Revenue and same should be appropriately regulated.
- ✓ Accordingly, the GST law contains elaborate provisions for the recovery of tax under various situations, which can be broadly classified into following two categories:

**DEMAND
RECOVERY**



- ✓ Chapter XV of the CGST Act 2017 [Sections 73 to 84] and Chapter XVIII [Rules 142 to 161] of the CGST Rules, 2017 contains various provisions relating to demands and recovery.

Provisions of demands and recovery under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.

Before proceeding to understand the demands and recovery provisions, let us first go through few relevant definitions.

2. RELEVANT DEFINITIONS



- ❑ **Adjudicating authority:** means any authority, appointed or authorised to pass any order or decision under this Act, but does not include the Central Board of Excise and Customs, the Revisional Authority, the Authority for Advance Ruling, the Appellate Authority for Advance Ruling, the Appellate Authority and the Appellate Tribunal [Section 2(4) of the CGST Act].
- ❑ **Appellate Authority:** means an authority appointed or authorised to hear appeals as referred to in section 107 [Section 2(8) of the CGST Act].

- ❑ **Appellate Tribunal:** means the Goods and Services Tax Appellate Tribunal constituted under section 109 [Section 2(9) of the CGST Act].
- ❑ **Commissioner:** means the Commissioner of central tax and includes the Principal Commissioner of central tax appointed under section 3 and the Commissioner of integrated tax appointed under the Integrated Goods and Services Tax Act [Section 2(24) of the CGST Act].
- ❑ **Market value:** shall mean the full amount which a recipient of a supply is required to pay in order to obtain the goods or services or both of like kind and quality at or about the same time and at the same commercial level where the recipient and the supplier are not related [Section 2(73) of the CGST Act].
- ❑ **Proper officer:** in relation to any function to be performed under this Act, means the Commissioner or the officer of the central tax who is assigned that function by the Commissioner in the Board [Section 2(91) of the CGST Act].
- ❑ **Business:** includes –

(a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;

(b) any activity or transaction in connection with or incidental or ancillary to (a) above;

(c) any activity or transaction in the nature of (a) above, whether or not there is volume, frequency, continuity or regularity of such transaction;

(d) supply or acquisition of goods including capital assets and services in connection with commencement or closure of business;

(e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members, as the case may be;

(f) admission, for a consideration, of persons to any premises; and

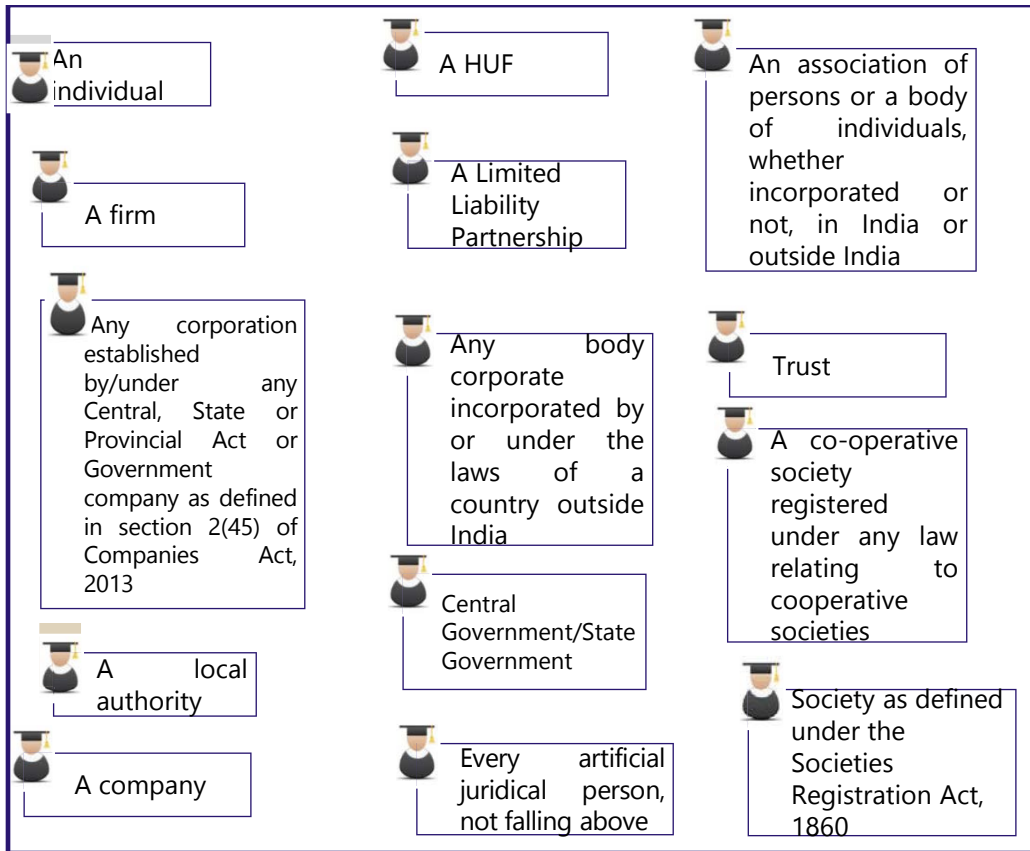
(g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;

(h) services provided by a race club by way of totalisator or a licence to book maker in such club

(i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities

[Section 2(17) of CGST Act].

- Person: includes [Section 2(84) of CGST Act]-



3. DETERMINATION OF TAX NOT PAID/SHORT PAID/ERRONEOUSLY REFUNDED/ITC WRONGLY AVAILED/UTILISED [SECTION 73 & SECTION 74]

- Section 73 and section 74 of the CGST Act deal with the manner in which the tax liability of a person should be determined in case of short payment/ non-payment of tax/ erroneous refund/ wrong availment/ utilisation of ITC.



- The incidence of short payment/non-payment of tax or erroneous refund or

wrong availment/utilisation of ITC may be because of an inadvertent bonafide mistake (**Normal Cases**) or it may be a deliberate attempt (**Fraud Cases**) to evade the tax. Since the nature of offence is totally different in both the incidences, hence, under GST law, separate provisions for recovery of the tax and the amount of penalty have been made to deal with such type of cases. Besides these, there are provisions to encourage voluntary compliance such as no penalty or lesser penalty if the tax dues along with interest, are paid within the specified time limit/ incidence.

❑ **Limitation period:**

One of the fundamental legal principles is that an element of certainty must be brought to the legal proceedings. The law of limitation is based on this principle. Any action under any law has to be taken within the limitation period prescribed otherwise uncertainty would prevail eternally.



The provisions of limitation period gain all the more importance in the legislation dealing with indirect taxes, where the tax burden is to be passed on to the next level at every stage.

Therefore, a tax law must have a limitation period, beyond which demands cannot be raised. Further, while a lesser time limit is available to the Revenue to raise the demand in normal cases, it would have a longer limitation period available to raise the demand in fraud cases.

- ❑ **Show Cause Notice (SCN):** In order to adhere to the principles of natural justice, before raising any tax demand, a notice has to be issued (generally referred to as Show Cause Notice), asking the person chargeable with tax to

show cause as to why the specified amount of tax should not be demanded from him. The issuance of SCN grants an opportunity to such person to defend himself before adjudication.

The person to whom such notice has been issued can contest the demand by filing a reply to the show cause notice and also by appearing before the adjudicating authority personally. After considering the reply filed by the person as well as the submissions made during the personal hearing, the adjudicating authority shall pass a speaking order, either confirming the tax demand or dropping the same.

The provisions contained in section 73 and section 74 have been discussed in detail below.

I. Non-payment/short payment etc. on account of reasons other than fraud, wilful misstatement or suppression of facts [Section 73]

A. Issue of SCN [Section 73(1)]

- ❖ In a case, where the non-payment/ short payment/ erroneous refund/ wrong availment/ utilisation of ITC is on account of reasons other than fraud, wilful misstatement or suppression of facts by the person chargeable with tax, the proper officer shall issue a notice, on the person chargeable such tax, requiring him to show cause as to why he should not pay the amount specified in the notice.
- ❖ The notice would specify the amount of tax along with interest payable thereon under section 50 [**@ 18% p.a.***] and a penalty leviable under the provisions of this Act or the rules made thereunder, liable to be paid by him. Needless to say, the notice should state the grounds based on which such demand is raised, so that the person against whom the notice is served is made aware of the basis of the demand.



*** as notified by Notification No. 13/2017 CT dated 28.06.2017**

B. Time limit to issue SCN [Section 73(2), (3) & (4) read with section 73(10)]

- ❖ The notice should be issued at least **3 months** prior to the time limit specified for passing the order determining the amount of tax, interest and any penalty payable by defaulter.



- ❖ The order referred herein has to be passed within **3 years** from the due date for furnishing the Annual Return for the Financial Year to which the tax not paid/short paid/ITC wrongly availed/utilised relates to or within **3 years** from the date of erroneous refund.

Thus, the **time-limit for issuance of SCN is 2 years and 9 months** from the due date of filing Annual Return for the Financial Year to which the demand pertains or from the date of erroneous refund.

- ❖ Where a notice has been issued for any period on a person chargeable with tax, if such person commits such default in some other period also, instead of issuing a detailed notice, a mere statement containing the details of tax not paid/short paid/erroneously refunded/ITC wrongly availed/utilised for such periods, can be issued.
- ❖ The Service of such Statement shall be deemed to be Service of SCN on such person, subject to the condition that the grounds relied upon for such tax periods [as covered in the Statement] are the same as are mentioned in the earlier notice.

C. Payment of tax before issuance of SCN [Section 73(5), (6) & (7)]

The law provides an opportunity to the person chargeable with tax to pay tax and interest before the issuance of notice. It emphatically stipulates that in such cases, no notice shall be issued and there shall be no other consequences (including penalty) for the default. The detailed provisions are as under:

- ❖ The person who is chargeable with tax, but has not paid the tax, or short paid the tax or wrongly availed/utilized the credit, or been granted an erroneous refund, may voluntarily come forward to pay such tax alongwith interest before the issue of SCN/Statement, as

the case may be.

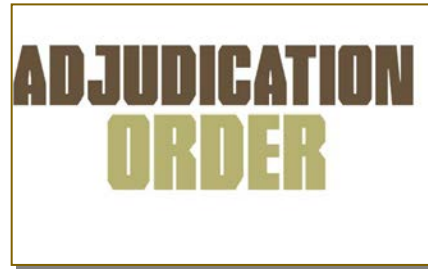
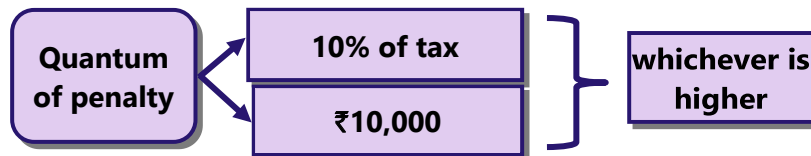
- ❖ In such case, he has to pay the amount of tax along with interest payable thereon under section 50 on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer. Further, he needs to inform the proper officer in writing of such payment.
- ❖ Such voluntary payment can be made even if the mistake is pointed out by the Department, before issue of SCN.
- ❖ Where such voluntary payment is made, Department shall not serve any SCN/Statement. The matter closes at this stage itself and no penalty is imposed on the person.
- ❖ The **option of paying tax and interest before issuance of SCN** so as to avoid the issuance of SCN and penalty is available in only those cases where any tax has not been paid/short paid/erroneously refunded/ITC wrongly availed/utilized **for reasons other than fraud or any wilful misstatement or suppression of facts to evade tax.**
- ❖ After the person has voluntarily paid the tax along with interest, if the proper officer is of the opinion that the amount voluntarily paid falls short of the amount actually payable, he can issue a SCN in respect of the amount which falls short of the amount actually payable.

D. Payment of tax after issuance of SCN [Section 73(8)]

- ❖ Where a person is chargeable with tax not paid/short paid etc. and is issued a notice/statement under this section, misses the opportunity to pay the tax along with interest before the issue of SCN resulting in SCN not being issued thereafter and no penalty being imposed, he has another chance to discharge the tax with interest payable under section 50 with nil penalty within 30 days of issuance of SCN. All proceedings in respect of the said SCN shall be deemed to be concluded.
- ❖ In other words, where such person pays the tax demanded along with interest payable under section 50 within 30 days of issue of SCN, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded.

E. Adjudication order [Section 73(9) & (11)]

- ❖ Where an SCN/Statement is issued to a person chargeable with tax, he may furnish a representation to the proper officer in his defense, if he is of the view that he is not so liable to pay whole/part of the amount mentioned in the SCN.
- ❖ The proper officer after considering the representation made by the person, if any, pass an order, determining the amount of tax, interest and penalty** due from such person.

****Quantum of penalty**

- ❖ The quantum of penalty will remain same whether the tax amount, alongwith interest is paid within 30 days of the communication of the order or after 30 days.

*****Notwithstanding anything contained in sub-section (6) or sub-section (8), penalty under sub-section (9) shall be payable where any amount of self-assessed tax or any amount collected as tax has not been paid within a period of 30 days from the due date of payment of such tax.***

From the above, it is clear that the non-payment of self-assessed tax or the amount collected as representing the tax has been treated differently than the other short payments as referred in section 73(1) [non-payment/ short payment of tax/ erroneous refund of tax/ wrong availment/ utilisation of input tax credit].

In case of non-payment of self-assessed tax and the amount collected as representing the tax, the only opportunity for paying the same without incurring any penalty is, if it is paid, with interest, within 30 days from the due date of payment. The option to pay such tax before issuance of SCN or within 30 days of issuance of SCN and avoid penalty consequences is not available. Penalty under sub-section (9) shall be payable where any

amount of self-assessed tax or any amount collected as tax has not been paid within a period of 30 days from the due date of payment of such tax.

F. limit Time for passing adjudication order [Section 73(10)]

- ❖ The proper officer shall issue the adjudication order within 3 years from the due date for furnishing of Annual Return for the Financial Year to which the tax not paid/short paid/ITC wrongly availed/utilised relates to. In case of erroneously granted refunds, such order should be passed within 3 years from the date of erroneous refund.
- ❖ Section 44(1) of the CGST Act stipulates that annual return for a financial year needs to be filed by 31st December of the next financial year.



II. Non-payment/short payment etc. on account of fraud, wilful misstatement or suppression of facts [Section 74]

A. Issue of SCN [Section 74(1)]

- ❖ In a case, where the non-payment /short payment/erroneous refund /wrong availment/utilisation of ITC is **on account of any fraud, wilful misstatement or suppression of facts** by the person chargeable to tax, proper officer shall issue a notice, on the person chargeable with such tax, requiring him to show cause as to why he should not pay the amount specified in the notice.
- ❖ The notice would specify the amount of tax along with interest payable thereon under section 50 and **a penalty equivalent to the tax specified in the notice**, liable to be paid by him. Needless to



say, the notice should state the grounds based on which such demand is raised, so that the person against whom the notice is served is made aware of the basis of the demand.

B. Time limit to issue SCN [Section 74(2), (3) & (4) read with section 74(10)]

- ❖ The notice should be issued at least **6 months** prior to the time limit for passing the order determining the amount of tax, interest and penalty payable by defaulter.
- ❖ The said order has to be passed within **5 years** from the due date for furnishing the Annual Return for the Financial Year to which the tax not paid/short paid/ITC wrongly availed/utilised relates to or within **5 years** from the date of erroneous refund.



Thus, the **time-limit for issuance of SCN is 4 years and 6 months** from the due date of filing of Annual Return for the Financial Year to which the demand pertains or from the date of erroneous refund.

- ❖ Where a notice has been issued for any period on a person chargeable with tax, if such person commits such default in some other period also, instead of issuing a detailed notice, a mere statement containing the details of tax not paid/short paid/erroneously refunded/ITC wrongly availed/utilised for such periods, can be issued.
- ❖ The Service of such Statement shall be deemed to be Service of Notice on such person, subject to the condition that the grounds relied upon in the said statement, except the ground of fraud, or any wilful misstatement or suppression of facts to evade tax, for such tax periods [as covered in the Statement] are the same as are mentioned in the earlier notice.

C. Payment of tax before issuance of SCN [Section 74(5), (6) & (7)]

The law provides an opportunity to the person chargeable with tax to pay tax, interest and penalty equivalent to 15% of such tax, before the issuance of notice. It emphatically stipulates that in such cases, no notice shall be issued and there shall be no other consequences for the default. The detailed provisions are as under:

- ❖ The person who is chargeable with tax, but has not paid the tax/short paid the tax/wrongly availed/utilised the credit/been granted an erroneous refund by reason of fraud etc., may voluntarily come forward to pay such tax alongwith interest and specified penalty before the issue of SCN/Statement, as the case may be.
- ❖ In such case, he has to pay the amount of tax along with interest payable thereon under section 50 and a penalty equivalent to 15% of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer. Further, he needs to inform the proper officer in writing of such payment.
- ❖ Such voluntary payment can be made even if the mistake is pointed out by the Department, before issue of SCN.
- ❖ Where such voluntary payment is made, Department shall not serve any SCN/Statement. The matter closes at this stage itself.
- ❖ After such person has voluntarily paid the tax along with interest and penalty, if the proper officer is of the opinion that the amount voluntarily paid falls short of the amount actually payable, he can issue a SCN in respect of the amount which falls short of the amount actually payable.

D. Payment of tax after issuance of SCN [Section 74(8)]

- ❖ Where a person is chargeable with tax not paid/short paid etc. and is issued a notice/statement under this section for reasons of fraud etc., misses the opportunity to pay the tax along with interest and penalty equivalent to 15% of tax, before the issue of SCN resulting in no SCN being issued thereafter, he has another chance to discharge tax alongwith interest payable under section 50 and **penalty equivalent to 25%** of tax within 30 days of issuance of SCN. All proceedings in respect of the said SCN shall be deemed to be concluded.
- ❖ In other words, where such person pays the tax demanded along with interest payable under section 50 and a penalty equivalent to 25% of such tax within 30 days of issue of SCN, all proceedings in respect of the said notice shall be deemed to be concluded.

E. Adjudication order [Section 74(9) & (11)]

- ❖ Where an SCN/Statement is issued to a person chargeable with tax, he may furnish a representation to the proper officer in his defense, if he is the view that he is not so liable to pay whole/part of the amount mentioned in the SCN.
- ❖ The proper officer after considering the representation made by the person, if any, pass an order, determining the amount of tax, interest and penalty due from such person.
- ❖ Where any person served with an adjudication order pays the tax along with interest payable thereon under section 50 and a penalty equivalent to 50% of such tax within 30 days of communication of the order, all proceedings in respect of the said notice shall be deemed to be concluded.

**F. Time limit for passing adjudication order [Section 74(10)]**

- ❖ The proper officer shall issue the adjudication order within 5 years from the due date for furnishing of Annual Return for the Financial Year to which the tax not paid/short paid/ITC wrongly availed/utilised relates to. In case of erroneously granted refunds, such order should be passed within 5 years from the date of erroneous refund.



Section 44(1) of the CGST Act stipulates that annual return for a financial year needs to be filed by 31st December of the next financial year.

I. For the purposes of section 73 and section 74:

- (i) the expression **“all proceedings in respect of the said notice”** shall not include proceedings under section 132;
- (ii) where the notice under the same proceedings is issued to the main person liable to pay tax and some other persons, and such proceedings

against the main person have been concluded under section 73 or section 74, the proceedings against all the persons liable to pay penalty under sections 122, 125, 129 and 130 are deemed to be concluded.

- II. For the purposes of this Act**, the expression “**suppression**” shall mean non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder, or failure to furnish any information on being asked for, in writing, by the proper officer.

The above provisions have been summarized in the following tables:

Table A:

S. No.	Action by tax payer	Amount of penalty payable		Remarks
		Normal Cases	Fraud Cases	
1.	Tax amount, along with the interest, paid before issuance of notice	No penalty and no notice shall be issued	15% of the tax amount payable as penalty and no notice shall be not be issued	The penalty shall also be not chargeable in cases where the self-assessed tax or any amount collected as tax is paid (with interest) within 30 days from the due date of payment.
2.	Tax amount, along with the interest, paid within 30 days of issuance of notice	No penalty. All proceedings deemed to be concluded	25% of the tax amount payable as penalty. All proceedings deemed to be concluded.	
3.	Tax amount, along with the interest, paid within 30 days of communication of order	10% of the tax amount or 10,000/-, whichever is higher	50% of the tax amount payable as penalty. All proceedings	

			deemed to be concluded.	
4.	Tax amount, along with the interest, paid after 30 days of communication of order	10% of the tax amount or ` 10,000/-, whichever is higher	100% of the tax amount	

Table B:

S. No.	Nature of case	Time for issuance of notice	Time for issuance of order
1.	Normal Cases	Within 2 years and 9 months from the due date of filing Annual Return for the Financial Year to which the demand pertains or from the date of erroneous refund	Within 3 years from the due date of filing of Annual Return for the Financial Year to which the demand pertains or from the date of erroneous refund
2.	Fraud Cases	Within 4 years and 6 months from the due date of filing of Annual Return for the Financial Year to which the demand pertains or from the date of erroneous refund	Within 5 years from the due date of filing of Annual Return for the Financial Year to which the demand pertains or from the date of erroneous refund
3.	Any amount collected as tax but not paid	No time limit	Within 1 year from the date of issue of notice <i>[to be discussed subsequently in</i>

			<i>this chapter]</i>
4.	Non- payment of self- assessed tax	No need to issue a SCN	Recovery proceedings can be started directly [<i>to be discussed subsequently in this chapter]</i>



4. GENERAL PROVISIONS RELATING TO DETERMINATION OF TAX [SECTION 75]

General provisions relating to determination of tax are contained in section 75 of CGST Act. These provisions are applicable both in case of determination of tax not paid/short paid/ erroneously refunded/ITC wrongly availed/ utilised whether by reason of fraud/any wilful misstatement/suppression of facts or otherwise.

These provisions have been discussed are as follows:

A. Period of stay order to be excluded in computing the limitation period [Section 75(1)]

Where the service of notice or issuance of order is stayed by an order of a Court or Appellate Tribunal, the period of such stay shall be excluded in computing the *period for issuance of notice and issuance of adjudication order***, as the case may be.



***period as specified in sub-sections (2) and (10) of section 73 or sub-sections (2) and (10) of section 74*

B. In case charges of fraud/any wilful misstatement/suppression of facts are not established for a notice issued in a fraud case, tax to be determined deeming the demand notice to be issued in normal case [Section 75(2)]

Where any Appellate Authority or Appellate Tribunal or court concludes that the notice issued under section 74(1) is not sustainable for the reason that the charges of fraud or any wilful misstatement or suppression of facts to evade tax has not been established against the person to whom the notice was issued, the proper officer shall determine the tax payable by such person, deeming as if the notice were issued under section 73(1).

C. Adjudication order issued in pursuance of Appellate Authority/ Appellate Tribunal/ Court's direction be issued with 2 years [Section 75(3)]

Where any order is required to be issued in pursuance of the direction of the Appellate Authority or Appellate Tribunal or a court, such order shall be issued within 2 years from the date of communication of the said direction.

D. Opportunity of being heard [Section 75(4)]

An opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person.

Adjournment of hearing to grant time to person chargeable with tax [Section 75(5)]

The proper officer shall, if sufficient cause is shown by the person chargeable with tax, grant time to the said person and adjourn the hearing for reasons to be recorded in writing.

However, such adjournment shall be granted for a **maximum of 3 times** to a person during the proceedings.

E. Adjudication order should be a speaking order [Section 75(6)]

The proper officer, in his order, shall set out the relevant facts and the basis of his decision.



F. Tax, interest and penalty demanded in order not to exceed amount specified in notice [Section 75(7)]

The amount of tax, interest and penalty demanded in the order shall not be in excess of the amount specified in the notice and no demand shall be confirmed on the grounds other than the grounds specified in the notice.

G. In case of modification of tax by the Appellate Authority/Tribunal/Court, penalty and interest to be modified accordingly [Section 75(8)]

Where the Appellate Authority or Appellate Tribunal or court modifies the amount of tax determined by the proper officer, the amount of interest and

penalty shall stand modified accordingly, taking into account the amount of tax so modified.

H. Payment of interest mandatory even if not specified in the adjudication order [Section 75(9)]

The interest on the tax short paid or not paid shall be payable whether or not specified in the order determining the tax liability.

I. Adjudication order to be passed mandatorily within stipulated time [Section 75(10)]

The GST law ensures timely disposal of cases by providing that if the adjudication order is not issued within the stipulated time limit of 3 years in normal cases or 5 years in fraud cases, as the case may be, the adjudication proceedings shall be deemed to be concluded.

J. In case of appeal filed by Department against prejudicial decision of the Appellate Authority/Appellate Tribunal/High Court, period between the date of decision of the higher authority and that of the lower authority to be excluded [Section 75(11)]

An issue on which the Appellate Authority or the Appellate Tribunal or the High Court has given its decision which is prejudicial to the interest of revenue in some other proceedings and an appeal to the Appellate Tribunal or the High Court or the Supreme Court against such decision of the Appellate Authority or the Appellate Tribunal or the High Court is pending, the period spent between the date of the decision of the Appellate Authority and that of the Appellate Tribunal or the date of decision of the Appellate Tribunal and that of the High Court or the date of the decision of the High Court and that of the Supreme Court shall be excluded in computing the time limit for passing adjudication order, where proceedings are initiated by way of issue of a SCN under the sections 73 and 74.

K. Amount of self-assessed tax or interest remaining unpaid to be recovered under section 79 [Section 75(12)]

Notwithstanding anything contained in section 73 or section 74, where any amount of self-assessed tax in accordance with a return furnished under section 39 remains unpaid, either wholly or partly, or any amount of interest

payable on such tax remains unpaid, the same shall be directly recovered under the provisions of section 79 [discussed subsequently in this chapter].

L. In case of penalty being imposed under section 73/74, no other penalty to be imposed for the same act/omission [Section 75(13)]

Where any penalty is imposed under section 73 or section 74, no penalty for the same act or omission shall be imposed on the same person under any other provision of this Act.

 **5. TAX COLLECTED BUT NOT DEPOSITED [SECTION 76]**

The provisions of this section are based on the principle that nobody should be unjustly enriched in the name of Revenue. If any amount is collected in the name of tax, the same must be deposited with the Government.

Such situation may arise in case where tax is collected on supplies on which the tax is leviable, but such tax is not deposited with the Government or where tax is collected on supplies on which tax is not leviable at all, and thus, tax collected is not deposited with the Government.



The detailed provisions of this section have been discussed hereunder:

A. Amount representing tax collected from any person to be paid to the Central Government [Section 76(1)]

Notwithstanding anything to the contrary contained in any order or direction of any Appellate Authority or Appellate Tribunal or Court or in any other provisions of this Act or the rules made thereunder or any other law for the time being in force, every person who has collected from any other person any amount as representing the tax under this Act, and has not paid the said

amount to the Government, shall forthwith pay the said amount to the Government, irrespective of whether the supplies in respect of which such amount was collected are taxable or not.

B. Issue of SCN [Section 76(2)]

Where any amount is required to be paid to the Government under subsection (1), and which has not been so paid, the proper officer may serve on the person liable to pay such amount a notice requiring him to show cause as to why the said amount as specified in the notice, should not be paid by him to the Government and why a penalty equivalent to the amount specified in the notice should not be imposed on him under the provisions of this Act.

C. Determination of amount due [Section 76(3)]

The proper officer shall, after considering the representation, if any, made by the person on whom SCN is served, determine the amount due from such person and thereupon such person shall pay the amount so determined.

D. Interest payable on the amount [Section 76(4)]

- The person who has collected any amount as representing the tax, but not deposited the same with the Government shall in addition to paying the said amount determined by the proper officer shall also be liable to pay interest thereon.
- Interest is payable at the rate specified under section 50.
- Interest is payable from the date such amount was collected by him to the date such amount is paid by him to the Government.

E. Opportunity of being heard [Section 76(5)]

An opportunity of hearing shall be granted where a request is received in writing from the person to whom SCN was issued.

F. Time limit for issuance of order [Section 76(6) & (7)]

The proper officer shall issue an order within **1 year** from the date of issue of the notice.

Where the issuance of order is stayed by an order of the Court or Appellate Tribunal, the period of such stay shall be excluded in computing the period of **1 year**.

G. Order must be a speaking order [Section 76(8)]

The proper officer, in his order, shall set out the relevant facts and the basis of his decision.

H. Adjustment of amount payable under section 76(1) and (3) [Section 76(9), (10) & (11)]

The amount paid to the Government under sub-section (1) or sub-section (3) shall be adjusted against the tax payable, if any, by the person in relation to the supplies referred to in sub-section (1).

Where any surplus is left after the adjustment under sub-section (9), the amount of such surplus shall either be credited to the Consumer Welfare Fund or refunded to the person who has borne the incidence of such amount.

The person who has borne the incidence of the amount, may apply for the refund of the same in accordance with the provisions of section 54.

6. TAX WRONGFULLY COLLECTED AND PAID TO CENTRAL GOVERNMENT OR STATE GOVERNMENT [SECTION 77]

A registered person who has paid the CGST and SGST or, as the case may be, the CGST and the UTGST on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, shall be refunded the amount of taxes so paid in such manner and subject to such conditions as may be prescribed.

A registered person who has paid IGST on a transaction considered by him to be an inter-State supply, but which is subsequently held to be an intra-State supply, shall not be required to pay any interest on the amount of CGST and SGST or, as the case may be, the CGST and the UTGST tax payable.



Similar provisions are contained in section 19 of the IGST Act, 2017.



7. RECOVERY PROCEEDINGS [SECTIONS 78 & 79]

The recovery proceedings are final steps towards the realisation of any tax or amount, which has been confirmed as payable after following the due process of adjudication by the proper officer. These recovery provisions under the CGST Act, 2017 lay down a well-defined procedure which is as follows:

A. Initiation of recovery proceedings [Section 78]

Any amount payable by a taxable person in pursuance of an order passed under this Act must be paid by such person within a period of **3 months** from the date of service of such order. If a taxable person fails to do so, recovery proceedings are initiated against him.



However, where the proper officer considers it expedient in the interest of revenue, he may, for reasons to be recorded in writing, require the said taxable person to make such payment within such period **less than a period of 3 months** as may be specified by him.

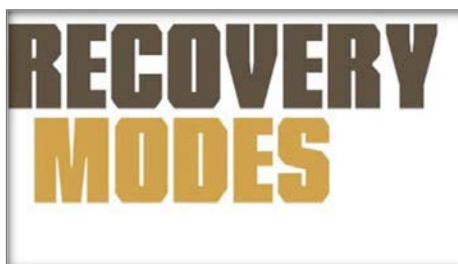
B. Recovery of tax [Section 79]

If the payable amount is not paid by a person within the specified time limit of 3 months, recovery proceedings shall be initiated and various actions may be taken by the recovery officer, for realisation of Government dues.

The options for recovery of Government dues include deduction of money from any amount payable to such tax payer, detaining and selling any goods, directing any other person from whom the money is due to such person, attaching any property belonging to the defaulter etc.

MODES OF RECOVERY OF TAX [SECTION 79(1)]

Where any amount payable by a person to the Government under any of the provisions of this Act or the rules made thereunder is not paid, the proper officer shall proceed to recover the amount by **one or more of the following modes**, namely:



(i) Recovery by deduction from any money owed [Section 79(1)(a) read with rule 143]

The proper officer may deduct or may require any other specified officer to deduct the amount so payable from any money owing to such person [referred as 'defaulter'] which may be under the control of the proper officer or such other specified officer.

Specified officer shall mean any officer of the Central Government or a State Government or the Government of a Union territory or a local authority, or of a Board or Corporation or a company owned or controlled, wholly or partly, by the Central Government or a State Government or the Government of a Union territory or a local authority.

(ii) Recovery by sale of goods under the control of proper officer [Section 79(1)(b) read with rule 144]

- The proper officer may recover or may require any other specified officer to recover the amount so payable from a defaulter by detaining and selling any goods [through a process of auction, including e-auction] belonging to such person which are under the control of the proper officer or such other specified officer.
- The proper officer shall prepare an inventory and estimate the market value of such goods and proceed to sell only so much of the goods as may be required for recovering the amount payable along with the administrative expenditure incurred on the recovery process.
- Where the defaulter pays the amount under recovery, including any expenses incurred on the process of recovery, before the issue of the notice for auction, the proper officer shall cancel the process of auction and release the goods.

(iii) Garnishee proceedings - Recovery from a third person [Section 79(1)(c) read with rule 145]

- The proper officer may, by a notice in prescribed form, in writing, require any other person:
 - ❖ from whom money is due/may become due to such person or
 - ❖ who holds/may subsequently hold money for/on account of such person

to pay to the Government

- ❖ either forthwith upon the money becoming due or being held, or
- ❖ within the time specified in the notice not being before the money becomes due or is held,

so much of the money as is sufficient to pay the amount due from such person or the whole of the money when it is equal to or less than that amount.

- ❑ Every person to whom the notice is issued hereunder shall be bound to comply with such notice.
- ❑ Where any such notice is issued to a **post office, banking company or an insurer**, it shall not be necessary to produce any pass book, deposit receipt, policy or any other document for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary.
- ❑ In case the person to whom notice is issued hereunder, fails to make the payment in pursuance thereof to the Government, he shall be deemed to be a defaulter in respect of the amount specified in the notice and all the consequences of this Act or the rules made thereunder shall follow.
- ❑ The officer issuing such notice may, at any time, amend or revoke the notice or extend the time for making any payment in pursuance of the notice.
- ❑ Any person making any payment in compliance with the notice issued hereunder shall be deemed to have made the payment under the authority of the person in default.
- ❑ Further, such payment being credited to the Government shall be deemed to constitute a good and sufficient discharge of the liability of such person to the person in default to the extent of the amount specified in the receipt.
- ❑ Any person discharging any liability to the person in default after service on him of the notice shall be personally liable to the Government to the extent of the liability discharged or to the extent of the liability of the person in default for tax, interest and penalty, whichever is less.

- Where a person on whom a notice is served hereunder proves to the satisfaction of the officer issuing the notice that:
 - ❖ the money demanded/any part thereof was not due to the person in default or
 - ❖ he did not hold any money for/on account of the person in default, at the time the notice was served on him, nor is the money demanded or any part thereof, likely to become due to the said person/be held for/on account of such person,

nothing contained in this section shall be deemed to require the person on whom the notice has been served to pay to the Government any such money or part thereof.

- Where the third person makes the payment of the amount specified in the notice, the proper officer shall issue a certificate in prescribed form to the third person clearly indicating the details of the liability so discharged.

(iv) Recovery by sale of movable/immovable property [Section 79(1)(d) read with rules 147, 148, 149, 150 and 154]

- The proper officer may, in accordance with the rules to be made in this behalf, distrain any movable or immovable property belonging to or under the control of such person, and detain the same until the amount payable is paid; and in case, any part of the said amount payable or of the cost of the distress or keeping of the property, remains unpaid for a period of 30 days next after any such distress, may cause the said property to be sold [through auction including e-auction] and with the proceeds of such sale, may satisfy the amount payable and the costs including cost of sale remaining unpaid and shall render the surplus amount, if any, to such person [Section 79(1)(d)].
- The proper officer shall prepare a list of movable and immovable property belonging to the defaulter, estimate their value as per the prevalent market price and issue an order of attachment or distraint and a notice for sale prohibiting any transaction with regard to such movable and immovable property as may be required for the recovery of the amount due.

In case of attachment/dstraint of	
an immovable property	order shall be affixed on the property till the confirmation of sale
a movable property	proper officer shall seize the property and take its custody.

- ❑ Stamp duty/any other tax/fee payable on transfer of such property shall be paid by the transferee to the Government.
- ❑ Any property in a debt not secured by a negotiable instrument, a share in a corporation, or other movable property not in the possession of the defaulter except for property deposited in/in the custody of any Court shall be attached in the manner provided in rule 151 *[discussed subsequently in this chapter]*.
- ❑ Where any claim is preferred/any objection is raised with regard to the attachment/dstraint of any property by a person claiming that he had some interest in/was in possession of, the property in question, proper officer shall investigate the same and postpone the sale till such time.
If proper officer finds merit in his claims/objection upon investigation, proper officer will release the property, wholly or partly. Otherwise, the proper officer will reject the claim and proceed with the process of sale through auction.
- ❑ Where the defaulter pays the amount under recovery, including any expenses incurred on the process of recovery, before the issue of the notice for auction, the proper officer shall cancel the process of auction and release the goods.
- ❑ The amounts so realised from the sale of goods, movable or immovable property, for the recovery of dues from a defaulter shall,;-
 - (a) first, be appropriated against the administrative cost of the recovery process;
 - (b) next, be appropriated against the amount to be recovered;

(c) next, be appropriated against any other amount due from the defaulter under the CGST Act or the IGST Act or the UTGST Act or any of the SGST Act and the rules made thereunder; and

(d) any balance, be paid to the defaulter.

- Where the property to be sold is a negotiable instrument or a share in a corporation, the proper officer may, instead of selling it by public auction, sell such instrument or a share through a broker and the said broker shall deposit to the Government so much of the proceeds of such sale, reduced by his commission, as may be required for the discharge of the amount under recovery and pay the amount remaining, if any, to the owner of such instrument or a share.
- Any officer/other person who has a duty to perform in connection with such sale will not acquire any interest in property sold.
- No such sale will take place on Sundays/other general holidays recognized by Government.
- Proper officer may seek assistance from jurisdictional police station.

(v) Recovery as arrears of land revenue [Section 79(1)(e) read with rule 155]

- The proper officer may prepare a certificate in prescribed form signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business or to any officer authorised by the Government and the said Collector or the said officer, on receipt of such certificate, shall proceed to recover from such person the amount specified thereunder as if it were an arrear of land revenue.

(vi) Recovery as fine imposed by Magistrate [Section 79(1)(f) read with rule 156]

Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the proper officer may file an application to the appropriate Magistrate in prescribed form to recover from the person concerned the amount specified thereunder and such Magistrate shall proceed to recover from such person amount specified thereunder as if it were a fine imposed by him.

(vii) Recovery through execution of a decree, etc. [Rule 146]

Where any amount is payable to the defaulter in the execution of a decree of a Civil Court for the payment of money or for sale in the enforcement of a mortgage or charge, the proper officer shall send a request to the said court and the court shall, subject to the provisions of the Code of Civil Procedure, 1908, execute the attached decree, and credit the net proceeds for settlement of the amount recoverable.

(viii) Recovery through surety [Rule 157]

Where any person has become surety for the amount due by the defaulter, he may be proceeded against under this Chapter as if he were the defaulter.

(ix) Recovery from company in liquidation [Rule 160]

Where the company is under liquidation as specified in section 88, the Commissioner shall notify the liquidator for the recovery of any amount representing tax, interest, penalty or any other amount due under the Act in prescribed form.

Other provisions governing recovery of tax [Section 79(2), (3) & (4)]

- Where the terms of any bond or other instrument executed under this Act or any rules or regulations made thereunder provide that any amount due under such instrument may be recovered in the manner laid down in sub-section (1), the amount may, without prejudice to any other mode of recovery, be recovered in accordance with the provisions of that sub-section [Section 79(2)].
- Where any amount of tax, interest or penalty is payable by a person to the Government under any of the provisions of this Act or the rules made thereunder and which remains unpaid, the proper officer of State tax or Union territory tax, during the course of recovery of said tax arrears, may recover the amount from the said person as if it were an arrear of State tax or Union territory tax and credit the amount so recovered to the account of the Government [Section 79(3)].
- Where the amount recovered under sub-section (3) is less than the amount due to the Central Government and State Government, the amount to be credited to the account of the respective Governments shall be in proportion to the amount due to each such Government [Section 79(4)].



8. PAYMENT OF TAX AND OTHER AMOUNT IN INSTALMENTS [SECTION 80]

Considering various business aspects, the provisions for payment of all such amounts, other than self-assessed tax, in instalments have also been made in the Act.

A person can avail this benefit of payment in instalments, by making an application to the Commissioner by specifying reasons for such request.



On receipt of application, the Commissioner may allow the payment of amount in instalments, subject to maximum 24 monthly instalments and on payment of applicable interest.

If there is default in payment of any one instalment then the whole outstanding balance shall become due and payable immediately.

Provisions of section 80 read alongwith rule 158 of the CGST Rules, 2017 have been explained in detail as under:

- A taxable person, seeking extension of time for the payment of taxes or any amount due under the Act or for allowing payment of such taxes or amount in instalments, shall furnish an application for the same in prescribed form.
- Commissioner shall call for a report from the jurisdictional officer about the financial ability of the taxable person to pay the said amount.
- Commissioner may, upon consideration of the same, for reasons to be recorded in writing, extend the time for payment or allow payment of any amount due under this Act, other than the amount due as per the liability self-assessed in any return, by such person in monthly instalments not exceeding 24, subject to payment of interest under section 50 and subject to such conditions and limitations as may be prescribed.
- However, where there is default in payment of any one instalment on its due date, the whole outstanding balance payable on such date shall become due and payable forthwith and shall, without any further notice being served on the person, be liable for recovery.

- Facility of payment in instalments not allowed in certain cases:** The facility of payment in instalments shall not be allowed where -
- (a) the taxable person has already defaulted on the payment of any amount under the CGST Act or IGST Act or UTGST Act or any of the SGST Act, for which the recovery process is on;
 - (b) the taxable person has not been allowed to make payment in instalments in the preceding financial year under the Act or the IGST Act or UTGST Act or any of the SGST Act;
 - (c) the amount for which instalment facility is sought is less than ₹ 25,000.

9. TRANSFER OF PROPERTY TO BE VOID IN CERTAIN CASES [SECTION 81]

- Where a person, after any amount has become due from him, creates a charge on or parts with the property belonging to him or in his possession by way of sale, mortgage, exchange, or any other mode of transfer whatsoever of any of his properties in favour of any other person with the intention of defrauding the Government revenue, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the said person.
- However, such charge or transfer shall not be void if it is made for adequate consideration, in good faith and without notice of the pendency of such proceedings under this Act or without notice of such tax or other sum payable by the said person, or with the previous permission of the proper officer.



10. TAX TO BE FIRST CHARGE ON PROPERTY [SECTION 82]

Notwithstanding anything to the contrary contained in any law for the time being in force, save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, any amount payable by a taxable person or any other person on account of tax,

interest or penalty which he is liable to pay to the Government shall be a first charge on the property of such taxable person or such person.



11. PROVISIONAL ATTACHMENT TO PROTECT REVENUE IN CERTAIN CASES [SECTION 83]

- ❑ Where during the pendency of any proceedings under section 62 or section 63 or section 64 or section 67 or section 73 or section 74, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may, by order in writing attach provisionally any property, including bank account, belonging to the taxable person in such manner as may be prescribed [Section 83(1)].
- ❑ Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order made under sub-section (1) [Section 83(2)].



The related provisions contained in CGST Rules are as follows:

(i) Provisional attachment of property [Rule 159]

- ❑ Where the Commissioner decides to attach any property, including bank account in accordance with aforesaid provisions, he shall pass an order to that effect mentioning therein, the details of property which is attached.
- ❑ The Commissioner shall send a copy of the order of attachment to the concerned Revenue Authority or Transport Authority or any such Authority to place encumbrance on the said movable or immovable property, which shall be removed only on the written instructions from the Commissioner to that effect.
- ❑ Where the property attached is of perishable or hazardous nature, and if the taxable person pays:
 - (i) an amount equivalent to the market price of such property

or

(ii) the amount that is or may become payable by the taxable person

whichever is lower

then such property shall be released forthwith, by an order in prescribed form, on proof of payment.

- ❑ However, where the taxable person fails to pay the amount referred above in respect of the said property of perishable/hazardous nature, the Commissioner may dispose of such property and the amount realized thereby shall be adjusted against the tax, interest, penalty, fee or any other amount payable by the taxable person.
- ❑ Any person whose property is attached may within 7 days of the attachment, file an objection to the effect that the property attached was or is not liable to attachment, and the Commissioner may, after affording an opportunity of being heard to the person filing the objection, release the said property by an order.
- ❑ The Commissioner may, upon being satisfied that the property was, or is no longer liable for attachment, release such property by issuing an order.

(ii) Attachment of debts and shares, etc. [Rule 151]

- ❑ A debt not secured by a negotiable instrument, a share in a corporation, or other movable property not in the possession of the defaulter except for property deposited in, or in the custody of any court shall be attached by a written order in prescribed form prohibiting:
 - (a) in the case of a debt, the creditor from recovering the debt and the debtor from making payment thereof until the receipt of a further order from the proper officer;
 - (b) in the case of a share, the person in whose name the share may be standing from transferring the same or receiving any dividend thereon;
 - (c) in the case of any other movable property, the person in possession of the same from giving it to the defaulter.
- ❑ A copy of such order shall be affixed on some conspicuous part of the office of the proper officer, and another copy shall be sent, in the case of debt, to the debtor, and in the case of shares, to the registered address of the corporation and in the case of other movable property, to the person in possession of the same.

- A debtor, prohibited hereunder, may pay the amount of his debt to the proper officer, and such payment shall be deemed as paid to the defaulter.

(iii) Attachment of property in custody of courts or Public Officer [Rule 152]

- Where the property to be attached is in the custody of any Court or Public Officer, the proper officer shall send the order of attachment to such court or officer, requesting that such property, and any interest or dividend becoming payable thereon, may be held till the recovery of the amount payable.

(iv) Attachment of interest in partnership [Rule 153]

- Where the property to be attached consists of an interest of the defaulter, being a partner, in the partnership property, the proper officer may make an order charging the share of such partner in the partnership property and profits with payment of the amount due under the certificate, and may, by the same or subsequent order, appoint a receiver of the share of such partner in the profits, whether already declared or accruing, and of any other money which may become due to him in respect of the partnership, and direct accounts and enquiries and make an order for the sale of such interest or such other order as the circumstances of the case may require.
- The other partners shall be at liberty at any time to redeem the interest charged or, in the case of a sale being directed, to purchase the same.



12. CONTINUATION AND VALIDATION OF CERTAIN RECOVERY PROCEEDINGS [SECTION 84]

Where any notice of demand in respect of any tax, penalty, interest or any other amount payable under this Act, (hereafter in this section referred to as Government dues), is served upon any taxable person or any other person and any appeal or revision application is filed or any other proceedings is initiated in respect of such Government dues, then:

- (a) where such Government dues are enhanced in such appeal, revision or other proceedings, the Commissioner shall serve upon the taxable person or any other person another notice of demand in respect of the amount by which such Government dues are enhanced and any recovery proceedings in

relation to such Government dues as are covered by the notice of demand served upon him before the disposal of such appeal, revision or other proceedings may, without the service of any fresh notice of demand, be continued from the stage at which such proceedings stood immediately before such disposal;

- (b) where such Government dues are reduced in such appeal, revision or in other proceedings —
- (i) it shall not be necessary for the Commissioner to serve upon the taxable person a fresh notice of demand;
 - (ii) the Commissioner shall give intimation of such reduction to him and to the appropriate authority with whom recovery proceedings is pending;
 - (iii) any recovery proceedings initiated on the basis of the demand served upon him prior to the disposal of such appeal, revision or other proceedings may be continued in relation to the amount so reduced from the stage at which such proceedings stood immediately before such disposal.

TEST YOUR KNOWLEDGE

1. Mohan Enterprises is entitled for exemption from tax under GST law. However, it collected tax from its buyers worth ₹ 50,000 in the month of August. It has not deposited the said amount collected as GST with the Government. You are required to brief to Mohan Enterprises the consequences of collecting tax, but not depositing the same with Government as provided under section 76 of the CGST Act, 2017.
2. Discuss briefly the time limit for issue of show cause notice as contained under sections 73 and 74 of the CGST Act, 2017.
3. Is there any time limit prescribed for adjudication of the cases under CGST Act, 2017? If yes, discuss the same.
4. A person is chargeable with tax in case of fraud. He decides to pay the amount of demand alongwith interest before issue of notice. Is there any immunity available to such person?
5. Briefly discuss the modes of recovery of tax available to the proper officer.

ANSWERS/HINTS

1. It is mandatory to pay amount, collected from other person representing tax under GST law, to the Government. Every person who has collected from any other person any amount as representing the tax under GST law, and has not paid the said amount to the Government, shall forthwith pay the said amount to the Government, irrespective of whether the supplies in respect of which such amount was collected are taxable or not.

For any such amount not so paid, proper officer may issue SCN for recovery of such amount and penalty equivalent to amount specified in notice.

The proper officer shall, after considering the representation, if any, made by the person on whom SCN is served, determine the amount due from such person and thereupon such person shall pay the amount so determined alongwith interest at the rate specified under section 50 from the date such amount was collected by him to the date such amount is paid by him to the Government.

2. The provisions relating to 'relevant date' as contained in CGST Act, 2017 are as under:
 - (i) In case of section 73 (cases other than fraud/suppression of facts/willful misstatement), the time-limit for issuance of SCN is 2 years and 9 months from the due date of filing Annual Return for the Financial Year to which the demand pertains or from the date of erroneous refund.
 - (ii) In case of section 74 (cases involving fraud/suppression of facts/willful misstatement), the time-limit for issuance of SCN is 4 years and 6 months from the due date of filing of Annual Return for the Financial Year to which the demand pertains or from the date of erroneous refund.
3. The provisions relating to time-limit for adjudication of cases as contained in section 73 and 74 of the CGST Act, 2017 are as under:
 - (i) In case of section 73 (cases other than fraud/suppression of facts/willful misstatement), the time limit for adjudication of cases is 3 years from the due date for filing of annual return for the financial year to which demand relates to [Section 73(10)].
 - (ii) In case of section 74 (cases of fraud/suppression of facts/willful misstatement), the time limit for adjudication is 5 years from the due date for filing of annual return for the financial year to which demand relates to [Section 74(10)].
4. Yes. Person chargeable with tax, shall have an option to pay the amount of tax along with interest and penalty equal to 15% per cent of the tax involved, as ascertained either on his own or ascertained by the proper officer, and on such payment, no notice shall be issued with respect to the tax so paid [Section 74(6)].
5. The proper officer may recover the dues in following manner:
 - (a) Deduction of dues from the amount owned by the tax authorities payable to such person.
 - (b) Recovery by way of detaining and selling any goods belonging to such person;
 - (c) Recovery from other person, from whom money is due or may become due to such person or who holds or may subsequently hold money for or

on account of such person, to pay to the credit of the Central or a State Government;

- (d) Distrain any movable or immovable property belonging to such person, until the amount payable is paid. If the dues not paid within 30 days, the said property is to be sold and with the proceeds of such sale the amount payable and cost of sale shall be recovered.
- (e) Through the Collector of the district in which such person owns any property or resides or carries on his business, as if it was an arrear of land revenue.
- (f) By way of an application to the appropriate Magistrate who in turn shall proceed to recover the amount as if it were a fine imposed by him.
- (g) By enforcing the bond/instrument executed under this Act or any rules or regulations made thereunder.
- (h) CGST arrears can be recovered as an arrear of SGST and vice versa [Section 79].

