

INSPECTION-SEARCH-SEIZURE & ARREST!!

(CHAPTER XIV OF THE “CENTRAL GOODS AND SERVICES TAX ACT, 2017”)

The Definitive Provisions In the GST Act to prevent and punish
the evasion of tax



-By Prakhar Jain

ARUN JAITLEY, OUR FINANCE MINISTER SAID-



“The government is losing a lot by way of tax evasion. I will not quantify it, but in FY16, we *detected* around Rs. 71,000 crore of direct + indirect tax evasion.

In GST, evasion will be difficult”

SECTION 67

Inspection/ Search & Seizure

THEN he may AUTHORIZE any other officer of central tax in WRITING To INSPECT –

- Any place of Business of RTP/ Transporter/ Warehouser
- Any other place

If after inspection, or otherwise, he has REASONS TO BELIEVE that-

- Goods liable for confiscation, or
- Documents/ books/ things relevant for proceedings

are SECRETED (Hidden) in any place, then may authorize for SEARCH & SEIZURE of such goods/ books/ documents

(If Seizure of goods not practicable, then order not to remove goods without permission)

JOINT COMMISSIONER OF TAX OR ABOVE

Where he has REASONS TO BELIEVE that-

- RTP has evaded tax in anyway
- Transporter/ Warehouse operator is keeping goods on which tax have been evaded
- Transporter/ Warehouse operator has kept his accounts in such manner as is LIKELY TO CAUSE EVASION of tax

RETAIN AS LONG AS NECESSARY, THEN RETURN

- The Documents/ Books or Goods seized shall be retained only for so long as is necessary for their examination/ enquiry
- The **Seized** things, and any other things **produced** by the taxable person or any other person,
 - if not relied upon in the notice issued
 - Then return within 30 days of issue of notice



POWER TO SEAL/ BREAK OPEN

- Where access is DENIED to
- The Door of any premises/ Almirah/ Boxes/ Electronic Devices etc.
- IN WHICH, any goods/ accounts/ documents are suspected to be concealed,

Officer authorized for Inspection/ Search/ Seizure shall have the power to

- Seal, or Break it Open



OTHER PROVISIONS

- Officer can **seize the document/** accounts produced before him, if he thinks TAX evasion involved
 - Where Documents/ books seized, officer may allow taking its photocopies, except where detrimental to intt of revenue
 - The Govt. shall specify in notification, list of such goods, which shall be sold immediately after seizure, **due to perishability/ hazardous nature/ fast depreciation/ lack of storage space.** PO shall make inventory of such goods.
- Notice has to be given within 6 months of seizure of goods, otherwise goods to be returned (6 month may be extended)
 - The Goods that have been seized, may be released, if-
 1. **Executes Bond & Furnishes Security of specified Amt, or**
 2. **Pays applicable tax, Intt & Penalty**



TEST PURCHASE [SEC 67(12)]

Commissioner/ Officer Authorised may

- Cause Purchase, by ANY THIRD PERSON authorized by them
- Of goods/ services from a taxable person
- Purpose would be to check issue of tax invoice/ bills of supply and compliance with provisions

After checking, officer shall return goods purchased

- The taxable person shall refund the amount paid
- And cancel the tax invoice/ bill of supply

SPECIAL CASE - INSPECTION OF GOODS IN TRANSIT (Section 68)

Where goods transported value greater than
Specified Amount,

Then Govt may require the person in charge of
conveyance carrying goods

TO CARRY WITH HIM

- Such Documents (Like WayBill), &
- Such Devices (Like GPS)

As may be prescribed

Where conveyance INTERCEPTED by proper
officer, he may require to

- Show documents/ devices for verification
- Person shall be bound



SECTION 69

Arrest



Section 132(1)

- (a) Invoice not issued with intention to evade
- (b) Invoice of higher amount to get excessive ITC
- (c) Availed excessive ITC by fake/ inflated Tax Invoice
- (d) Tax collected but not paid within 3 months

Punishment under-

Clause (i) – Amt involved > 5 crore – Jail upto 5 yrs & fine

Clause (ii) – Amt involved > 3 crore – Jail upto 3 yrs & fine

Section 132(2) – Convicted person again convicted

Section 132(5)

If committed offences under Clause (a), (b), (c), (d) of Section 132(1), AND punishable under clause (i)

THEN

Arrest is COGNIZABLE (arrest without warrant) and NON_BAILABLE

Where arrested for such offense , then officer shall – Inform person of GROUNDS OF ARREST & produce before magistrate within 24 hours

Section 132(4)

All other offenses are NON COGNIZABLE & BAILABLE

If fails to furnish bail bond – forwarded to custody of magistrate

WHERE THE COMMISSIONER HAS REASONS TO BELIEVE

Person committed offence under-

- **Section 132(1)** - Clause (a), (b), (c), (d) AND punishable under clause (i)/ (ii)

or

- **Section 132(2)**

Then he may authorize PO to ARREST such person

SECTION 70

Power to Summon

PROPER OFFICER SHALL HAVE THE POWER -

To summon “ANY PERSON”* in any enquiry, in the same manner as in the case of a CIVIL COURT

*Any Person - whose attendance he considers necessary-

- To give evidence
- To produce document/ any other thing

Every such enquiry shall be deemed to be “judicial proceedings” u/s 193, 228 of IPC.



- Books of Accounts
- Documents
- Computers
- Computer Programs
- Computer Software (whether installed in computer or otherwise)
- Such other things as he may require

For the purposes of carrying out-
Audit/ scrutiny/ verification/ checks
As may be necessary to safeguard the intt of
the revenue

Any PO, who is at
least **Joint
Commissioner** (or
above ranking), -
shall have access to
any place of business
of registered person

← **TO INSPECT**

- Such records maintained & declared to
PO in prescribed manner
- Trial Balance, Annual Financial
Statements
- Cost Audit Report
- Income Tax Audit report
- Any other relevant record

For Scrutiny by officer/ audit party/ CA/ CA

Shall make available < 15 days (or < time
allowed by them)

Every PERSON-IN-
CHARGE of place

- SHALL make available
ON DEMAND
- To the Officer/ Audit
Party/ Cost
accountant/
Chartered Accountant
-nominated u/s 66

← **This**

SECTION 71 - ACCESS TO BUSINESS PREMISES



SECTION 72 – OFFICERS TO ASSIST PROPER OFFICERS



All officers of-

- Police
- Railways
- Customs
- Land Revenue
- Village Officers
- Officers of SGST/ UTGST

SHALL assist PO under this Act

→ Govt. may by NOTIFICATION, empower & require ***any other officer*** - to assist the PO under this act – When called upon to do so –
By the Commissioner

THE END

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