

classmate
Date 3/7/23

CH - Assessment & Audit

① Provisional Assessment [Section 60]

Step 1 : Furnish Application along with documents in ASMT-01 stating reasons for payment of tax on provisional basis.

Step 2: On Receipt of Application Proper Officer to issue a Notice in ASMT-02 to furnish additional information / documents to the applicant.

Step 3: Reply should be made in ASMT-03 to the Proper officer.

Step 4: Proper officer shall issue order in ASMT-4 within a period not later than 90 days from the date of receipt of ASMT-01.

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A bond has to be executed and security to be furnished upto 25% of the amount covered in the bond.

Step 5: - Bond will be executed in

ASMT-05 along with security in the form of Bank guaranteed binding of the taxable person for payment of difference between the tax finally assessed and the tax provisionally assessed.

Once Bond is executed payment of tax on provisional basis may be allowed.

Step 6: A notice in ASMT-06 calling for information shall be issued by the proper officer if required.

Final Assessment order in ASMT-07 specifying the amt payable / refundable shall be issued.

within 6 Mths from the date
of receipt of ASMT-04.

It can be further extended
by 6 Mths by JC/AC.

Further extended by 4 yrs
by Commissioner.

Step 7: After the Final
Assessment order is issued in
ASMT-07, furnish an application
in ASMT-08 for release of
security.

Step 8:- After the entire
amount is assessed in final
assessment order in ASMT-07
has been paid and on receipt
of application for release of
security is received, the AC/DC
will issue an order in
ASMT-09 within 7 working
days from the date of receipt
of application releasing the
security.

Interest provisions on Short fall for excess tax paid

① Final Assessed Tax is more than Provisional Assessed Tax:-

Interest payable @ 18% p.a after the due date of payment of tax till the actual date of payment.

② Provisionally Assessed Tax was more than the Final Assessed Tax:-

Results in a situation where tax becomes refundable and interest is due @ 6% p.a from 61st day of the date of receipt of application till the actual refund date.

Scrutiny of Returns. [section 61]

Step 1 :- A notice in ASMT-10 shall be issued by the Proper officer informing about the discrepancy and seeking explanation within a period not exceeding 30 days from the date of service of notice.

Tax, interest and any other amount shall be quantified wherever possible.

Step 2: Reply to Notice by TP

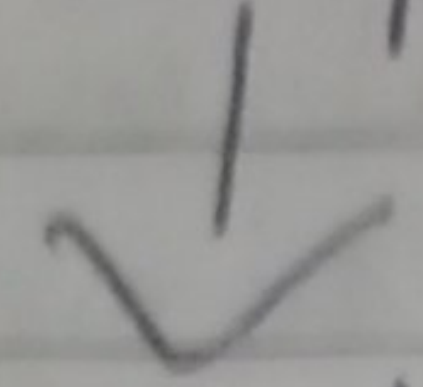
Accept the discrepancy

Submit Explanation for non-acceptance of Discrepancy in ASMT-110 within 30 days

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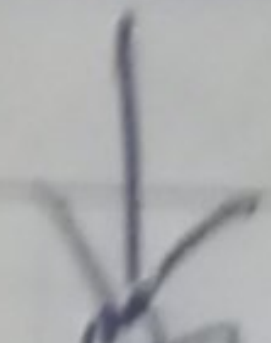
Step 3: Action by P.O

Explanation furnished is acceptable



P.O shall inform in ASMT-12 & no action shall be taken

No satisfactory Explanation / fail to take corrective measure



Any one of the following can trigger

- General Audit v/s 65.
- Special Audit v/s 66.
- Undertake Inspection Search Seizure v/s 67.
- Initiate demand and recovery proceedings v/s 73 & 74.

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Assessment of Non-Filers of Return

Step 1: The proper officer may assess the tax liability of any person to the best of his judgement after taking into account all the relevant material which is available or which he has gathered when the person fails to furnish return u/s 39 or Sec 45 (Final Return) even after service of Notice u/s 46. (Fail to furnish return in response to the notice)

Step 2: The Assessment order shall be passed in ASMT-13 within 5 years from the due date of the Annual Return for the relevant financial year.

Step 3: - If the Registered Person furnishes the valid return within 30 days from the date of service of ASMT-13, such order shall be deemed to be withdrawn. Interest liability and late fees shall

continue.

Note :- Relevant for Finance Act 2023 (June 2024 onwards)

- ① The time limit of 30 days is increased to 60 days (Now returns can be filed within 60 days so that the assessment order can be withdrawn).
- ② Where the registered person fails to furnish such return within 60 days from the date of the order, he may furnish such return within a further period of 60 days on the payment of additional late fees of rupees 100 each per day for the delay beyond 60 days from the date of assessment order. In case he furnishes the return within this extended period, the assessment order shall be deemed to be withdrawn subject to interest liability and late fees.

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Assessment of Un-registered Person Sec 63.

Step 1: The proper officer may proceed to assess the tax liability of the taxable person to the best of his judgement where the taxable person :-

① Fails to obtain registration even though he was liable to do so.

② whose Regⁿ has been cancelled v/s 29(2) but was liable to pay tax. (Cancellation done by the Proper Officer Refer. Reg. Chapter).

Step 2: A notice will be issued in ASMT-14 with a 15 days time to furnish the reply.

Step 3: Assessment order shall be passed in ASMT-15 within 5 yrs from the due date of Annual Return for the Relevant f. yr.

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Summary Assessment

Step 1: Summary Assessment order

shall be passed in ASMT-16 to protect the interest of the revenue with the previous permission from JC/AC. when delay in passing the assessment order:-

- ① would adversely affect the interest of the revenue and
- ② proper officer has a evidence that a liability to pay tax has been incurred.

Step 2: Withdrawal application

to be filed by Taxable person in ASMT-17 within 30 days from the date of receipt of summary assessment order.

If Summary Assessment order holds to be good and true - Application filed by the Taxable person shall be rejected in ASMT-18.

- If the summary Assessment order is found to be erroneous- Such summary Assessment order shall be withdrawn in ASMT-18 and Demand & Recovery Procedure v/s 73 or 74 shall be followed.

General Audit by Tax Authorities v/s 65.

Step 1: The Commissioner or any officer authorised may undertake audit of any R/P at P.O.B of the R/P for a financial yr or multiples thereof.

Step 2: A notice in ADT-01

shall be issued at least 15 Working Days prior to the conduct of Audit.

Step 3: — Audit is to be completed within 3 Mths from the

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date of commencement of Audit
(Date on which Accounts are
made available to the authorities)

or
Actual Institution of Audit at P.O.
of the T/P whichever is later.
This 3 Mths can be further
extended by another 6 Mths
by the Commissioner.

Step 4: The R/P shall assist
the proper officer to verify
all the documents, returns,
correctness of Turnover,
Exemptions availed and refund
claimed

Step 5: - Audit cannot be
finalised before considering the
reply furnished by the R/P.

Step 6: - After conclusion of
Audit the proper officer shall
inform within 30 days in ADT-02

about his findings rights and obligations along with the reasons

Step 7: Where the Audit results

in Detection of :-

- Tax not paid
- Tax short paid
- Tax erroneously refunded.
- ITC wrongly availed or utilised

Demand & Recovery proceedings may be initiated by P.O u/s 73 or 74.

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Special Audit v/s 66

Step 1: Any officer not below the rank of AC with the approval of Commissioner may issue direction to the R/R in ADT-03 to get his books audited by CAO/CMA

Step 2: It is directed if at any stage of scrutiny / investigation or any enquiry before the AC having regard to the nature and complexity of the case and interest of the revenue, he is of the opinion that the value of supply has not been correctly declared or ITC is not claimed within the normal limits.

Step 3: The CA/CMA shall submit the report to the commissioner within 90 days, this period can be further extended for another 90 days for any material or sufficient reason.

Step 4: opportunity of being heard should be given on any material gathered on the basis of special Audit which is proposed to be used against the R.P.

Step 5: R.P shall be informed about the findings of the special Audit in ADT -04.

Detection of Tax

- Not Paid
- Short Paid
- Tax erroneously refunded.
- ITC wrongly availed or utilised.

Demand & Recovery proceedings may be initiated by P.O v/s 73 or 74.

Questions on which Advance Rulings can be sought.

- (i) Classification of any goods or services.
- (ii) Applicability of a Notification under CGST Act.
- (iii) Determination of Time and Value of Supply (Not Place of Supply)
- (iv) Admissibility of ITC
- (v) Determination of liability to pay tax.
- (vi) Whether registration is required to the applicant.
- (vii) Whether any particular thing done by the applicant results in Supply of goods or services.

Application shall be made in ARA-0 with a fees of ₹5000.

PROCEDURE FOR ADVANCE RULING (AR)

Step 1: Filing of Appⁿ to AAR by the Applicant.

Step 2: AAR to call for all relevant records from the jurisdictional officer which shall be returned to the officer as soon as possible.

Step 3: Examine the Applⁿ by AAR along with records and pass the order either admitting or rejecting the application.

Step 4: Application cannot be admitted if the question raised is already pending or decided in any proceedings in the case of the applicant.

Step 5: AAR shall pronounce its ruling within 90 days of receipt of application after examining the application and further material furnished by the applicant or the officer.

Step 6:- Points will be referred to AAAR if members of AAR differ in their opinion. If the members of AAAR are also unable to come to a common conclusion on the matter referred to them by AAR — it shall be deemed that no advance ruling can be given on that question where the difference persists.

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Appeal to AAAR.

Step 1: The Applicant or the Jurisdictional officer may file appeal to AAAR if they do not agree with the findings of AAAR.

Step 2: Appeal should be filed within 30 days from the date of receipt of advance ruling.

Another 30 days may be allowed by AAAR on sufficient cause being shown.

Step 3: Applicant's appeal shall be filed in ARA-02 with a fees of 10,000 and the depts appeal shall be filed in ARA-03 without any fees.

The AAAR must pass the order within 90 days from the date of

appeal. If the members of AAAR differ on any point it shall be deemed that no advance ruling can be issued in respect of the question.

Step 4:- The AAAR can confirm or modify the ruling appeal against.

Rectification of Advance Ruling

Step 1: The AAR / AAAR / NAA may amend any order passed by them to rectify any error apparent on the face of the record if such error is noticed by respective authorities on its own or brought to their notice by the applicant, appellant, appellate authority or AAR.

Step 2: The time limit to rectify is 6 Mths from the date of the order.

Applicability of Advance Ruling.

Step 1: The advance ruling pronounced by AAR/AAAR shall be binding on

- The Applicant who had sought it in respect of prescribed questions.
- On the Jurisdictional officer in respect of the applicant.
- It is not applicable on similar placed other taxable person in the state.

Advance Ruling to be void

- Where AAR/AAAR/NAA has found that the advance ruling has been obtained by fraud, suppression of material facts or misrepresentation of facts may by order declare such ruling to be void-ab-initio.

All the provisions of CGST Act shall apply as if Advance ruling had never been made.

- The period after the date of Advance Ruling and until it was declared to be void shall be excluded for computing the time limit to issue a SCN under Sec 73 & 74 and pass adjudication order under 73 & 74.

DEMAND PROVISIONS UNDER GST

ISSUANCE OF SCN

AND DEMAND ORDER

Particulars	Other than fraud or willful misstatement or suppression of facts [Section 73]	Fraud or willful misstatement or suppression of facts [Section 74]
Serving of SCN [Section 73(1) & Section 74(1)]	• The Proper officer shall serve notice on the person chargeable with tax requiring him to why he should not pay the amount specified in the notice along with int, penalty. Tax + Int + Penalty (10% of Tax or 10,000 whichever higher)	Same as 73(1) Tax + Int + Penalty (100% of Tax)
Time Limit for issuance of SCN [Section 73(2) & Section 74(2)]	Within 2 yrs & 9 Mths from the due date of filing Annual Return for F.Y to which demand pertains or Atleast 3 Mths prior to issuance of order	Within 4 yrs & 6 Mths from the due date of filing A.R for F.Y to which demand pertains. or, Atleast 6 Mths prior to issuance of order.
Statement [73(3) & 74(3)]	Notice has been issued u/s 73(1), the P.O may serve a statement containing the details of tax not paid for such periods other than those covered in 73(1)	Notice has been issued u/s 74(1), the P.O may serve a statement containing the details of tax not paid for such periods other than those covered in 74(1)

Statement deemed to be SCN
[Section 73(4)]
[Section 74(4)]

The service of such statement shall be deemed to be service of notice condition that grounds relied upon for such tax periods other than those covered in sub-section (1) are the same as are mentioned in the earlier notice.

The service of Statement shall be deemed to service of notice under 73(1) except the ground of fraud or any wilful-misstatement or suppression of facts to evade tax.

Voluntary payment before serving of SCN

[Section 73(5)]
& [Section 74(5)]

~~Pre-SCN~~

The person chargeable with tax may before service of notice u/s 73(1) or Statement u/s 73(3) pay amt of tax along with interest u/s 50. } Tax + Int }
Penalty X }

- The amt of Tax along with interest and penalty equivalent to 15% of Tax

Non-Serving of SCN

Section 73(6)
& Section 74(6)

The proper officer shall not serve any notice u/s 73(1) or Statement u/s 73(3) in respect of the tax paid or any penalty payable

The P.O shall not serve any notice in respect of tax so paid or penalty payable.

Serving of SCN if voluntary payment falls short [Section 73(7) & 74(7)]

Where the P.O is of opinion amt paid u/s 73(5) falls short of the actual amount payable, he shall issue SCN in respect of amt which falls short of actual amt payable.

P.O is of opinion amt v/s 74(5) falls short, he shall issue SCN as provided in respect of amt which falls short of the amt actually payable.

Payment of Tax after serving SCN [Section 73(8) & 74(8)]

Where any person chargeable with tax pays the said tax with interest

Where any person chargeable with tax pays the said tax along with interest

within 30 days of issue of SCN

No Penalty shall be payable and all proceedings shall be deemed to be concluded.

Penalty equivalent to 25% of tax within 30 days of issue of SCN

Time limit to pass order [Section 73(10) & 74(10)]

Within 3 yrs from the due date of filing of Annual Return for the F.Y to which demand pertains

Within 5 yrs from the due date of filing of Annual Return for F.Y

Reduced Penalty if payment within 30 days of passing adjudication order section 73(11) & 74(11)

Penalty u/s 73(9) shall be payable where any amt of self-assessed tax has not been paid within 30 days from the due date of payment Penalty 10% of tax or 10,000 (Higher)

Person served with an order pays the tax along with interest Penalty of 50% of Tax within 30 days of communication of the order

GENERAL PROVISIONS RELATING TO DETERMINATION OF TAX [Section 75]

- Period of stay.
Stay ordered by Court or Tribunal of SCN issued u/s 73(2) or 74(2) & adjudication order 73(10) or 74(10) to be included for determining 3 yrs or 5 yrs.
- Deemed Notice:- The proper officer shall determine the tax payable by such person, deeming as if the notice were issued under 73(1).
- Order issued in pursuance of Court:-
Order to be issued in pursuance of direction of Appellate Authority or Appellate Tribunal or Court shall order shall be issued within 2 yrs.
- Opportunity of being heard
- Adjournment not more than 3 times.
- Order should not be passed more than the demand mentioned in SCN.

7. Court findings are final :-

Where Appellate Authority Appellate Tribunal or court modifies the amt of tax determined by Adjudicating Authority, the amt of int, penalty shall stand modified accordingly after taking into account the amt of tax modified.

8. Interest mandatory :- Int on Tax not paid/shortpaid shall be payable whether or not specified in the order determining the tax liability.

9. Time barred orders : The adjudication shall be deemed to be concluded if the order is not issued within 3/5 yrs.

10 Recovery of Tax : Notwithstanding anything

(imp)

contained in sec 73 or Section 74

• amt of Self assessed Tax in accordance

with a return furnished u/s 39 remains unpaid
GSTR3B

• Int payable on such tax remains unpaid.

Shall be recovered u/s 79 (recovery of Tax)

Self-Assessed Tax shall include the Tax payable in respect of details of Outward Supplies furnished under Section 37 but not included in return furnished under Section 39 → GSTR 3B

difference between details of GSTR1 and GSTR-3B may arise due to genuine reasons

* typographical error in GSTR1 or GSTR3B rectified in subsequent GSTR1 or GSTR3B

* Where a supply could not be declared in GSTR-1 of an earlier tax period, though the tax on the same was paid by correctly reporting in GSTR-3B of said tax period, details may now be reported in the GSTR-1 of the current tax period.

11. Penalty only once : No penalty for the same act shall be imposed on the same person where any penalty is imposed under 73 or Section 74

Tax Collected But Not Paid to Government [Section 76]

Person who has collected any amount as representing the GST and has not paid same to the Govt, is required to pay said amt with interest, irrespective of whether the supplies in respect of which such amount was collected are taxable or not.

Overrides anything contained in any order, direction of any Appellate Authority or Appellate Tribunal or court in any other provisions of this Act

Issue of SCN [Sec 76(2)]

Proper officer can issue a SCN to him

proposing recovery and imposition of penalty equivalent to amt specified in notice.

Section 76(3)

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

4. Section 76(4)
Interest @ 18% p.a shall be payable ^{in addition to} ~~the~~ the amt so determined.

5. Time limit For Issuance of Order
[Section 76(6) & 76(7)]

The proper officer shall issue speaking order ^{within 1 yr} from the date of issue of notice such order is issued in FORM GST DRC-07 stay shall be included in computing period of one year. The period of such

6. Adjustment of amt payable under Section 76(1) and Section 76(3)

The amt paid to Govt u/s 76(1) & 76(3) shall be adjusted against the tax payable [Section 76(9)]

whether any surplus left after the adjustment under Sec 76(9), the amt of such surplus shall either be credited to the fund or refunded to the person who has (CWF) borne the incidence of such amount.

Tax Wrongly Collected And Paid To Central State Govt [Section 77]

(a) In case of wrong charging and deposit of tax

considering it to be intra-state supply which is later found to be inter-state supply, the tax paid shall be refunded to the registered person.

(b) However, in case of payment of tax considering the supply as inter-state which is later found to be intra-state supply, no interest shall be payable on the amount of central and state / UT tax paid.

Pay Correct tax without interest
Claim Refund of Wrong Tax paid.

Wrong	Right	Result	Wrong	Right	Result
Intra	Inter	Claim			Sec 19
CGST +	IGST	Refund	IGST	CGST	(IGST) claim
SGST		of CGST +		+SGST	refund of IGST
		SGST			
Inter	Intra	Pay	Right	Inter	Pay IGST
IGST	CGST +	CGST + SGST	CGST	IGST	without
	SGST	without	+SGST		any
		any interest.			interest

Initiation of Recovery [Section 78] Proceedings

Adjudication order Passed by P.O in
pursuant to demand SCN is treated to
be recovery Notice.

Any amt payable by a taxable person in
pursuance of an order passed under this Act
shall be paid by such person within a
period of 3 Mths from date of service of
such order failing which recovery
proceedings shall be initiated.

P.O considers that it is expedient in the
interest of revenue, he may require the
said taxable person to make such
payment, within such period less than
a period of 3 Mths.

Payment of Tax and other Amount in Instalments [Section 80]

a) On application filed by Taxable Person, Commissioner ^{may} reasons to be recorded in writing,

- extend the time for payment

- allow payment of any amt 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

b) 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, without any further notice being served on the person, be liable for recovery.

Rule 158

Step 1: A Taxable Person, seeking extension of time for the payment of taxes or for allowing payment of such taxes or amounts in instalments, shall furnish an application for the same in FORM DRC-20.

Step 2: The Commissioner shall call for a report from the Jurisdictional officer about financial ability of the taxable person to pay said amt.

Step 3: The Commissioner can allow payment with interest by issuing order in Form DRC-21 to defaulter in monthly instalments not exceeding 24 instalments

The instalment facility will not be allowed if:

(i) The Taxable Person has already defaulted on the payment of any amount under GST law recovery process is already undergoing.
~~fresh~~ fresh application for instalment

(ii) The Taxable Person has not been allowed to make payment in instalments in preceding F-7 under GST law.

(iii) The amount for which instalment facility is sought is less than ₹ 25000.

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

- # After the initiation of any proceeding under Chapter XII (Assessment), Chapter XIV (Inspection, Search, Seizure^{Secs 59-64}, Arrest) or Chapter XV (Demand & Recovery⁶⁷⁻⁷²), Commissioner is of the opinion⁷³⁻⁸⁴ that for purpose of protecting interest of Govt Revenue, he may by order in writing, attach provisionally, any property including bank account, belonging to the taxable person or any person (other person who aids or abets the offences carried out by the main person.) specified in sub-section (1A) of section 122.
- # The Commissioner for protecting the interest of the Govt revenue, by order in writing in Form [GST DRC - 22] can attach provisionally any property, incl. bank account, belonging to the taxable person.
- # Every such provisional attachment shall cease to have effect after the expiry of a period of [1 yr] from the date of the order.

Provisional attachment of property [Rule 159]

- (a) Where the Commissioner decides to attach any property, incl bank account, he shall pass an order in Form GST DRC-22 mentioning there, details of property which is attached.
- (b) The Commissioner shall send a copy of the order of attachment to the concerned Revenue Auth. or Transport Auth. or any such Authority to place encumbrance on the said movable or immovable property, which shall be removed
- (c) Where the property attached is of perishable or hazardous nature, if 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 Form GST DRC-23, on proof of payment.

(d) Taxable person fails to pay the amount referred above in respect of 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.

(e) 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, affording an opportunity of being heard to the person filing the objection, release the said property by an order in FORM GST DRC-23.

(f) The Commissioner may, upon being satisfied that the property was, or is no longer liable for attachment, release such property by issuing an order in FORM GST DRC-23.

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CH- INSPECTION, SEARCH, SEIZURE AND ARREST

Power To Carry Out Inspection, Search and Seizure [Section 67]

(1) Proper Officer not below the rank of "Joint Commissioner" has "reasons to believe" that

a) Taxable person has done one of the following :-

(i) suppressed any transaction of supply of goods or services or both

(ii) suppressed stock of goods in hand.

(iii) claimed excess input tax credit

(iv) contravened any provision of the Act to evade tax.

(b) 'Any person' engaged in transporting

of goods has kept goods which have escaped payment of tax or has kept his accounts or goods in a manner that is likely to cause evasion of tax

whether or not he is a registered taxable person.

(c) 'an owner' or 'an operator' of a warehouse or a godown has kept goods which have escaped payment of tax or has kept his accounts or goods in a manner that is likely to cause evasion of tax.

(2) Where the proper officer, not below the rank of Joint Commissioner, pursuant to an inspection carried out under sub-section (1) has reasons to believe that

- any goods liable to confiscation or
- any documents or books or things
- in his opinion shall be useful for or relevant to any proceeding under the Act
- secreted in any place
- may authorise in writing any other officer of CGST to "search and seize"
- may himself search and seize such goods, documents or books or things.

Time limit of Seized Documents

The documents or books or things so seized shall be retained by such officer only for so long as may be necessary for their examination, inquiry or proceedings under the Act.

(3) If such have not been relied upon for the issue of notice, shall be returned to such person within 30 days of the issue of the notice

(4) The officer authorised under sub-section (2) shall have the power to seal or break open the door of any premises or to break open any almirah, electronic devices, box, receptacle in which any goods, accounts, registers or documents of the person are suspected to be concealed, where access to such premises, almirah, electronic devices, box or receptacle is denied.

(5) The person shall be entitled to make copies from whose custody any documents are seized.

(6) The goods so seized shall be released on a 'provisional basis' upon execution of a bond and furnishing of security

in the form of bank guarantee on payment of tax, interest and penalty payable.

(7) Where any goods are seized and no notice is given 'within 6 months' of the seizure of the goods

- goods shall be returned to the person from whose possession they were seized.
- the period of 6 mths can be extended for a further period not exceeding 6 mths.

(8) The Govt may having regard to

- the perishable or hazardous nature of any goods,
- depreciation in the value of the goods with the passage of time.
- constraints of storage space for the goods
- any other relevant considerations.

by notification specify the goods or class of goods which shall as soon as may be after its seizure, be disposed off by the proper officer. ~~is~~

(9) Where any goods have been seized by a proper officer or any officer authorised by him, he shall prepare an inventory of such goods.

(10) The provisions of the Code of Criminal Procedure 1973, relating to search and seizure, shall, so far as they apply to search and seizure u/s 67 subject to the modification that Section 165(5) of the said Code shall have effect as if for the word "⁶⁶ Magistrate", wherever it occurs, the word "⁶⁶ Commissioner" were substituted.

(11) Proper officer has reasons to believe that any person has evaded or is attempting to evade the payment of any tax, he may seize the accounts, registers or documents of such person and shall grant a receipt for the same, retain the same for so long as may be necessary in connection with any proceedings under the Act.

(12) The Commissioner or an officer authorised by him may cause purchase of any goods or services or both by any person authorised by him, to check the issue of tax invoices or bills of supply by T/P and on return of goods so purchased by officer, such T/P shall refund the amount.

so paid towards the goods after cancelling tax invoice or bills of supply issued earlier.

POWER TO ARREST (SECTION 69)

Authorization of arrest by the proper officer.

- a) The Commissioner can authorize an officer to arrest a person if he has reasons to believe that the person has committed an offence attracting a punishment prescribed v/s 132(1)(a)/(b)/(c)/(d) or section 132(2) of the CGST Act.

Section	Nature of Offence	Punishment
132(1)(a)	Supply of goods or services without issue of invoice (Supplier)	i) Tax evasion above ₹ 500 lakhs attracting imprisonment for a term upto 5 yrs and
132(1)(b)	No supply fake invoices (Supplier)	
132(1)(c)	Availment of ITC using fake invoice or without an invoice (Recipient)	ii) Tax evasion above ₹ 200 lakhs attracting imprisonment upto 3 yrs
132(1)(d)	Collects tax but fails to pay beyond the period of 3 Mths from due date	
132(2)	Subsequent offences (Taxant) (Dobara) (not relevant)	Imprisonment may extend to 5 yrs

(b) The detailed provisions relating to section 132 have been discussed in detail in offences & Penalties. This essentially means that a person can be arrested only where the tax evasion is more than ₹ 2 crore.

(c) However, the monetary limit shall not be applicable if the offences are committed again even after being convicted earlier i.e. repeat offender of the specified offences can be arrested irrespective of the tax amount involved in the case.

Cognizable and non-cognizable offences under CGST Act.

In Section 132 of the CGST Act, it is provided that the offences relating to taxable goods and/or services where

- the amount of tax evaded or
- the amount of input tax credit wrongly availed or
- the amount of refund wrongly taken exceeds ₹ 5 crore.

It shall be cognizable and non-bailable and in such cases the bail can be considered by a

Judicial Magistrate only.

- Other offences under the Act are non-cognizable and bailable and all arrested persons shall be released on bail by Deputy / Assistant Commissioner.