

Assessment - 1

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Demand & Recovery

Section 73 to 84

Rule 142 to 161

Demand and Recovery



CGST Act, 2017

Sr. No	Section	Provision
1	Sec 73	Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized for any reason other than fraud or any wilful misstatement or suppression of facts
2	Sec 74	Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized by reason of fraud or any wilful misstatement or suppression of facts
3	Sec 75	General provisions relating to determination of tax
4	Sec 76	Tax collected but not paid to Government
5	Sec 77	Tax wrongfully collected and paid to Central Government or State Government
6	Sec 78	Initiation of recovery proceedings
7	Sec 79	Recovery of tax
8	Sec 80	Payment of tax and other amount in Instalments
9	Sec 81	Transfer of property to be void in certain cases
10	Sec 82	Tax to be first charge on property
11	Sec 83	Provisional attachment to protect revenue in certain cases
12	Sec 84	Continuation and validation of certain recovery proceedings

CGST Rules, 2017

Sr No	Rule	Provision
1	Rule 142	Notice and order for demand of amounts payable under the Act
2	Rule 142A	Procedure for recovery of dues under existing laws.
3	Rule 143	Recovery by deduction from any money owed
4	Rule 144	Recovery by sale of goods under the control of proper officer
5	Rule 145	Recovery from a third person
6	Rule 146	Recovery through execution of a decree, etc
7	Rule 147	Recovery by sale of movable or immovable property
8	Rule 148	Prohibition against bidding or purchase by officer
9	Rule 149	Prohibition against sale on holidays
10	Rule 150	Assistance by police
11	Rule 151	Attachment of debts and shares, etc

CGST Rules, 2017

Sr No	Rule	Provision
12	Rule 152	Attachment of property in custody of courts or Public Officer
13	Rule 153	Attachment of interest in partnership
14	Rule 154	Disposal of proceeds of sale of goods and movable or immovable property.
15	Rule 155	Recovery through land revenue authority
16	Rule 156	Recovery through court
17	Rule 157	Recovery from surety
18	Rule 158	Payment of tax and other amounts in instalments
19	Rule 159	Provisional attachment of property
20	Rule 160	Recovery from company in liquidation
21	Rule 161	Continuation of certain recovery proceedings

CONTENTS

CHAPTER XV OF CGST Act, 2017

DEMANDS

DEMAND :

SECTION 73 : Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful misstatement or suppression of facts

SECTION 74: Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized by reason of fraud or any wilful-misstatement or suppression of facts

DEMAND :

SECTION 75 : General provisions relating to determination of tax.

SECTION 76 : Tax Collected but not paid to Government

SECTION 77: Tax wrongfully collected and paid to Central Government or State Government.

CONTENTS

CHAPTER XV OF CGST Act, 2017

RECOVERY

RECOVERY:

SECTION 78: Initiation of recovery proceedings.

SECTION 79: Recovery of tax

SECTION 80: Payment of tax and other amount in instalments

SHOW CAUSE NOTICE

What is Show Cause Notice?

SHOW CAUSE NOTICE

- ◎ SCN
- ◎ A notice served on the tax payer
- ◎ Asking him
- ◎ To show cause
- ◎ As to Why
- ◎ A particular action should not be taken
- ◎ by the department.
- ◎ [Action –Cancellation, Demanding Tax, Denial of Option, etc]

SHOW CAUSE NOTICE

◎ Circumstances under which SCN is issued?

S.No	SCN For	Form
1	Denial of Option to Pay Tax u/s. 10	GST-CMP-05
2	For Cancellation of Regular Registration	GST-REG-17
3	For Rejection of application for revocation of Cancellation of Registration	GST-REG-23
4	For Cancellation of Provisional Registration	GST-REG-27
5	For Disqualification of GST Practitioner	GST-PCT-03

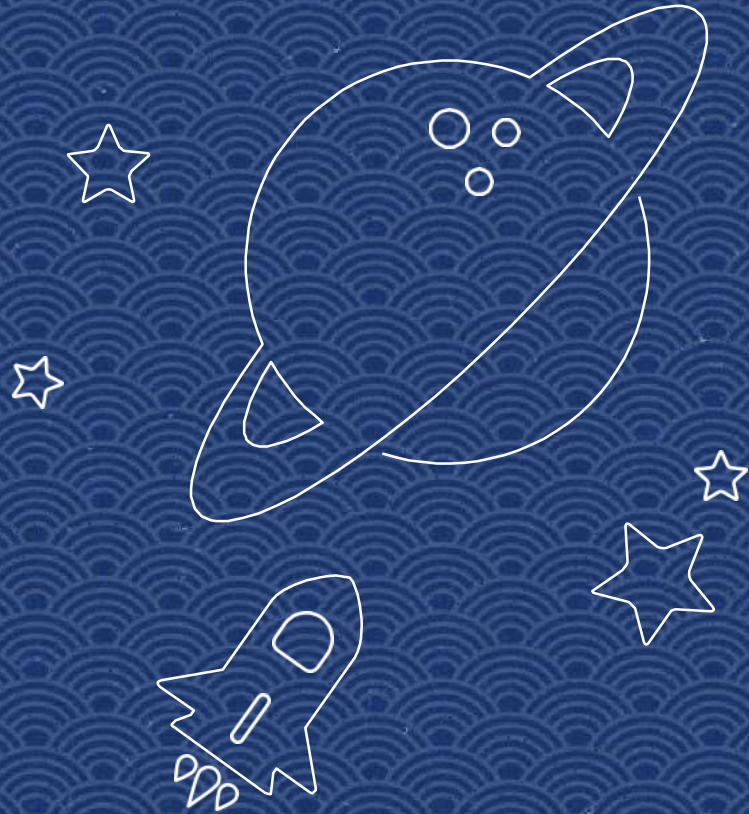
SHOW CAUSE NOTICE

◎ Circumstances under which SCN is issued?

S.No	SCN For	Form
6	Rejection of Refund Claim	GST-REF-08
7	Assessment under Section 63	GST-ASMT-14

Which Show Cause Notice which we are going to look into?

SHOW CAUSE NOTICE - Under Section 73 & 74



SECTION 73

Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful misstatement or suppression of facts

Section 73(1)

- Any tax
- has not been paid or
- short paid or
- erroneously refunded, or
- where input tax credit has been wrongly availed or utilised
- for any reason, other than
- the reason of fraud or any wilful-misstatement or suppression of facts
- to evade tax,
- PROPER OFFICER shall serve notice on the person

Section 73(1)... Contd..

- requiring him to show cause
- as to why
- he should not pay the amount specified in the notice
- along with interest payable thereon under section 50
- and a penalty leviable as per the provisions of the Act.

**What is the Time
Limit for
Issuance of
Notice?**

**Section 73(2)
to be read with
Section 73(10)**

73(2)

*“at least three months
prior to the time limit
specified in sub-section
(10) for issuance of
Order”*

73(10)

within three years from the
due date for furnishing of
annual return for the
financial year to which the
tax relates to

or

within three years from the
date of erroneous refund.

EXAMPLE WITH DATES

Financial Year 2017-18	Date of Passing Order	Date of Issuance of SCN
Due Date for filing of Annual Return: 07th February 2020.	within three years from the due date for furnishing of annual return for the financial year to which the tax relates to i.e. 06th February 2023	at least three months prior to the time limit specified in sub- section (10) for issuance of order” i.e. upto 06th November 2022.
31st Dec 2018	30th Dec 2021	29th Sept 2021

**Date
Chart for
Serving
of SCN
&
Passing
of Order
for
73(2)**

Year	Due Date for Filing of Annual Return	SCN Can be issued upto (2Yrs & 9M Approx from DD of AR..)	Order to be passed within (3Yrs from DD of AR)
2017-18	07-Feb-2020 (TN)	06-Nov-22	06-Feb-23
2018-19	30-Jun-2020	29-Mar-23	29-Jun-23
2019-20	31-Dec-2021	29-Sept-24	30-Dec-24

Section 73(3)

Statement in Lieu of A Full Fledged SCN.

Note: 1st Year SCN has to be issued.

Mr. X a Tax Payer

Received Notice for the Financial Year 2017-18

For wrong availment of ineligible Credit.

Same Mistake Continues in 2018-19 and 2019-20

What will department do?

It has already issued a SCN for the Fin. Year 2017-18.

Should it again issue a detailed SCN for the subsequent period?

The Answer is NO.

73(3) Authorises an Officer

To issue a “Statement” containing the details of the tax demanded or ITC to be reversed.

“Statement of Demand”

Section 73(4)→

Deems the issuance of Statement as “service of notice” only if grounds relied upon for such tax periods are the same as are mentioned in the earlier notice for the 1st year.

TAX PAYER: (Before Issuance of SCN / Statement) Officer Officer, Please Wait...

Kindly accept this letter.... I have paid the **ENTIRE** taxes and interest as ascertained by me/you. I am submitting the necessary challan copies too... Kindly let me go.

OFFICER: Thank you Gentleman.

I need not / cannot issue any SCN or Statement.

TAX PAYER: Hurray...!!!! No Penalty!!!



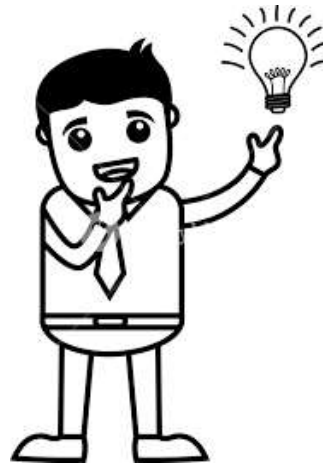
Section

73(5)*
&
73(6)*

Section
73(7)*

OFFICER: Gentleman, We have gone through your letter and it is seen that you have not paid the full amount (Tax / Interest). Hence, we have issued a SCN, demanding the balance amount.

TAX PAYER: Sir..... Sir.....
Now what do I do???.....)



TAX PAYER: (After Issuance of SCN / Statement)
Officer Officer,

Kindly accept this letter.... I have paid the **BALANCE**
Section 73(8)* taxes and interest as demanded in the notice
WITHIN 30 DAYS OF ISSUANCE OF notice /
statement. I am submitting the necessary challan
copies too... Kindly drop the penalties please....

OFFICER: Thank you Gentleman. The notice is
deemed to be concluded and No Penalty shall be
payable by you.

TAX PAYER: Hurray...!!!! No Penalty!!!



*Conditions for No Penalty

Only where the TAX AMOUNT IS OTHER THAN

self-assessed tax

or

any amount collected as tax

Which is not been paid within a period of thirty days from the due date of payment of such tax.

i.e. Input Tax Credit or Tax not collected or not assessed

What is the amount is self assessed tax or it is an amount which is collected as tax?

Sec 73(9) read with 73(11) Says:
The officer shall issue an order demanding tax, interest and penalty equivalent to ten per cent of tax or ten thousand rupees, whichever is higher.

What if:

- Tax Payer does not pay up the taxes along with interest
- Either before issuance of SCN/Statement
- Or
- After issuance but within 30 days from the issuance of notice?
- Where the tax payer contests the issue, after considering the representations made by the tax payer, the officer shall determine the tax amount along with interest and 10% of tax amount or Rs.10,000/- which ever is higher and issue an order.

SECTION 74

Determination of tax not paid or short paid
or erroneously refunded or input tax credit
★ wrongly availed or utilized by reason of
★ fraud or any wilful-misstatement or
suppression of facts



Section 74(1)

- Any tax
- has not been paid or
- short paid or
- erroneously refunded, or
- where input tax credit has been wrongly availed or utilised
- by reason of fraud or
- any wilful-misstatement or
- suppression of facts to evade tax,
- PROPER OFFICER shall serve notice on the person

Section 74(1)... Contd..

- requiring him to show cause
- as to why
- he should not pay the amount specified in the notice
- along with interest payable thereon under section 50
- and a penalty equivalent to the tax. **(100% of Tax as Penalty)**

What is the Time
Limit for
Issuance of
Notice?

Section 74(2)
to be read with
Section 74(10)

74(2)

*“at least **SIX** months
prior to the time limit
specified in sub-section
(10) for issuance of
order”*

74(10)

within a period of **FIVE YEARS**
from the due date for furnishing
of annual return for the financial
year to which the tax relates to
or
within **FIVE YEARS** from the
date of erroneous refund.

EXAMPLE WITH DATES

Financial Year 2017-18	Date of Passing Order	Date of Issuance of SCN
Due Date for filing of Annual Return: 07th February 2020.	within FIVE years from the due date for furnishing of annual return for the financial year to which the tax relates to i.e. 06th February 2025	at least SIX months prior to the time limit specified in sub- section (10) for issuance of order” i.e. upto 05th August 2024.
31st Dec 2018	30th Dec 2023	29th June 2023

**Date
Chart for
Serving
of SCN
&
Passing
of Order
for
74(2)**

Year	Due Date for Filing of Annual Return	SCN Can be issued upto (4Yrs & 6M Approx from DD of AR..)	Order to be passed within (5Yrs from DD of AR)
2017-18	07-Feb-20 (TN)	05-Aug-24	06-Feb-25
2018-19	30-Jun-20	28-Dec-24	29-Jun-25
2019-20	31-Dec-21	29-Jun-26	30-Dec-26

Section 74(3)

Statement in Lieu of A Full Fledged SCN.

Note: 1st Year SCN has to be issued.

Section 74(4)→

Mr X a Tax Payer

Received Notice for the Financial Year 2017-18

For excess availment of input tax Credit.

Same Mistake Continues in 2018-19 and 2019-20

What will department do?

It has already issued a SCN for the Fin. Year 2017-18.

Should it again issue a detailed SCN for the subsequent period?

The Answer is NO.

74(3) Authorises an Officer

To issue a “Statement” containing the details of the tax demanded or ITC to be reversed.

“Statement of Demand”

Deems the issuance of Statement as “service of notice” only if grounds relied upon for such tax periods except the ground of fraud, or any wilful-misstatement or suppression of facts to evade tax are the same as are mentioned in the earlier notice for the 1st year.

TAX PAYER: (Before Issuance of SCN / Statement)
Officer Officer, Please Wait...

Kindly accept this letter.... I have paid the **ENTIRE**
Section taxes and interest as ascertained by me/you.

74(5)* Along with 15% Penalty I am submitting the
& necessary challan copies too... Kindly let me go.

74(6)* **OFFICER:** Thank you Gentleman.

I need not / cannot issue any SCN or Statement.

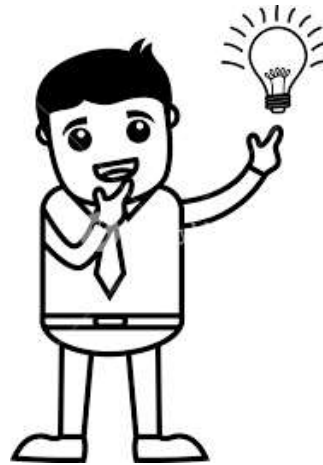
TAX PAYER: Thank God. Escaped with 15%



Section
73(7)*

OFFICER: Gentleman, We have gone through your letter and it is seen that you have not paid the full amount (**Tax / Interest/Penalty**). Hence, we have issued a SCN, demanding the balance amount. Here is your copy.

TAX PAYER: Sir..... Sir.....
Now what do I do???.....)



TAXPAYER:(After Issuance of SCN / Statement)

Officer Officer,

Kindly accept this letter.... I have paid the **BALANCE** taxes **Section** and interest **ALONG WITH 25% Penalty** as demanded in the notice **WITHIN 30 DAYS OF ISSUANCE OF notice / 73(8)*** statement. I am submitting the necessary challan copies too... Kindly drop the notice....

OFFICER: Thank you Gentleman. The notice is deemed to be concluded.

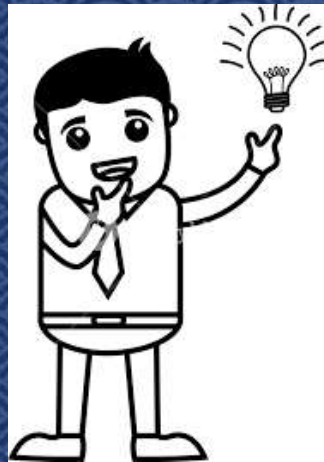
TAX PAYER: Thank God. Missed 15%, Escaped with 25%



Issuance of Order - 74(9)

- After considering the representations made by the tax payer,
- the officer shall determine the tax amount along with interest and penalty due and
- issue an order.

➤ What's NEXT????



Conclusion of Proceedings - Sec 74(11)

TAX PAYER: (After Passing of Order)

Officer Officer,

Kindly accept this letter.... I have paid the taxes and interest **ALONG WITH 50% Penalty** as Confirmed in the Order [**WITHIN 30 DAYS OF ISSUANCE OR ORDER**]. I am submitting the necessary challan copies too... Kindly close the case..

OFFICER: Thank you Gentleman. The notice is deemed to be concluded.

TAXPAYER: Thank God. Missed 15%, Missed 25%, Escaped with 50%. Had I not opted, penalty would have been 100%....

Certain Explanations to 73 & 74

- **Explanation 1.**—For the purposes of section 73 and this section,—
- (i) - "all proceedings in respect of the said notice" - shall not include proceedings under section 132; (Punishment –Imprisonment, fine...etc)
- (ii) –If Proceedings initiated on Main person gets concluded, the proceedings against all the persons liable to pay penalty under sections 122, 125, 129 and 130 are deemed to be concluded.

[Specific Penalty, General Penalty, Detention, Confiscation]

- **Explanation 2.**—For the purposes of this Act, the expression "**suppression**" shall mean
- A) 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
- B) failure to furnish any information on being asked for, in writing, by the proper officer

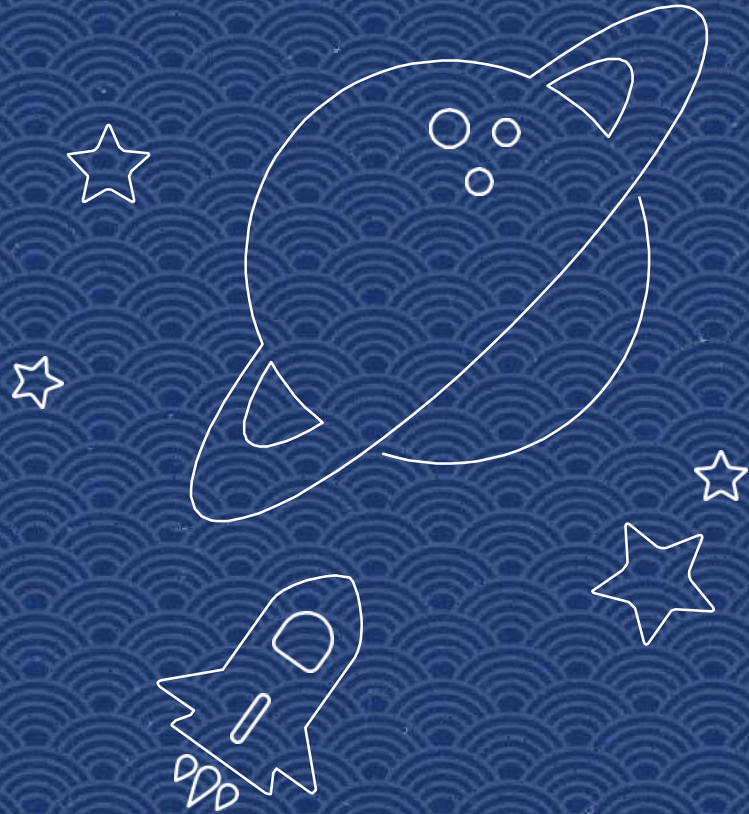
Quantum of Penalty - Quick Revision

Section 73: Without fraud or willful-misstatement or suppression of facts	
Situation	Penalty Amount
Before issuance of show cause notice	No penalty
Within 30 days after the issuance of the show cause notice	No penalty
After 30 days of issuance of show cause notice or after the issuance of order	10% of tax or Rs. 10,000 whichever is higher

Section 74: With fraud or willful-misstatement or suppression of facts	
Situation	Penalty Amount
Before issuance of show cause notice	15% of the tax amount
Within 30 days after the issuance of the show cause notice	25% of the tax amount
Within 30 days from the issuance of order	50% of the tax amount
In any other case	100% of the tax amount (equivalent to tax)

SECTION 75

General Provisions relating to Determination
of Tax



SECTION 75(1) - Exclusion of STAY PERIOD

- If 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 specified in
- 73(2), 73(10) & 74(2), 74(10)

"Affirmati Non Neganti
Incumbit Probatio",

“

that is,

"the burden of proof is
upon him who affirms- not
on him who denies".

SECTION 75(2) - 74(1) auto converts to 73(1)

- any Appellate Authority or Appellate Tribunal or court
- Concludes that notice 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
- Proper officer shall determine the liability as if notice was issued under Section 73(1)

SECTION 75(3) - Time to Pass Order on Remanded Matter

- 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
- two years from the date of communication of the said direction.

Supreme Court on Natural Justice

"principles of natural justice are those rules which have been laid down by the Courts as being the minimum protection of the rights of the individual against the arbitrary procedure that may be adopted by a judicial, quasi-judicial and administrative authority while making an order affecting those rights."

SECTION 75(4) - Personal Hearing

- An opportunity of “being heard” shall be granted
- when a request is received in writing
- OR
- any adverse decision is contemplated against such person.

SECTION 75(5) - Adjournments

- if sufficient cause is shown by the person chargeable with tax,
- Officer shall grant time to the said person and
- adjourn the hearing
- for reasons to be recorded in writing.
- Maximum –3 adjournments:

SECTION 75(6) - The proper officer, in his order, shall set out the relevant facts and the basis of his decision.

SECTION 75(7) -Order Cannot Travel beyond SCN

- 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.

**OTHER
PROVISIONS
UNDER
SECTION 75**

Section 75(8)

If appellate fora modifies the demand amount, the modified demand only will be enforceable.

Section 75(9)

The interest on the tax liability / demand shall be payable **whether or not specified in the order** confirming the tax liability.

Section 75(10)

If orders not passed within 3/5 years as the case may be, adjudication proceedings are deemed to be concluded.

**Section
75(11)**

There is an issue Which is decided against the Revenue

(1) Decided by	(2) Appeal Filed with	(3) Final Order by
Appellate Authority	Appellate Tribunal	Appellate Tribunal
Appellate Tribunal	High Court.	High Court.
High Court.	Supreme Court	Supreme Court

AND it has an implication on the case in hand, then,

The time period between the order from the Col. (1) & Col. (3) shall be excluded from the time period of 3 Years / 5 Years as the case may be.

Section 75(12) - Straight Recovery???

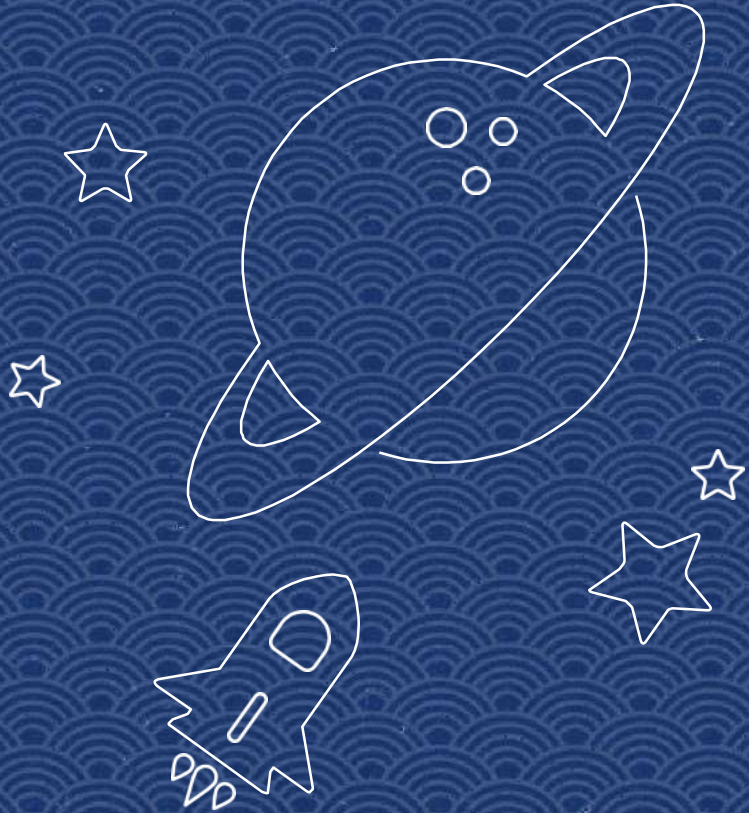
- Notwithstanding anything contained in section 73 or section 74,
- where any amount of self-assessed tax in accordance with a return furnished under section 39 remains unpaid,
- either wholly or partly,
- or any amount of interest payable on such tax remains unpaid,
- the same shall be recovered under the provisions of section 79.

Ref: LC Infra Projects P Ltd Case [TS-776-HC-2019(KAR)-NT] + Jharkhand HC

Section 75(13) –Once penalty imposed under 73/74 no other penalty under this act shall be applicable for the same act.

SECTION 76

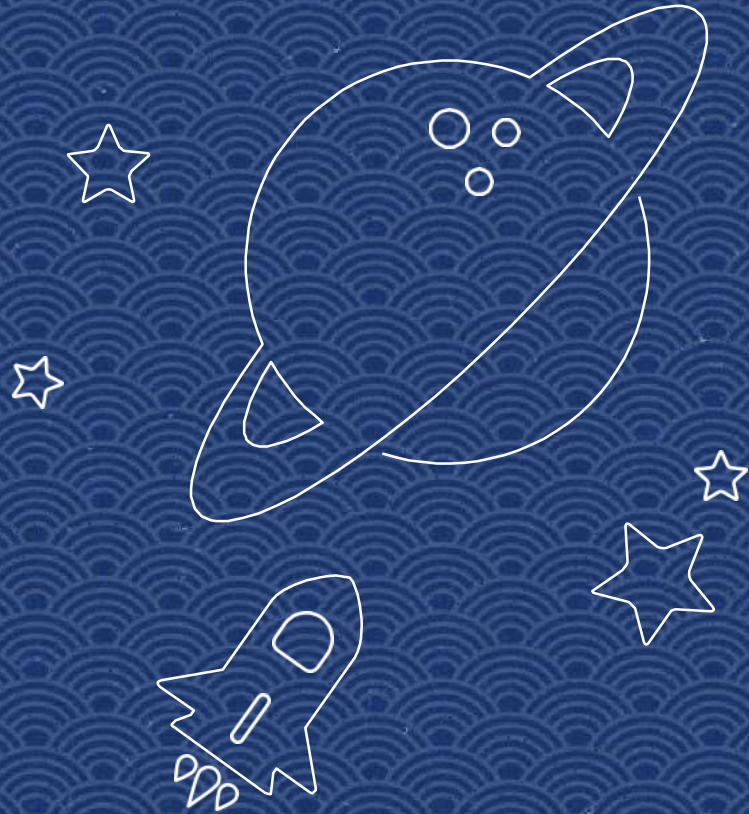
**Tax collected but not
paid to Government.**



- Any amount representing tax shall be paid forthwith irrespective of the fact whether the supply was taxable or not.
- Proper Officer to Issue SCN asking why amount should not be demanded along with interest and penalty (100% of tax)
- After representation, officer to determine the amount and the person shall pay the amount so determined.
- Interest also to be paid as per Section 50.
- Personal hearing shall be granted where request is received in writing.
- Order to be issued within 1 Year from the date of issuance of SCN

- If issuance of order is stayed, the said period shall be excluded in calculating the one year time limit to pass the order.
- Proper officer, in his order, shall set out the relevant facts and the basis of his decision.
- Person who has borne the incidence of tax shall claim refund as per Section 54.
- **NO MENS REA REQUIRED**
- **NO TIME LIMIT TO ISSUE NOTICE.**

SECTION 76



SECTION 77

**Tax wrongfully collected
and paid to Central
Government or State
Government.**

SECTION 77(1) - Wrong Head of Payment

- Nature of Supply was - Interstate
- Wrongly Understood as = Intra State
- Paid Wrongly = CGST + SGST/UTGST
- Liability was = IGST
- Resolution??
- Refund Application to be filed for claiming C/SGST.
- [Rule 89 of CGST Rules - *(j) a statement showing the details of transactions considered as intra-State supply but which is subsequently held to be inter-State supply;*] {RefSec. 19 of IGST Act –No Interest}

SECTION 77(2) – Wrong Head of Payment

- Nature of Supply was - Intrastate
- Wrongly Understood as = Inter State
- Paid Wrongly = IGST
- Liability was = CGST + SGST/UTGST
- Resolution??
- Refund Application to be filed
- [Rule 89 of CGST Rules - (j) *a statement showing the details of transactions considered as intra-State supply but which is subsequently held to be inter-State supply;*] {Ref Sec. 19 of IGST Act – No Interest}

Tax wrongfully collected and deposited with CG/SG - Revision

If a registered person has wrongly paid Central tax and State tax/ Union Territory tax on a transaction considered to be intra-state supply, which is **subsequently held to be inter-state**, shall be refunded the amount of taxes so paid.

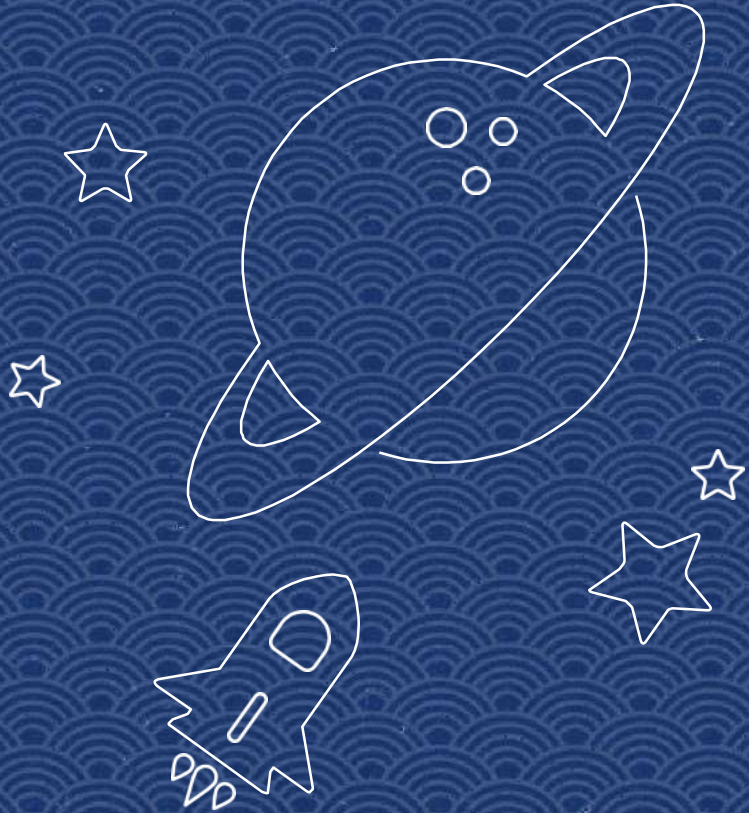
Registered person who has paid integrated tax on a transaction considered to be inter-State supply, which is **subsequently held to be an intra-State supply**, shall not be required to pay any interest on the amount of central tax and State tax/Union territory tax.

Inter-State Supply – Tax wrongly paid = CGST + SGST/UTGST instead of IGST
Then refund of IGST may be claimed

Intra-State Supply – Tax wrongly paid = IGST instead of CGST + SGST/UTGST
Then refund of CGST+SGST/UTGST may be claimed

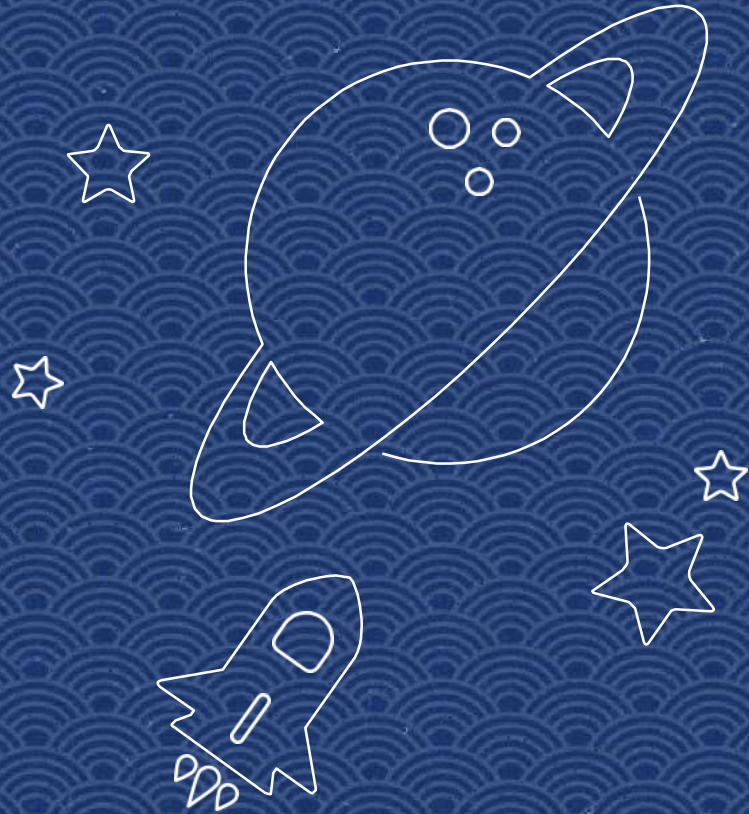
SECTION 78

**Initiation of recovery
proceedings.**



SECTION 78

- Once an “order” is passed under this Act,
- Confirming the tax demand and/or interest and/or penalty
- The assessee shall pay the said amount within **THREE MONTHS** from the date of receipt of the order.
- If not paid, recovery proceedings shall be initiated.
- Proper Officer can give time less than three months to remit the tax in the interest of revenue (by mention in order).



SECTION 79

Recovery of Tax

R/w. Rule 143 to 157 of
CGST Rules.

All DRC Forms

SECTION 79 – Modes of Recovery

- a) Deducting from the amount due to the person.
- b) Detaining & Selling the goods of such person.
- c) Third party recovery viz., Debtors, Moneyholders
 - i) Everyone is bound by this notice whether it is Post Office, Bank, Insurance Co...
 - ii) No rules and regulations will be necessary.
 - iii) If not honoured, will be deemed to be a defaulter.

SECTION 79 – Modes of Recovery

- iv. The Officer is empowered to revoke, amend the notice or extend the time for making payment at any time.
- v. If the person disobeys the notice and makes payment directly to the person in default shall be personally liable to Government. [Amt Paid / Amt Due by him w.e.l]
- vi. If nothing is due to person in default, he should prove to the satisfaction of the officer.
- vii. Officer can seize movable or immovable property of the person in default. If within 30 days even if part amount is not paid, the asset can be disposed by the officer.
- viii. Inform collector to collect asif arrears of land revenue
- ix. Inform Magistrate to collect as if it was a fine.

SECTION 79Contd....

- 2) Encashment of Bond / any Instrument executed
- 3) Any State / UT Officer is empowered to recover as if it was arrears of SGST/UTGST and remit to Government in such manner and proportion.

SECTION 80 - Payment in Installments

- Application to be filed by the tax payer
- Commissioner to give order in writing
- By Extending / Allowing time to pay any amount
- **OTHER THAN “Liability self assessed in any return”**
- Max 24 Monthly Instalments subject to interest payment.
- Even if one month defaulted, extension stops and recovery begins –NO NOTICE.

Transfer of property to be void in certain cases – Section 81

The said provision is for protecting the Government revenue by avoiding transfer of property by a taxable person to another person. This would prevent any attempt to defraud the revenue by alienating the properties.

- (i) The said provision would be applicable only when any tax would become due.
- (ii) The following acts done by a person, in favour of any another person, after the tax becomes due, would be void

Situations / cases – Void	Situations / cases – valid
Creates a charge on; or	Made for adequate consideration and
Parts with the property	Without notice of the pendency of proceeding
Belonging to him; or	Without notice of such tax or other sum payable by the said person,
In his possession By way of sale, mortgage, exchange, or any other mode of transfer whatsoever of any of his properties.	With previous permission of the proper officer.

- (iii) The act shall be void, when it is or was with an intention of defrauding the Government Revenue.

Tax to be first charge on property – Section 82

- (i) The provisions of this section would apply to a taxable person or any other person who is liable to pay tax, interest or penalty to Central or State Government;
- (ii) Any liability to be paid to the Central or State Government would be given priority in the matter of effecting recovery by placing a first charge on the property of the taxable person or any other person;
- (iii) This provision also covers any other person since there are many provisions in the CGST Act, which provide for creating a liability or recovery from a person other than the taxable person like a legal representative, member of partitioned HUF etc.

Provisional attachment to protect revenue in certain cases – Section 83

(i) This section applies only during the pendency of any proceedings under

Section 62	Assessment of non-filers of returns
Section 63	Assessment of unregistered persons
Section 64	Summary assessment in certain special cases
Section 67	Power of inspection, search and seizure
Section 73	Determination of tax not paid or short paid or erroneously refunded other than fraud
Section 74	Determination of tax not paid or short paid or erroneously refunded in case of fraud

(ii) The provisional attachment of property of taxable person can be undertaken by the Commissioner;

(iii) The only condition is that the Commissioner should be of the opinion that for the purpose of protecting the interest of the Govt. revenue it is necessary to provisionally attach the property;

(iv) Such provisional attachment is to be valid for one year from the date of the order made by Commissioner.

Continuation and validation of certain recovery proceedings – Sec 84

This section deals with continuation of proceedings, where a notice is already served for recovery of government dues upon a taxable person and upon any appeal, revision application there is reduction or enhancement of such Government dues.

(i) The section refers to –

-any notice of demand in respect of Government dues (tax, interest and penalty) served on taxable person; and

- any appeal, revision application is filed or other proceedings are initiated in respect of such Government dues.

Further–

(a) such Government dues may be enhanced; or

(b) reduced in such appeal, revision or in other proceedings

(ii) In such cases, the Commissioner shall –

- Serve another notice on the taxable person, in respect of the enhanced amount.

Continuation and validation of certain recovery proceedings – Sec 84

- If notice of demand is already served on taxable person before such appeal, revision or any other proceedings, then recovery of enhanced amount would be continued from the stage at which the initial proceedings stood. There is no need to issue a fresh notice of demand to the extent already covered by earlier notice.

-In case the Government dues are reduced in such appeal, revision or in other proceedings – the Commissioner

- (1) Is not required to serve fresh notice of demand upon the taxable person;
- (2) Shall intimate such reduction to taxable person and also to appropriate authority with whom recovery proceedings are pending;
- (3) Any recovery proceedings are initiated prior to the disposal of such appeal, revision application or other proceeding may be continued in relation to the amount so reduced from the stage at which such proceedings stood immediately before such disposal.

Thank you

