

# Assessment – GST Law and Rules – Part 2

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# **Demand & Recovery**

**Section 73 to 84**

**Rule 142 to 161**

**Forms in GST**

# Demand and Recovery



## **Sec 79. Recovery of tax**

(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:--

(a)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 which may be under the control of the proper officer or such other specified officer;

(b)the proper officer may recover or may require any other specified officer to recover the amount so payable by detaining and selling any goods belonging to such person which are under the control of the proper officer or such other specified officer;

## **Sec 79. Recovery of tax**

- (c) (i) the proper officer may, by a notice in writing, require any 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 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;
- (ii) every person to whom the notice is issued under sub-clause (i) shall be bound to comply with such notice, and in particular, 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;

## **Sec 79. Recovery of tax**

- (iv) the officer issuing a notice under sub-clause (i) may, at any time, amend or revoke such notice or extend the time for making any payment in pursuance of the notice;
- (v) any person making any payment in compliance with a notice issued under sub-clause (i) shall be deemed to have made the payment under the authority of the person in default and 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;
- (vi) any person discharging any liability to the person in default after service on him of the notice issued under sub-clause (i) 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;

## **Sec 79. Recovery of tax**

(vii) where a person on whom a notice is served under sub-clause (i) proves to the satisfaction of the officer issuing the notice that the money demanded or any part thereof was not due to the person in default or that he did not hold any money for or 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 or be held for or 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;

## **Sec 79. Recovery of tax**

(d) 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 thirty days next after any such distress, may cause the said property to be sold 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;



## **Sec 79. Recovery of tax**

(e) the proper officer may prepare a certificate 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;

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

## **Sec 79. Recovery of tax**

(2)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.

(3)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

## **Sec 80. Payment of tax and other amount in instalments**

On an application filed by a taxable person, the Commissioner may, 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 twenty four, subject to payment of interest under section 50 and subject to such conditions and limitations as may be prescribed:

Provided that 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.

## **Sec 81 - Transfer of property to be void in certain cases**

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:

Provided that, 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

## **Sec 82 - Tax to be first charge on property**

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.

## **Sec 83 - Provisional attachment to protect revenue in certain cases**

(1) 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.

(2) 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).

## **Sec 84 - Continuation and validation of certain recovery proceedings**

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<sup>11</sup>), 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;

## **Sec 84 - Continuation and validation of certain recovery proceedings**

(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.



## List of Forms for Demands and Recovery

S. No	Form No	Form Description	Provision ref
1	DRC -01	Summary of Show Cause Notice	Rule 100(2) and 142(1)(a)
2	DRC – 01A	Intimation of tax ascertained as being payable under section 73(5)/74(5)	Rule 142(1A)
3	DRC – 02	Summary of Statement	Rule 142(1)(b)
4	DRC – 03	Intimation of payment made voluntarily or made against the show cause notice (SCN) or statement	Rule 142(2) and 142(3)
5	DRC – 04	Acknowledgement of acceptance of payment made voluntarily	Rule 142(2)
6	DRC – 05	Intimation of conclusion of proceedings	Rule 142(3)
7	DRC – 06	Reply to the Show Cause Notice	Rule 142(4)
8	DRC – 07	Summary of the order	Rule 100(1), 100(2), 100(3) & 142(5)
9	DRC – 07A	Summary of the order creating demand under existing laws	Rule 142A(1)
10	DRC – 08	Summary of Rectification /Withdrawal Order	Rule 142(7)

## List of Forms for Demands and Recovery

S. No	Form No	Form Description	Provision ref
11	DRC -08A	Amendment/Modification of summary of the order creating demand under existing laws	Rule 142A(2)
12	DRC – 09	Order for recovery through specified officer under section 79	Rule 143
13	DRC – 10	Notice for Auction of Goods under section 79 (1) (b)	Rule 144(2)
14	DRC – 11	Notice to successful bidder	Rule 144(5) and 147(12)
15	DRC – 12	Sale Certificate	Rule 144(5)
16	DRC – 13	Notice to a third person under section 79(1) (c)	Rule 145(1)
17	DRC – 14	Certificate of Payment to a Third Person	Rule 145(2)
18	DRC – 15	Application before the Civil Court requesting execution for a Decree	Rule 146
19	DRC – 16	Notice for attachment and sale of immovable/movable goods/shares under section 79	Rule 147(1) and 151(1)

## List of Forms for Demands and Recovery

S. No	Form No	Form Description	Provision ref
20	DRC -17	Notice for Auction of Immovable/Movable Property under section 79(1) (d)	Rule 147(4)
21	DRC – 18	Certificate action under clause (e) of sub-section (1) sec 79	Rule 155
22	DRC – 19	Application to the Magistrate for Recovery as Fine	Rule 156
23	DRC – 20	Application for Deferred Payment/ Payment in Instalments	Rule 158(1)
24	DRC – 21	Order for acceptance/rejection of application for deferred payment / payment in instalments	Rule 158(2)
25	DRC – 22	Provisional attachment of property under Section 83	Rule 159(1)
26	DRC – 23	Restoration of provisionally attached property / bank account under Section 83	Rule 159(3), 159(5) and 159(6)
27	DRC – 24	Intimation to Liquidator for recovery of amount	Rule 160
28	DRC – 25	Continuation of Recovery Proceedings	Rule 161

Thank you

