

Inspection, Search, Seizure & Arrest

Sec 60 : Provisional Assessment

⇒ **Provisional Assessment** : If taxable person is unable to determine-

- a) Value of Supply or
- b) Applicable Rate of tax

He shall request to PO, by furnishing an application stating reasons of provisional assessment.

After asking necessary documents, PO shall accept/reject the request, by an order, **within 90 days** from date of receipt of request.

⇒ **Bond with security** : The Order indicates- rates/ values/ Bond & security (Bank guarantee) & the value of security shall be $\leq 25\%$ of amount covered under the bond

Final Assessment : PO - within 6 months
Extension by Joint Comm./Add. Comm - 6 months
Extension by Commissioner - 4 Years

IF FAT > PAT	IF FAT < PAT
<p>Tax payment - Differential tax is payable</p> <p>Interest - payable @ 18%</p> <p>Period of Interest - from first day after d/d of payment of tax till date of actual payment</p>	<p>Tax Refund - Subject to doctrine of unjust enrichment</p> <p>Interest - @ 6% p.a.</p> <p>Period of Interest - from 1st date immediately after expiry of 60 days from date of receipt of application for refund till the date of refund</p>

⇒ **Release of Security**: After issue of final assessment order, applicant shall file application for release of security (PO issue order within 7 working days from date of receipt of such application)

Sec 61 : Scrutiny of returns

1) PO shall verify the correctness of return with respect to available information

2) If discrepancies found, PO shall issue notice and person shall give a necessary explanation within **30 days** of service of notice

Satisfactory explanation given by R.P.	Discrepancies accepted by R.P.	Discrepancies not accepted by R.P. or
<ul style="list-style-type: none"> ⇒ No action by PO ⇒ Inform to RP 	<ul style="list-style-type: none"> ⇒ Pay Tax + Interest ⇒ Inform PO about payment of such Tax 	<ul style="list-style-type: none"> Not corrected after acceptance by R.P. ⇒ PO may initiated appropriate action

Sec 65:- GST Audit by tax Authorities
 Sec 66:- Special Audit
 Sec 67 :- Inspection, Search & Seizure

OR

Tax Determination
 Sec 73 - Bonafide
 Sec 74 - Malafide

Sec 64 : Summary Assessment

⇒ **Summary Assessment**: When PO has evidences showing tax liability of a person & delay adversely affects revenue, he shall pass a summary assessment order. (prior approval from AC/JC)

⇒ **Withdrawal of order**: If Assessment order is erroneous, then on application of taxable person within **30 days** of such order or on his own motion Add AC/JC may withdraw such order and may instead follow the procedure of sec 73 or 74

⇒ **Deemed taxable person**: If taxable person is not ascertainable, & such liability pertains to Supply of goods = Person in charge shall be liable to be assessed.

Investigative Actions

Inspection (u/s 67(1))

⇒ **Meaning**: An act of examining something by the proper officer on reason to believe recorded in writing

⇒ Softer provision than search

Circumstances :- A J. Comm. as reason to believe that

Taxable Person	Transporter	Warehouse Keeper
<ul style="list-style-type: none"> Suppressed any transaction of supply of goods or services Suppressed stock in hands Claimed excess Input Tax Credit Contravened any provision to evade tax 	<ul style="list-style-type: none"> Kept goods which have escaped payment of tax Kept goods/accounts in a manner likely to cause evasion of Tax 	

Power :- Inspect the place of business of taxable person / transporter/warehouse keeper

Sec 68: Inspection of 'goods in movement'

Inspection can be done of the conveyance, carrying a consignment of value exceeding specified limit.

The person in charge of the conveyance has to produce prescribed documents/devices (E-way Bill) for verification and allow inspection.

Inspection during transit can be done even without authorisation of Joint Commissioner.

Search/Seizure u/s 67(2)

⇒ **Meaning**: An attempt to

- Find Something
- Discover Evidence of a crime by a careful examination of place, person, subject, etc.

Requirements

⇒ **Search Warrant** :-

- Issued by Joint Commissioner or above rank officer
- before start of search
- A Lady Officer
- Two independent witnesses
- Panchnama signed by owner & witness containing list of goods/documents seized

Power

Power of officer	Right to safeguard of person
<ul style="list-style-type: none"> Search & seizure/ Detain goods (liable to confiscation) & documents/books/things (relevant for any proceeding) Break open door, almirah or box if access denied Seal premises if access denied 	<ul style="list-style-type: none"> seized goods/document not to be retained beyond necessary period It should be returned within 30 days of : <ul style="list-style-type: none"> Issue of SCN 6 months from seizure (whichever is later) (extension: Further 6 months) Photocopies of documents can be taken by person Inventory of seized goods to be made by officer

Arrest u/s 69

1) **Powers - Commissioner** who has reason to believe can authorise arrest of

- Taxable person
- Transporter
- Warehouse keeper

only where person accused of offences specified and tax amount involved is more than ₹ 2 Cr.

Sec 72 :- officers who are required to assist proper officers

Following officers have been empowered and are required to assist CGST officers in the execution of CGST Act. The categories specified are as follows:

- Police;
- Railways
- Customs;
- Officers of State/UT/ CG engaged in collection of GST
- Officers of State/UT/ CG engaged in collection of land revenue;
- All village officers;
- Any other class of officers as may be notified by the CG/SG

	Goods	Books	Other (Computer)	Taxable person	Conveyance	Goods	Transporter	Goods in warehouse	Heavy Goods	Person
Detention	✓	✓	✓	✗	✓	✗	✗	✓	✓	✗
	> Not allowing the owner any to get access of goods by a legal order/notice					> Ownership & Possession with owner		> Issued under suspicion		
Seizure	✓	✓	✓	✗	✓	✗	✗	✓	✓	✗
	> Act of taking own something or someone by force through legal action					> Ownership with owner				
	> Made only of an Inquiry/Inspection					> Manner of Release				
	Provisional Basis <ul style="list-style-type: none"> Execution of bond with security Payment of Tax, Interest Penalty 			Actual Return of goods <ul style="list-style-type: none"> issue of notice within 6 months. If no notice is issued in 6 months then all such goods shall be returned [Extension - 6 months] 			Disposal of goods by PO as notified by CG <ul style="list-style-type: none"> perishable/hazardous goods constraint of storage space others 			
Confiscation	✓	✗	✗	✗	✓	✗	✗	✓	✓	✗
	Circumstances :- > Goods supplied/ received in contravention of Act leading to tax evasion without having applied for registration;					> Unaccounted Goods		> supplies any goods liable to GST		
Summon Sec 70	✗	✗	✗	✓	✗	✓	✗	✗	✗	✓
	> A person issued a summon is legally			> Bound to attend in person/representative 2		> Bound to state truth on subject matter				
Arrest	✗	✗	✗	✓	✗	✓	✗	✗	✗	✓
	> Meaning :- taking into custody a person under some lawful command or authority									
	> Circumstances :- Accused of offences specified and					Tax amount involved > ₹ 2 crore				
	> Who :- Officer authorized by Commissioner									