

Demands and Recovery

Q 1. Which are the applicable sections for the purpose of recovery of tax short paid or not paid or amount erroneously refunded or input tax credit wrongly availed or utilized?

Ans. Section 73 deals with the cases where there is no invocation of fraud/suppression/mis-statement etc. Section 74 deals with cases where the provisions related to fraud/suppression/mis-statement etc. are invoked.

Q 2. In what form and manner will the demand notice be issued?

Ans. Demand notices can be issued under Section 73 (cases not involving fraud/suppression), Section 74 (cases involving fraud/suppression) & Section 76 (Tax collected but not paid to the Government. In all cases, along with the notices, a summary thereof has to be served electronically to the notice in FORM GST DRC-01

Where a statement of demand is issued in terms of Section 73(3) or 74(3), along with the statement a summary thereof has to be served electronically to the noticee in FORM GST DRC-02.

Q 3. What if person chargeable with tax, pays the amount along with interest before issue of show cause notice under section 73?

Ans. A person can make payment voluntarily either before issue of notice or within thirty days of issue of notice and file an intimation of such voluntary payment in form GST DRC-03.

In such cases if paid before issue of notice, notice shall not be issued by the proper officer {sec.73 (6)} and if paid after issue of notice but within thirty days, all proceedings in respect of such notice shall be deemed to be concluded. {sec.73 (8)}

Q 4. What is the form and manner in which payment of tax/interest/penalty before issue of notice under Section 73 or 74 will be communicated by the taxable person?

Ans. In cases falling under Section 73, the taxable person has the option to discharge tax and interest liability before issuance of notice under Section 73(1) or statement under Section 73(3). Similarly, in cases falling under Section 74, the taxable person has the option to discharge tax/interest/penalty equal to 15% of tax liability before issuance of notice under Section 74(1) or statement under Section 74(3). If he opts to make such payment before issuance of notice, he shall make the payment of tax and interest and thereafter inform the proper officer in FORM GST DRC-03. The proper officer has to issue an acknowledgement in FORM GST DRC-04.

Q 5. What is the form and manner in which payment of tax/interest/penalty after issue of notice under Section 73 or 74 will be communicated by the taxable person?

Ans. In cases falling under Section 73, the taxable person has the option to discharge tax and interest liability within 30 days of issuance of notice under Section 73(1) or statement

under Section 73(3). Similarly, in cases falling under Section 74, the taxable person has the option to discharge tax/interest/penalty equal to 25% of tax liability within 30 days of issuance of notice under Section 74(1) or statement under Section 74(3). If he opts to make such payment within 30 days of issuance of notice, he shall make the payment of tax and interest and thereafter inform the proper officer in FORM GSTDRC-03. In such cases, the proper officer shall issue an order in FORM GST DRC-05 concluding the proceedings in respect of the said notice.

Q 6. What is the course of action, if the assessee has not paid the tax or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful mis-statement or suppression of facts?

Ans. In such circumstances, the proper officer shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, 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 specified in the notice.

Q 7. What is the time limit for issuance of SCN in light of the above circumstances?

Ans. In such circumstances, the proper officer shall issue the notice at least six months prior to the time limit specified in section 74(10) for issuance of the Order i.e 4 ½ years from the due date of furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or from the date of erroneous refund.

Thereafter, the proper officer is required to issue the Order under section 74 (9) within a period five years from the due date of furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or from the date of erroneous refund.

Q 8. How will the taxable person respond to the SCN issued under Section 73 or Section 74?

Ans. The taxable person shall respond to the notices issued under Section 73 or Section 74 in FORM GST DRC-06.

Q 9. What is the form and manner in which an order determining tax liability will be issued under Section 73 or Section 74?

Ans. The order will be a speaking order after following due process of law. A summary of the order issued under section 73(9) or section 74(9) or section 76(3) shall be uploaded electronically in FORM GST DRC-07, specifying therein the amount of tax, interest and penalty payable by the person chargeable with tax.

Q 10. After issuance of order, is it necessary for the proper officer to issue a recovery

notice?

Ans. No. The order itself will be treated as a recovery notice.

Q 11. Is there any time limit for adjudication the cases?

Ans:

(i) In case of section 73(cases other than fraud/ suppression of facts/wilful misstatement), the time limit for adjudication of cases is 3 years from the due date for filing of annual return for the financial year to which demand relates to or the date of erroneous refund/ITC wrongly availed. {sec.73(10)}

(ii) In case of section 74(cases of fraud/suppression of facts/wilful misstatement), the time limit for adjudication is 5 years from the due date for filing of annual return for the financial year to which demand relates to or the date of erroneous refund/ITC wrongly availed. {sec.74(10)}

Q 12. If notice is issued under Section 74 and thereafter the noticee makes payment, is there any need to adjudicate the case?

Ans. Where the person to whom a notice has been issued under sub-section (1) of section 74, pays the tax along with interest with penalty equal to 25% of such tax within 30 days of issue of notice, all proceedings in respect of such notice shall be deemed to be concluded. {Sec.74 (8)}

Q 13. How will rectification of order be done by the proper officer?

Ans. As per Section 161, mistakes apparent on record can be rectified and such rectification has to be done within 3 months of the date of issue of order. However, no such rectification will be done after 6 months from the date of the order. This period of 6 months will not be applicable to rectification of mistakes of purely clerical or arithmetic in nature arising from accidental slip or omission. Any rectification of the order, in accordance with the provisions of section 161, shall be made by the proper officer in FORM GST DRC-08

Q 14. What are the remedies available to the assessee who have been issued order under section 74 of the CGST Act?

Ans. Any person served with an order issued under section 74(9) pays the tax along with interest payable thereon under section 50 and a penalty equivalent to fifty percent of such tax within thirty days of communication of the order, all proceedings in respect of the said notice shall be deemed to be concluded.

Explanation 1. —For the purposes of section 73 and this section, —

(i) the expression “all proceedings in respect of the said notice” shall not include proceedings under section 132;

(ii) (ii) where the notice under the same proceedings is issued to the main person liable to pay tax and some other persons, and such proceedings against the main person have been concluded under section 73 or section 74, the proceedings against all the persons liable to

pay penalty under sections 122, 125, 129 and 130 are deemed to be concluded.

Explanation 2. —For the purposes of this Act, the expression “suppression” shall mean 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 failure to furnish any information on being asked for, in writing, by the proper officer.

Q 15. What is the time limit for initiation of recovery proceedings under CGST Act, 2017?

Ans. Any amount payable by a taxable person in pursuance of an order passed under this Act shall be paid by such person within a period of three months from the date of service of such order failing which recovery proceedings shall be initiated. Provided that where the proper officer considers it expedient in the interest of revenue he may, for reasons to be recorded in writing, require the said taxable person to make such payment within such period less than a period of three months as may be specified.

Q 16. What is the course of recovery in cases where the tax demand confirmed is enhanced in appeal/ revision proceedings?

Ans. The notice of demand is required to be served only in respect of the enhanced dues. In so far as the amount already confirmed prior to disposal of appeal/revision, the recovery proceedings may be continued from the stage at which such proceedings stood immediately before such disposal of appeal/revision. (Sec.84(a))

Q 17. What are the provisions for recovery of the erstwhile dues in respect of default of C.Ex. duties and Service Tax in the GST regime?

Ans. As per Section (8) of Section 142 of the GST Act,

(a) Where in pursuance of an assessment or adjudication proceedings instituted, whether, before, on or after the appointed day, under the existing law, any amount of tax, interest, fine or penalty becomes recoverable from the person, the same shall, unless recovered under the existing law, be recovered as an arrear or tax under this Act the amount so recovered shall not be admissible as input tax credit under this Act;

(b) Where in pursuance of an assessment or adjudication proceedings instituted, whether before, on or after the appointed day, under the existing law, any amount of tax, interest, fine or penalty becomes refundable to the taxable person, the same shall be refunded to him in cash under the said law, notwithstanding anything to the contrary contained in the said law other than the provisions of sub section (2) of Section 11B of the Central Excise Act, 1944 (1 of 1944) and the amount rejected, if any, shall not be admissible as input tax credit under this Act.

Detailed procedure for recovery of arrears under the existing law and reversal of inadmissible input tax credit has been outlined in the CBIC circular no. 42/16/2018-GST

dated 13th April, 2018. It may also be noted that recovery can now be made using FORM GST DRC-07.

The CENVAT credit of central excise duty or service tax wrongly carried forward as transitional credit, and the arrears of central excise duty, service tax or wrongly availed CENVAT credit thereof under the existing law shall be recovered as central tax liability to be paid through the utilization of amounts available in the electronic credit ledger or electronic cash ledger of the registered person.

The arrears of interest, penalty and late fee in relation to CENVAT credit wrongly carried forward, and in relation to arrears of central excise duty, service tax or wrongly availed CENVAT credit thereof under the existing law shall be recovered as interest, penalty and late fee of central tax to be paid through the utilization of the amount available in electronic cash ledger of the registered person.

Q 18. What are the modes of recovery of tax available to the proper officer?

Ans. The proper officer may recover the dues in following manner:

- a) Deduction of dues from the amount owned by the tax authorities payable to such person.
- b) Recovery by way of detaining and selling any goods belonging to such person;
- c) Recovery from 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 credit of the Central or a State Government;
- d) Distrain any movable or immovable property belonging to such person, until the amount payable is paid. If the dues not paid within 30days, the said property is to be sold and with the proceeds of such sale the amount payable and cost of sale shall be recovered;
- e) Through the Collector of the district in which such person owns any property or resides or carries on his business, as if it was an arrear of land revenue;
- (f) By way of an application to the appropriate Magistrate who in turn shall proceed to recover the amount as if it were a fine imposed by him;
- (g) Through enforcing the bond /instrument executed under this Act or any rules or regulations made thereunder;
- (h) CGST arrears can be recovered as an arrear of SGST and vice-versa.

Q 19. In what manner will the proper officer proceed to recover dues from the amounts owed to the defaulter?

Ans. Where any amount payable by a defaulter to the Government under any of the provisions of the Act or the rules made thereunder is not paid, the proper officer may require, in FORM GST DRC-09, a specified officer to deduct the amount from any money owing to such defaulter in accordance with the provisions of clause (a) of sub-section (1) of section 79.

For the purposes of this rule, “specified officer” shall mean any officer of the Central Government or a State Government or the Government of a Union territory or a local

authority, or of a Board or Corporation or a company owned or controlled, wholly or partly, by the Central Government or a State Government or the Government of a Union territory or a local authority.

Q 20. What is the procedure for recovery of dues by sale of goods belonging to the defaulter, which is in the control of the proper officer?

Ans. (1) Where any amount due from a defaulter is to be recovered by selling goods belonging to such person in accordance with the provisions of clause (b) of sub-section (1) of section 79, the proper officer shall prepare an inventory and estimate the market value of such goods and proceed to sell only so much of the goods as may be required for recovering the amount payable along with the administrative expenditure incurred on the recovery process.

(2) The said goods shall be sold through a process of auction, including e-auction, for which a notice shall be issued in FORM GST DRC-10 clearly indicating the goods to be sold and the purpose of sale.

(3) The last day for submission of bid or the date of auction shall not be earlier than fifteen days from the date of issue of the notice referred to in sub-rule (2):

Provided that where the goods are of perishable or hazardous nature or where the expenses of keeping them in custody are likely to exceed their value, the proper officer may sell them forthwith.

(4) The proper officer may specify the amount of pre-bid deposit to be furnished in the manner specified by such officer, to make the bidders eligible to participate in the auction, which may be returned to the unsuccessful bidders, forfeited in case the successful bidder fails to make the payment of the full amount, as the case may be.

(5) The proper officer shall issue a notice to the successful bidder in FORM GST DRC-11 requiring him to make the payment within a period of fifteen days from the date of auction. On payment of the full bid amount, the proper officer shall transfer the possession of the said goods to the successful bidder and issue a certificate in FORM GST DRC-12.

(6) Where the defaulter pays the amount under recovery, including any expenses incurred on the process of recovery, before the issue of the notice under sub-rule (2), the proper officer shall cancel the process of auction and release the goods.

(7) The proper officer shall cancel the process and proceed for re-auction where no bid is received or the auction is considered to be non-competitive due to lack of adequate participation or due to low bids.

Q 21. How will the dues owed by the defaulter be recovered by the proper officer from a third person (a bank, post office, insurer etc.) who holds money on behalf of the defaulter?

Ans. (1) The proper officer may serve upon a person referred to in clause (c) of sub-section (1) of section 79 (referred to in question as “the third person”), a notice in FORM GST

DRC-13 directing him to deposit the amount specified in the notice.

(2) Where the third person makes the payment of the amount specified in the notice issued under sub-rule (1), the proper officer shall issue a certificate in FORM GST DRC-14 to the third person clearly indicating the details of the liability so discharged.

Q 22. What will be the consequences, if the third person referred to above, fails to make payment in pursuance of notice issued in FORM GST DRC-13?

Ans. in case the person to whom a notice under sub-clause (i) has been issued, fails to make the payment in pursuance thereof to the Government, he shall be deemed to be a defaulter in respect of the amount specified in the notice and all the consequences of this Act or the rules made thereunder shall follow.

Further, 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.

Q 23. How can the proper officer recover the dues from the amount payable to the defaulter as a consequence of execution of a decree of a civil court?

Ans. Where any amount is payable to the defaulter in the execution of a decree of a civil court for the payment of money or for sale in the enforcement of a mortgage or charge, the proper officer shall send a request in FORM GST DRC- 15 to the said court and the court shall, subject to the provisions of the Code of Civil Procedure, 1908 (5 of 1908), execute the attached decree, and credit the net proceeds for settlement of the amount recoverable.

Q 24. What is the manner in which the proper officer will recover dues from the defaulter by sale of movable or immovable property belonging to the defaulter? (Rule 147)

Ans. (1) The proper officer shall prepare a list of movable and immovable property belonging to the defaulter, estimate their value as per the prevalent market price and issue an order of attachment or distraint and a notice for sale in FORM GST DRC- 16 prohibiting any transaction with regard to such movable and immovable property as may be required for the recovery of the amount due:

Provided that the attachment of any property in a debt not secured by a negotiable instrument, a share in a corporation, or other movable property not in the possession of the defaulter except for property deposited in, or in the custody of any Court, shall be attached in the manner provided in rule 151.

(2) The proper officer shall send a copy of the order of attachment or distraint to the concerned Revenue Authority or Transport Authority or any such Authority to place encumbrance on the said movable or immovable property, which shall be removed only on the written instructions from the proper officer to that effect.

- (3) Where the property subject to the attachment or distraint under sub-rule (1) is-
- (a) an immovable property, the order of attachment or distraint shall be affixed on the said property and shall remain affixed till the confirmation of sale;
 - (b) a movable property, the proper officer shall seize the said property in accordance with the provisions of chapter XIV of the Act and the custody of the said property shall either be taken by the proper officer himself or an officer authorised by him.
- (4) The property attached or distrained shall be sold through auction, including e-auction, for which a notice shall be issued in FORM GST DRC- 17 clearly indicating the property to be sold and the purpose of sale.
- (5) Notwithstanding anything contained in the provision of this Chapter, where the property to be sold is a negotiable instrument or a share in a corporation, the proper officer may, instead of selling it by public auction, sell such instrument or a share through a broker and the said broker shall deposit to the Government so much of the proceeds of such sale, reduced by his commission, as may be required for the discharge of the amount under recovery and pay the amount remaining, if any, to the owner of such instrument or a share.
- (6) The proper officer may specify the amount of pre-bid deposit to be furnished in the manner specified by such officer, to make the bidders eligible to participate in the auction, which may be returned to the unsuccessful bidders or, forfeited in case the successful bidder fails to make the payment of the full amount, as the case may be.
- (7) The last day for the submission of the bid or the date of the auction shall not be earlier than fifteen days from the date of issue of the notice referred to in sub-rule (4):
Provided that where the goods are of perishable or hazardous nature or where the expenses of keeping them in custody are likely to exceed their value, the proper officer may sell them forthwith.
- (8) Where any claim is preferred or any objection is raised with regard to the attachment or distraint of any property on the ground that such property is not liable to such attachment or distraint, the proper officer shall investigate the claim or objection and may postpone the sale for such time as he may deem fit.
- (9) The person making the claim or objection must adduce evidence to show that on the date of the order issued under sub-rule (1) he had some interest in, or was in possession of, the property in question under attachment or distraint.
- (10) Where, upon investigation, the proper officer is satisfied that, for the reason stated in the claim or objection, such property was not, on the said date, in the possession of the defaulter or of any other person on his behalf or that, being in the possession of the defaulter on the said date, it was in his possession, not on his own account or as his own property, but on account of or in trust for any other person, or partly on his own account and partly on account of some other person, the proper officer shall make an order releasing the property, wholly or to such extent as he thinks fit, from attachment or distraint.

(11) Where the proper officer is satisfied that the property was, on the said date, in the possession of the defaulter as his own property and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of a tenant or other person paying rent to him, the proper officer shall reject the claim and proceed with the process of sale through auction.

(12) The proper officer shall issue a notice to the successful bidder in FORM GST DRC-11 requiring him to make the payment within a period of fifteen days from the date of such notice and after the said payment is made, he shall issue a certificate in FORM GST DRC-12 specifying the details of the property, date of transfer, the details of the bidder and the amount paid and upon issuance of such certificate, the rights, title and interest in the property shall be deemed to be transferred to such bidder:

Provided that where the highest bid is made by more than one person and one of them is a co-owner of the property, he shall be deemed to be the successful bidder.

(13) Any amount, including stamp duty, tax or fee payable in respect of the transfer of the property specified in sub-rule (12), shall be paid to the Government by the person to whom the title in such property is transferred.

(14) Where the defaulter pays the amount under recovery, including any expenses incurred on the process of recovery, before the issue of the notice under sub-rule (4), the proper officer shall cancel the process of auction and release the goods.

(15) The proper officer shall cancel the process and proceed for re-auction where no bid is received or the auction is considered to be non-competitive due to lack of adequate participation or due to low bids.

Q 25. In what manner will a proper officer attach any property in a debt not secured by a negotiable instrument, a share in a corporation, or other movable property not in the possession of the defaulter? (Rule 151)

Ans. (1) A debt not secured by a negotiable instrument, a share in a corporation, or other movable property not in the possession of the defaulter except for property deposited in, or in the custody of any court shall be attached by a written order in FORM GST DRC-16 prohibiting. -

(a) in the case of a debt, the creditor from recovering the debt and the debtor from making payment thereof until the receipt of a further order from the proper officer;

(b) in the case of a share, the person in whose name the share may be standing from transferring the same or receiving any dividend thereon;

(c) in the case of any other movable property, the person in possession of the same from giving it to the defaulter.

(2) A copy of such order shall be affixed on some conspicuous part of the office of the proper officer, and another copy shall be sent, in the case of debt, to the debtor, and in the case of shares, to the registered address of the corporation and in the case of other movable

property, to the person in possession of the same.

(3) A debtor, prohibited under clause (a) of sub-rule (1), may pay the amount of his debt to the proper officer, and such payment shall be deemed as paid to the defaulter.

Q 26. In what manner, will attachment of any property in the custody of courts take place? (Rule 152)

Ans. Where the property to be attached is in the custody of any court or Public Officer, the proper officer shall send the order of attachment to such court or officer, requesting that such property, and any interest or dividend becoming payable thereon, may be held till the recovery of the amount payable.

Q 27. How will proper officer attach an interest in partnership of the defaulter? (Rule 153)

Ans. (1) Where the property to be attached consists of an interest of the defaulter, being a partner, in the partnership property, the proper officer may make an order charging the share of such partner in the partnership property and profits with payment of the amount due under the certificate, and may, by the same or subsequent order, appoint a receiver of the share of such partner in the profits, whether already declared or accruing, and of any other money which may become due to him in respect of the partnership, and direct accounts and enquiries and make an order for the sale of such interest or such other order as the circumstances of the case may require.

(2) The other partners shall be at liberty at any time to redeem the interest charged or, in the case of a sale being directed, to purchase the same.

Q 28. How will the amounts recovered as proceeds of sale of goods or movable or immovable property be appropriated? (Rule 154)

Ans. The amounts so realised from the sale of goods, movable or immovable property, for the recovery of dues from a defaulter shall, -

- (a) first, be appropriated against the administrative cost of the recovery process;
- (b) next, be appropriated against the amount to be recovered;
- (c) next, be appropriated against any other amount due from the defaulter under the Act or the IGST/UTGST/SGST Act(s), 2017 and the rules made thereunder; and
- (d) any balance, be paid to the defaulter.

Q 29. How will the proper officer make recovery of dues of the defaulter through land revenue authority?

Ans. Where an amount is to be recovered in accordance with the provisions of clause (e) of sub-section (1) of section 79, the proper officer shall send a certificate to the Collector or Deputy Commissioner of the district or any other officer authorised in this behalf in FORM GST DRC-18 to recover from the person concerned, the amount specified in the certificate as if it were an arrear of land revenue.

Q 30. How will the amount be recovered from the defaulter, if it is to be recovered as a fine imposed under the Code of Criminal Procedure, 1973?

Ans. Where an amount is to be recovered as if it were a fine imposed under the Code of Criminal Procedure, 1973, the proper officer shall make an application before the appropriate Magistrate in accordance with the provisions of clause (f) of sub-section (1) of section 79 in FORM GST DRC- 19 to recover from the person concerned, the amount specified thereunder as if it were a fine imposed by him.

Q 31. Can the amount due from the defaulter be recovered from the surety?

Ans. Yes. Where any person has become surety for the amount due by the defaulter, he may be proceeded against under this Chapter as if he were the defaulter. (Rule 157)

Q 32. Whether the payment of tax dues can be made in instalments?

Ans. Yes, a person can request for payment of any amount due under the Act, other than the amount due as per the liability self-assessed in any return, in monthly instalments not exceeding twenty-four, subject to payment of interest under section 50 with such limitations and conditions as may be prescribed.

However, where there is default in payment of any one instalment on its due date, the whole outstanding balance payable on such date shall become payable and recovered without any further notice. {sec.80 of CGST Act}

Q 33. In what manner, will the Commissioner deal with a request for payment of tax and other amounts in instalments? (Rule 158)

Ans. (1) On an application filed electronically by a taxable person, in FORM GST DRC-20, seeking extension of time for the payment of taxes or any amount due under the Act or for allowing payment of such taxes or amount in instalments in accordance with the provisions of section 80, the Commissioner shall call for a report from the jurisdictional officer about the financial ability of the taxable person to pay the said amount.

(2) Upon consideration of the request of the taxable person and the report of the jurisdictional officer, the Commissioner may issue an order in FORM GST DRC-21 allowing the taxable person further time to make payment and/or to pay the amount in such monthly instalments, not exceeding twenty-four, as he may deem fit.

(3) The facility shall not be allowed where-

(a) the taxable person has already defaulted on the payment of any amount under the Act or the IGST /UTGST / SGST Act(s), 2017, for which the recovery process is on;

(b) the taxable person has not been allowed to make payment in instalments in the preceding financial year under the Act or the IGST/UTGST/SGST Act(s), 2017;

(c) the amount for which instalment facility is sought is less than twenty-five thousand rupees.

Q 34. In what manner will provisional attachment of property take place? (Rule 159)

Ans. (1) Where the Commissioner decides to attach any property, including bank account in accordance with the provisions of section 83, he shall pass an order in FORM GST DRC-22 to that effect mentioning therein, the details of property which is attached.

(2) The Commissioner shall send a copy of the order of attachment to the concerned Revenue Authority or Transport Authority or any such Authority to place encumbrance on the said movable or immovable property, which shall be removed only on the written instructions from the Commissioner to that effect.

(3) Where the property attached is of perishable or hazardous nature, and if the taxable person pays an amount equivalent to the market price of such property or 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.

(4) Where the taxable person fails to pay the amount referred to in sub-rule (3) in respect of the said property of perishable or hazardous nature, the Commissioner may dispose of such property and the amount realized thereby shall be adjusted against the tax, interest, penalty, fee or any other amount payable by the taxable person.

(5) Any person whose property is attached may, within seven days of the attachment under sub-rule (1), file an objection to the effect that the property attached was or is not liable to attachment, and the Commissioner may, after affording an opportunity of being heard to the person filing the objection, release the said property by an order in FORM GST DRC- 23.

(6) 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.

Q 35. How will notice of tax dues be given to the liquidator in terms of Section 88?

Ans. Where the company is under liquidation as specified in section 88, the Commissioner shall notify the liquidator for the recovery of any amount representing tax, interest, penalty or any other amount due under the Act in Form GST DRC -24.

Q 36. How will the order for reduction or enhancement of any demand in terms of Section 84 be given? (Rule 161)

Ans. The order for the reduction or enhancement of any demand under section 84 shall be issued in Form GST DRC- 25.

Q 37. Can recovery of arrears of a person registered in one State be effected from a distinct person located in another state?

Ans. Yes, vide the CGST (Amendment) Act, 2018, an explanation clause has been inserted in section 79 of the CGST Act, 2017 to the effect that person in section 79 includes “distinct persons” as referred to in sub-section (4) or, as the case may be, sub-section (5) of section 25. Thus, the tax dues are recoverable from all the persons having the same PAN. (This provision is yet to be notified)