CHAPTER 18

INSPECTION, SEARCH, SEIZURE AND ARREST



The section numbers referred to in the Chapter pertain to CGST Act, unless otherwise specified. Examples/Illustrations/Questions and Answers, as the case may be, given in the Chapter are based on the position of GST law existing as on 30.04.2026.

LEARNING OUTCOMES

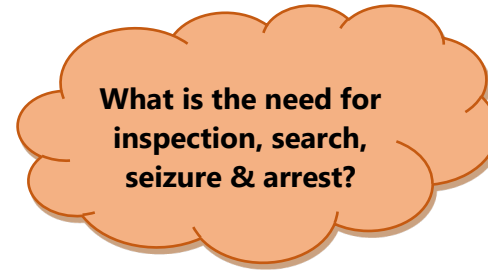
After studying this chapter, you would be able to:

- understand and explain the meaning of inspection, search, seizure and summons.
- understand and describe the legislative power to arrest.
- identify and appreciate the rights and duties of persons against such actions.
- gain knowledge pertaining to the procedural requirements to be complied in this regard.

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1. INTRODUCTION





The provisions related to Inspection, Search, Seizure and Arrest are provided in tax laws in order to protect the interest of genuine taxpayers (as the Tax evaders, by evading the tax, get an unfair advantage over the genuine tax payers). These provisions are also required to safeguard the Government's legitimate dues. Wherein these provisions act as a deterrent and by checking evasion provide a level playing field to all genuine taxpayers.

It may be mentioned that the options of Inspection, Search, Seizure and Arrest are exercised only in exceptional circumstances and as a last resort, to protect the Government revenue.

Chapter XIV – Inspection, Search, Seizure and Arrest [Sections 67 to 72] of the CGST Act stipulates the provisions relating to inspection, search, seizure and arrest. State GST laws also prescribe identical provisions in relation to inspection, search, seizure and arrest.

Provisions of inspection, search, seizure and arrest under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.

2. POWER OF INSPECTION, SEARCH AND SEIZURE [SECTION 67]



The power of 'Inspection' enables officers to access any place of business of a taxable person and also any place of business of a person engaged in transporting goods or who is an owner or an operator of a warehouse or godown.

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As per section 67, inspection can be carried out by a proper officer only upon a written authorization given by an officer of the rank of Joint Commissioner or above.

- **Circumstances for carrying out inspection**

An inspection can be carried out only after a Joint Commissioner or an officer higher in rank gives such authorization to the proper officer. Such authorization can be given by the Joint Commissioner or an officer higher in rank, only if he has **reasons to believe** that:

(a) taxable person has done one of the following:-

i. suppressed any transaction of supply of goods or services;

ii. suppressed stock of goods in hand;

iii. claimed input tax credit in excess of his entitlement;

iv. contravened any provision of the Act to evade tax;

(b) any person engaged in transporting of goods or an owner or operator of a warehouse or a godown or any other place 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.

Reason to believe means having knowledge of the facts which, although not amounting to direct knowledge, would cause a reasonable person, knowing the same facts, to reasonably conclude the same thing. A person is said to have 'reason to believe' a thing, if he has sufficient cause to believe that thing but not otherwise. 'Reason to believe' contemplates an objective determination based on intelligent care and evaluation as distinguished from a purely subjective consideration. 'Reason to believe' is more than a mere suspicion but less than evidence in possession about the violation of law. It has to be and must be that of an honest and reasonable person based on relevant material and circumstances.

Meaning of Search

Either pursuant to an inspection or otherwise, if it is felt that any goods which are liable for confiscation *(discussed below)* under the Act , or any documents or books or things are secretly stored are found or any documents/books of

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accounts are found, which may be useful for the department in the proceedings for demand of tax, the department could search and seize such goods/documents and books.

Any tax law should provide powers to the enforcing officers, to check the evasion of tax. As per the dictionary meanings and as noted in different judicial pronouncements, the term 'search', in simple language, denotes an action of a government machinery to go, look through or examine carefully a place, area, person, object etc. in order to find something concealed or for the purpose of discovering evidence of a crime. The search of a person or vehicle or premises etc. can only be done under proper and valid authority of law.

As per Section 67, a search and seizure can be carried out by a Joint Commissioner or an officer higher in rank or by an officer authorized by such person not below the rank of a Joint Commissioner only if he has **reasons to believe** that any goods liable to confiscation or any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Act, are secreted in any place.



The term 'seizure' has not been specifically defined in the GST law. In the Law Lexicon Dictionary, 'seizure' is defined as the act of taking physical custody (actual or constructive) of property by an officer under legal process. It generally implies taking custody forcibly / contrary to the wishes of the owner of the property or who has lawful possession and who was unwilling to part with the possession. Not only inputs and capital goods may be seized but all offending property, books and records, computer and database and everything that aids and assists in the proceedings under the Act and in protection of Government revenue including furthering investigation may be seized.

The person from whom documents and books of accounts are seized, shall have the right to take copies of such documents and books of accounts, subject to the approval of the proper officer.

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- **Confiscation of goods**

As per section 130, goods become liable to confiscation when any person does the following:

(i) supplies or receives any goods in contravention of any of the provisions of this Act or rules made thereunder with an intent to evade payment of tax;

(ii) does not account for any goods on which he is liable to pay tax under this Act;

(iii) supplies any goods liable to tax under this Act without having applied for the registration;

(iv) contravenes any of the provisions of the CGST Act or rules made thereunder with an intent to evade payment of tax.

(v) uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of this Act or the rules made thereunder unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance,

- **Powers of officer during search**

An officer carrying out a search has the power to search for and seize goods (which are liable to confiscation) and documents/books/things (relevant for any proceedings under the Act) from the premises searched. However, if it is not practicable to seize any such goods then the same may be detained i.e. he may order the owner or the custodian to not remove or part with the goods except with the permission of the officer. The person from whom these are seized shall be entitled to take copies/extracts of seized records in the presence of any authorized officer at a place and time indicated by the proper officer. Taking copies / extract may be denied where in the opinion of the officer making such copies or taking such extracts may prejudicially affect the investigation. During search, the officer has the power to break open the door of the premises authorized to be searched if access to the same is denied.

Similarly, while carrying out search within the premises, he can break open any almirah or box if access to such almirah or box is denied and in which any goods, account, registers or documents are suspected to be concealed. He can also seal the premises if access to it denied.

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The seized documents/books/things shall be retained only till the time the same are required for examination/enquiry/proceedings and if these are not relied on for the case then the same shall be returned within 30 days from the issuance of show cause notice.

- **Seizure of books and documents and manner of release of seized goods**

❖ Under GST law, where the proper officer has reasons to believe that any person has evaded or is attempting to evade the payment of any tax, he may, for reasons to be recorded in writing, seize the accounts, registers or documents of such person produced before him and shall grant a receipt for the same, and shall retain the same for so long as may be necessary in connection with any proceedings under CGST Act or the rules made thereunder for prosecution.

❖ **Provisional basis:-**The seized goods shall be released on a provisional basis, on execution of bond and furnishing of prescribed amount of security or on payment of applicable tax, interest and penalty.

❖ **Actual return of goods:-** In case of seizure of goods, a notice has to be issued within six months, if no notice is issued within a period of six months then all such goods shall be returned. However, this period of six months can be extended by the proper officer for another six months on sufficient cause.

❖ **Disposal of goods:-**The Government 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 or any other relevant considerations, notify the goods which shall be disposed by the proper officer in the prescribed manner. If, during a search, such specified goods have been seized, the proper officer shall prepare an inventory of such goods in the prescribed manner.

- **Procedure for conducting search**

To ensure that the provisions for search and seizure are implemented in a proper and transparent manner, the Act stipulates that the searches and seizures shall be carried out in accordance with the provisions of Criminal Procedure Code, 1973. Section 100 of the Code of Criminal Procedure describes the procedure for search.

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- **Basic requirements to be observed during search operations**

The following principles should be observed during Search:

- ❖ No search of premises should be carried out without a valid search warrant issued by an officer of the rank of Joint Commissioner or above .
- ❖ There should invariably be a lady officer accompanying the search team to a residence.
- ❖ The officers before starting the search should disclose their identity by showing their identity cards to the person in-charge of the premises.
- ❖ The search warrant should be executed before the start of the search by showing the same to the person in-charge of the premises and his signature should be taken on the body of the search warrant in token of having seen the same. The signatures of at least two witnesses should also be taken on the body of the search warrant.
- ❖ The search should be made in the presence of at least two independent witnesses from the locality. If no such inhabitants are available /willing, the inhabitants of any other locality should be asked to be witness to the search. The witnesses should be briefed about the purpose of the search.
- ❖ Before the start of the search proceedings, the team of officers conducting the search and the accompanying witnesses should offer for their personal search to the person in-charge of the premises being searched. Similarly, after the completion of the search all the officers and the witnesses should again offer themselves for their personal search.
- ❖ A Panchnama / Mahazar of the proceedings of the search should necessarily be prepared on the spot. A list of all goods, documents recovered and seized/detained should be prepared and annexed to the Panchnama/Mahazar. The Panchnama / Mahazar and the list of goods/ documents seized/detained should invariably be signed by the witnesses, the in-charge/ owner of the premises before whom the search is conducted and also by the officer(s) duly authorized for conducting the search.
- ❖ After the search is over, the search warrant duly executed should be returned in original to the issuing officer with a report regarding the outcome of the search. The names of the officers who participated in the search may also be

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written on the reverse of the search warrant.

- The issuing authority of search warrant should maintain register of records of search warrant issued and returned and used search warrants should be kept in records.
- A copy of the Panchnama / Mahazar along with its annexure should be given to the person incharge/owner of the premises being searched under acknowledgement.

- **Search Warrant and its contents.**

The written authority to conduct a search is generally called search warrant. The competent authority to issue search warrant is an officer of the rank of Joint Commissioner or above. A search warrant must indicate the existence of a reasonable belief leading to the search. Search Warrant should contain the following details:

- the violation under the Act,
- the premise to be searched,
- the name and designation of the person authorized for search,
- the name of the issuing officer with full designation along with his round seal,
- date and place of issue,
- serial number of the search warrant,
- period of validity i.e. a day or two days etc.

- **Safeguards provided for in respect of Search or Seizure**

Certain safeguards are provided in section 67 of CGST Act in respect of the power of search or seizure. These are as follows:

- Seized goods or documents should not be retained beyond the period necessary for their examination;
- Photocopies of the documents can be taken by the person from whose custody documents are seized;
- For seized goods, if a notice is not issued within six months of its seizure, goods shall be returned to the person from whose possession it was seized.

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This period of six months can be extended on justified grounds up to a further period of maximum six months;

- Certain specified categories of goods such as perishable, hazardous etc. can be disposed of immediately after seizure. For instance, newspapers and periodicals, menthol, camphor, saffron, petroleum products, red sander, cells, batteries and rechargeable batteries, Re-fills for ball-point pens, etc. An inventory of such goods, if seized, shall be made by the seizing officer.
- The provisions of Code of Criminal Procedure 1973 relating to search and seizure shall apply. However, one important modification is in relation to sub-section (5) of section 165 of Code of Criminal Procedure – instead of sending copies of any record made in course of search to the nearest Magistrate empowered to take cognizance of the offence, it has to be sent to the Principal Commissioner/ Commissioner of CGST.

- **Purchase of goods or services for invoice verification**

The Commissioner or an officer authorised by him may cause purchase of any goods or services or both by any person authorised by him from the business premises of any taxable person, to check the issue of tax invoices or bills of supply by such taxable person, and on return of goods so purchased by such officer, such taxable person or any person in charge of the business premises shall refund the amount so paid towards the goods after cancelling any tax invoice or bill of supply issued earlier.

3. INSPECTION OF GOODS IN MOVEMENT [SECTION 68]

Inspection can also be carried out of a conveyance, carrying a consignment of value exceeding specified limit. The person-in-charge of the conveyance has to produce prescribed documents/devices for verification and allow inspection. E-way Bill has been prescribed for the said purpose. *The same has already been discussed in detail in Chapter-10: Accounts and Records; E-way Bill.* Inspection during transit can be carried out even without authorization of Joint Commissioner.

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4. POWER TO ARREST [SECTION 69]

The term 'arrest' has not been defined in the GST law. However, as per judicial pronouncements, it denotes 'the taking into custody of a person under some lawful command or authority'.



Arrests can be carried out only where the person is accused of offences specified for this purpose and the tax amount involved is more than specified limit. Further, the arrests under GST law can be made only under authorization from the Commissioner. Whenever the Commissioner has reason to believe that any person has committed any specified offence, he can authorize any other officer subordinate to him, to arrest such person.

Various offences committed in connection with evasion of tax are also punishable with imprisonment. For some offences liable to more number of years of imprisonment, the offender has to be prosecuted before appropriate Court. The nature of offences which are thus punishable with imprisonment are prescribed in section 132.

- **Authorization of arrest by the proper officer**

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 under section 132(1)(a)/(b)/(c)/(d) or under section 132(2). The detailed provisions relating to section 132 have been discussed in detail in *Chapter-21: Offences and Penalties and Ethical aspects under GST.* This essentially means that a person can be arrested only where the tax evasion is more than ₹ 2 crore. 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.

- **Safeguards for a person who is placed under arrest**

There are certain safeguards provided under section 69 for a person who is placed under arrest. These are:

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- If a person is arrested for a cognizable offence, the grounds of arrest must be explained to him[1]. Arrested person must be produced before a magistrate within 24 hours of his arrest;
- If a person is arrested for a non-cognizable and bailable offence, the Deputy/ Assistant Commissioner can release him on bail and he will be subject to the same provisions as an officer in-charge of a police station under section 436 of the Code of Criminal Procedure, 1973;
- All arrest must be in accordance with the provisions of the Code of Criminal Procedure,1973 relating to arrest.

Section 132 of the Act also prescribes which types of offences are cognizable and non-bailable and which types of offences are non-cognizable and bailable.

- **Meaning of cognizable offence**

Generally, cognizable offence means serious category of offences in respect of which a police officer has the authority to make an arrest without a warrant and to start an investigation with or without the permission of a court.

- **Meaning of non-cognizable offence**

Non-cognizable offence means relatively less serious offences in respect of which a police officer does not have the authority to make an arrest without a warrant and an investigation cannot be initiated without a court order.

- **Cognizable and non-cognizable offences under CGST Act**

Section 132 provides 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 shall be cognizable and non-bailable.

In the case of a non-cognizable and bailable offence, the Deputy Commissioner or Assistant Commissioner has the powers (as specified in section 69) for release on bail.

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[1] *The grounds of arrest must also furnished to arrested person in writing. Acknowledgement of the same should be taken from the arrested person at the time of service of the Arrest Memo.*

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- **Precaution taken during arrest**

The provisions of the Code of Criminal Procedure, 1973 relating to arrest and the procedure thereof must be adhered to in all situations amounting to arrest. It is therefore necessary that all field officers of CGST be fully familiar with the provisions of the Code of Criminal Procedure, 1973.

One important provision to be taken note of is Section 57 of Cr.P.C., 1973 which provides that a person arrested without warrant shall not be detained for a period longer than, under the circumstances of the case, is reasonable, but this shall not exceed 24 hours (excluding the journey time from place of arrest to the Magistrate's court). Within this period, as provided under section 56 of Cr.P.C., the person making the arrest shall send the person so arrested without warrant, before a Magistrate having jurisdiction in the case.

- **Guidelines for arrest**

The decision to arrest needs to be taken on case-to case basis considering various factors, such as, nature and gravity of offence, quantum of duty evaded or credit wrongfully availed, nature and quality of evidence, possibility of evidence being tampered with or witnesses being influenced, cooperation with the investigation, etc. The power to arrest has to be exercised after careful consideration of the facts of the case which may include:

- to ensure proper investigation of the offence;
- to prevent such person from absconding;
- masterminds or key operators effecting proxy/ benami imports/exports in the name of dummy or non-existent persons/IECs, etc;
- where the intent to evade duty is evident and element of mens rea/guilty mind is palpable;
- prevention of the possibility of tampering with evidence;
- intimidating or influencing witnesses; and
- large amounts of evasion of tax.

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5. POWER TO SUMMON PERSONS TO GIVE EVIDENCE AND PRODUCE DOCUMENTS [SECTION 70]

During the course of any enquiry under this Act, the proper officer has the power to summon any person to appear before him and give evidence or produce documents or any other thing in any inquiry in the same manner, as provided in the case of a civil court under the provisions of the Code of Civil Procedure, 1908.

Asking for 'evidence' or requiring 'to produce a document' does not permit calling for entire set of books of accounts. It is important to call for specific evidence or documents[2].

- **Responsibilities of the person so summoned**

All persons summoned shall be bound to attend, either in person or by an authorised representative, as such officer may direct, and the person so appearing shall state the truth during examination or make statements or produce such documents and other things as may be required.

- **Consequences of non-appearance to summons**

The proceeding before the official who has issued summons is deemed to be a judicial proceeding within the meaning of section 229 and section 267 of the Bharatiya Nyaya Sanhita, 2023 (BNS). If a person does not appear on the date when summoned without any reasonable justification, he can be prosecuted . If he absconds to avoid service of summons, he can be prosecuted and in case he does not produce the documents or electronic records required to be produced, he can

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[2] As per section 136, a statement made and signed by a person on appearance in response to any summons issued under section 70 during the course of any inquiry or proceedings under CGST Act shall be relevant, for the purpose of proving, in any prosecution for an offence under this Act, the truth of the facts which it contains,

(a) when the person who made the statement is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or whose presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the court considers unreasonable; or

(b) when the person who made the statement is examined as a witness in the case before the court and the court is of the opinion that, having regard to the circumstances of the case, the statement should be admitted in evidence in the interest of justice.

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be prosecuted. In case he gives false evidence, he can be prosecuted . In addition, if a person does not appear before a CGST/ SGST officer who has issued the summons, he is liable to a penalty upto ₹ 25,000 under section 122(3)(d) of the Act.

- **Guidelines for issuance of summons**

The Central Board of Indirect taxes and Customs (CBIC) in the Department of Revenue, Ministry of Finance has issued guidelines from time to time to ensure that summons provisions are not misused in the field. Some of the important highlights of these guidelines are given below:

- summons are to be issued as a last resort where assesses are not co-operating and this section should not be used for summoning the top management;
- the language of the summons should not be harsh and legally worded in such manner which causes unnecessary mental stress and embarrassment to the receiver;
- summons by Superintendents should be issued after obtaining prior written permission from an officer not below the rank of Assistant Commissioner with the reasons for issuance of summons to be recorded in writing;
- where for operational reasons, it is not possible to obtain such prior written permission, oral/ telephonic permission from such officer must be obtained and the same should be reduced to writing and intimated to the officer according such permission at the earliest opportunity;
- in all cases, where summons is issued, the officer issuing summons should submit a report or should record a brief of the proceedings in the case file and submit the same to the officer who had authorized the issuance of summons;
- senior management officials such as CEO, CFO, General Managers of a large companies or a Public Sector Undertakings should not generally be issued summons at the first instance. They should be summoned only when there are indications in the investigation of their involvement in the decision-making process which has led to loss of revenue.

- **Precautions to be observed while issuing summons**

The following precautions should generally be observed when summoning a person: -

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(i) A summons should not be issued for appearance where it is not justified. The power to summon can be exercised only when there is an inquiry being undertaken and the attendance of the person is considered necessary.

(ii) Normally, summons should not be issued repeatedly. As far as practicable, the statement of the accused or witness should be recorded in minimum number of appearances.

(iii) The time of appearance given in the summons should be respected and no person should be made to wait for long hours before his statement is recorded except when it has been decided very consciously as a matter of strategy.

(iv) Preferably, statements should be recorded during office hours; however, an exception could be made regarding the time and place of recording statement having regard to the facts in the case.

6. ACCESS TO BUSINESS PREMISES [SECTION 71]

Any officer under this Act authorised by the proper officer not below the rank of Joint Commissioner or an officer higher in rank can have access to a place of business of a registered person which may be required for the purpose of carrying out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.. During such access, the officers can inspect the books of accounts, documents, computers, computer programs, computer software and such other things as may be required.

It is the duty of the persons-in-charge of such premises to furnish the required documents within fifteen working days from the day when such demand is made. Similarly, the persons in charge of business premises are also duty bound to furnish such documents to the audit party deputed by the proper officer or the Chartered Accountant or Cost Accountant, who has been deputed by the Commissioner to carry out special audit under section 66. The following records are covered by this provision and are to be produced, if called for.

(i) the records prepared and maintained by the registered person and declared to the proper officer in the prescribed manner.

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(ii) trial balance or its equivalent.

(iii) statements of annual financial accounts, duly audited.

(iv) cost audit report, if any.

(v) the income-tax audit report, if any.

(vi) any other relevant record.

The powers under section 71 may be contrasted with powers under section 67 to inspect premises. It may be noted that circumstances when each of these sections are applicable are not similar. Section 71 is more general in its scope and extent which predominantly gives access to the place of business of a registered person to inspect books of accounts, documents etc. for carrying out any audit, scrutiny, verification and checks, whereas section 67 is applicable in specific instances and applies to specific persons/places where the Government has reasons to believe that there is an intent to evade taxes.

7. OFFICERS TO ASSIST PROPER OFFICERS [SECTION 72]

Under section 72, the following officers have been empowered and are required to assist CGST officers in the execution of CGST Act. The categories specified are as follows:

i. Police;

ii. Railways

iii. Customs;

iv. Officers of State/UT/ Central Government engaged in collection of GST;

v. Officers of State/UT/ Central Government engaged in collection of land revenue;

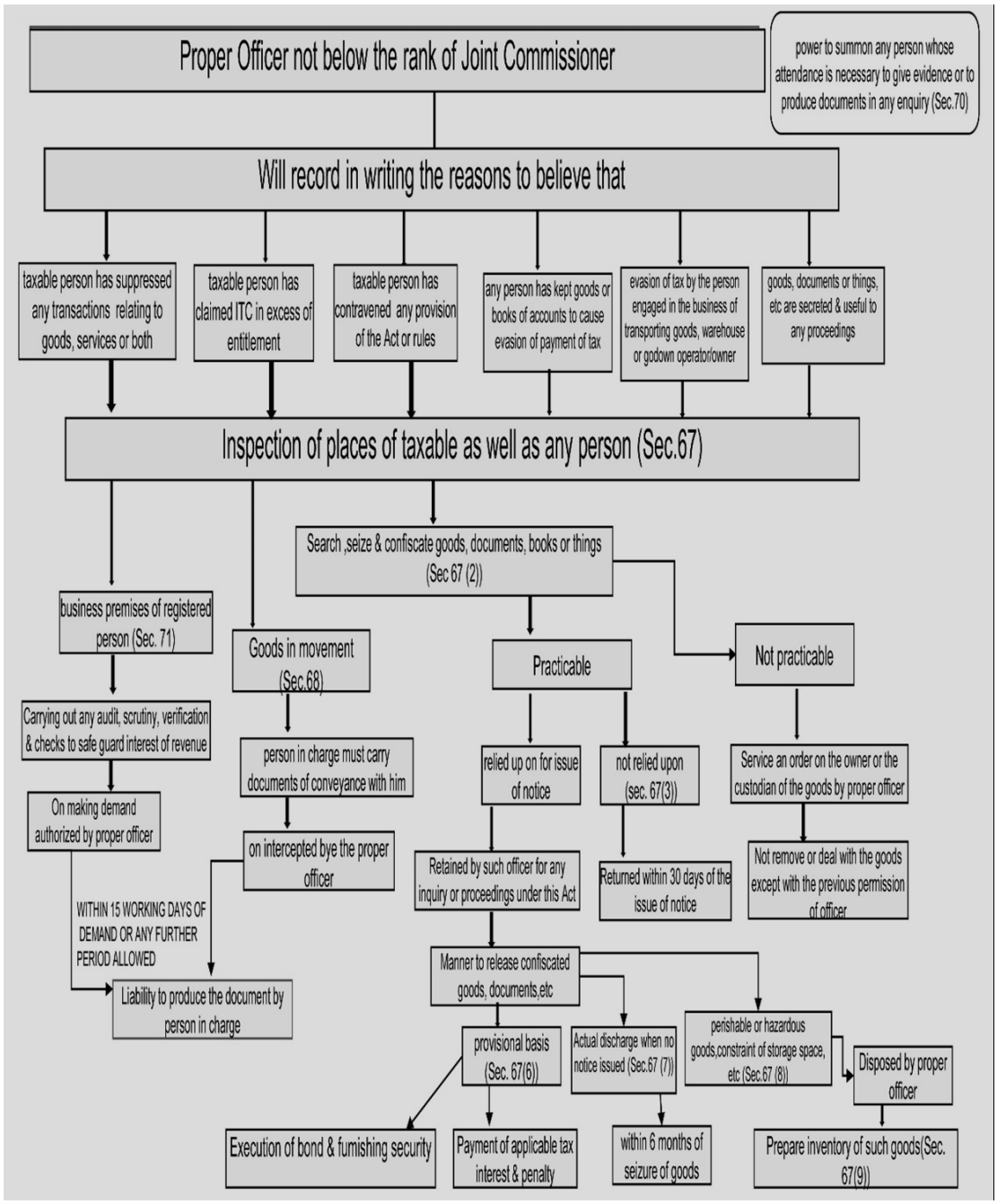
vi. All village officers;

vii. Any other class of officers as may be notified by the Central/State Government.

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LET US RECAPITULATE

Summary of provisions relating to inspection, search and seizure



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TEST YOUR KNOWLEDGE

1. *Explain the situation in which access to business premises is allowed under section 71. Also, list the records which are to be produced during access to business premises.*
2. *Explain the safeguards provided under section 69 to a person who is placed under arrest.*
3. *Who can order for carrying out 'inspection' and under what circumstances?*
4. *Who can order for search and seizure under the provisions of the CGST Act?*
5. *Describe the powers that can be exercised by an officer during a valid search.*
6. *Discuss the responsibilities of the person to whom summons has been issued.*
7. *Explain the meaning of 'arrest'.*
8. *State the circumstances when the proper officer can authorize 'arrest' of any person under the CGST Act.*



ANSWERS

1. The access to any place of business of a registered person is allowed to a proper officer who authorized by an officer of the rank of Joint Commissioner or higher for the purposes of carrying out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue. During such access, the officers can inspect the books of accounts, documents, computers, computer programs, computer software and such other things as may be required.

It is the duty of the persons in charge of such premises to furnish the required documents within fifteen working days from the day when such demand is made. Similarly, the persons in charge of business premises are also duty bound to furnish such documents to the audit party deputed by the proper officer or the Chartered Accountant or Cost Accountant, who has been deputed by the Commissioner to carry out special audit. The following records are covered by this provision and are to be produced, if called for.

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(i) the records prepared and maintained by the registered person and declared to the proper officer in the prescribed manner.

(ii) trial balance or its equivalent.

(iii) statements of annual financial accounts, duly audited.

(iv) cost audit report, if any.

(v) the income-tax audit report, if any.

(vi) any other relevant record.

2. Section 69 provides following safeguards to a person who is placed under arrest:

(a) If a person is arrested for a cognizable offence, he must be informed of the grounds of arrest and be produced before a magistrate within 24 hours.

(b) If a person is arrested for a non-cognizable offence, he shall be admitted to bail or in default of bail, forwarded to the custody of the Magistrate.

(c) All arrest must be in accordance with the provisions of the Code of Criminal Procedure relating to arrest in terms of section 69(3).

3. As per section 67, an inspection can be carried out by an officer of CGST/SGST only upon a written authorization given by an officer of the rank of Joint Commissioner or above. A Joint Commissioner or an officer higher in rank can give such authorization only if he has reasons to believe that the person concerned has done one of the following to evade tax:

i. suppressed any transaction of supply;

ii. suppressed stock of goods in hand;

iii. claimed excess input tax credit;

iv. contravened any provision of the CGST Act to evade tax;

v. a transporter or an owner/operator of a warehouse/godown/any other place 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.

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4. An officer of the rank of Joint Commissioner or above can authorize an officer in writing to carry out search and seize goods, documents, books or things. Such authorization can be given only where the Joint Commissioner/an officer above his rank has reasons to believe that any goods liable to confiscation or any documents or books or things relevant for any proceedings are hidden in any place. The Joint Commissioner/an officer above his rank empowered to authorize any officer to carry out search and seizure can himself also carry out search and seize such goods, documents or books or things.

5. An officer carrying out a search has the power to search for and seize goods (which are liable to confiscation) and documents, books or things (relevant for any proceedings under the CGST Act) from the premises searched. During search, the officer has the power to break open the door of the premises authorized to be searched if access to the same is denied. Similarly, while carrying out search within the premises, he can break open any almirah or box if access to such almirah or box is denied and in which any goods, account, registers or documents are suspected to be concealed. He can also seal the premises if access to it denied. In case where it is not practicable to seize any such goods, the officer can issue an order restricting the owner of the goods to not remove / part / deal with the goods except with his prior permission. The officer can also dispose of goods seized which are specified by the Government in a notification having regard to the nature of such goods.

6. A person who is issued summons is legally bound to attend either in person or by an authorized representative and he is bound to state the truth before the officer who has issued the summons upon any matter which is the subject matter of examination and to produce such documents and other things as may be required.

7. The term 'arrest' has not been defined in the CGST Act. However, as per judicial pronouncements, it denotes 'the taking into custody of a person under some lawful command or authority'. In other words, a person is said to be arrested when he is taken and restrained of his liberty by power or colour of a lawful warrant.

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8. 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 under section 132(1) (a), (b), (c), (d) or section 132(2) and the tax evaded / input tax credit wrongly availed or utilized or refund wrongly taken exceeds ₹ 2 crore. This essentially means that a person can be arrested only where the tax evasion is more than ₹ 2 crore and the offences are specified offences namely, making supply without any invoice; issue of invoice without any supply; amount collected as tax but not paid to the Government beyond a period of 3 months and taking input tax credit without receiving goods and services. 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.

***Note: Although the erstwhile Indian Penal Code, 1860 (IPC) and the Code of Criminal Procedure, 1973 (CrPC) both statutes were repealed and replaced by the Bharatiya Nyaya Sanhita, 2023 (BNS) and the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) respectively with effect from 1st July 2024,* certain provisions, rules and forms under the GST law continue to contain references to the erstwhile IPC and CrPC.**

Accordingly, in this Study Material, references to the provisions of the Indian Penal Code, 1860 (IPC) and the Code of Criminal Procedure, 1973 (CrPC) have been retained wherever they appear in the context of GST law.

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