GSTZONE

Notices, Demands & Recovery

When the department writes to you

The complete guide, plus all 36 sections and rules

Text sourced from the Central Board of Indirect Taxes and Customs

gstzone.com · +91 97554 06939

A Khemchandani Finance initiative

Start here

Most GST notices are not accusations - they are system-generated mismatches. A difference between GSTR-1 and GSTR-3B, or between 3B and 2B, generates a scrutiny notice asking you to explain. Explained properly with a reconciliation, most of them close there.

If it escalates, the route depends on intent. Section 73 covers honest errors, with penalty capped at 10% of tax - and nil if you pay before the notice. Section 74 alleges fraud or suppression, and the penalty starts at 100%. For periods from FY 2024-25 the two have merged into Section 74A, but the fraud distinction still drives the penalty.

The most important early decision is whether the fraud allegation is justified. Contesting classification into Section 74 is often worth far more than arguing the tax itself.

A worked example

The same shortfall, under two different sections

Tax short-paid	**₹5,00,000**	Identical facts either way
Under Section 73 (honest error)	**Penalty ₹50,000, or nil if paid early**	10% cap
Under Section 74 (fraud alleged)	**Penalty ₹5,00,000, reducible to ₹75,000 if paid early**	100% headline

> **The point:** Ten times the penalty for the same rupees of tax. Which section the notice is issued under is often worth more than the tax argument itself - and a bare allegation of fraud is not the same as proving it.

The mistakes that cost people money

- Ignoring a scrutiny notice because the amount looks small. Non-response escalates it to a formal demand computed on the department's assumptions, not yours.
- Paying a demand you disagree with just to make it stop, without checking whether the limitation period had already expired.
- Letting the three-month appeal window pass. Beyond four months, the Appellate Authority has no power to condone the delay at all.

What this guide covers

Section 73	Determination of tax 1 [, pertaining to the period up to Financial Year 2023-24,] not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any willful-misstatement or suppression of facts
Section 74	Determination of tax 2 [, pertaining to the period up to Financial Year 2023-24,] not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any willful- misstatement or suppression of facts
Section 74A	Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason pertaining to Financial Year 2024-25 onward
Section 75	General provisions relating to determination of tax
Section 76	Tax collected but not paid to Government
Section 77	Tax wrongfully collected and paid to Central Government or State Government
Section 78	Initiation of recovery proceedings
Section 79	Recovery of tax
Section 80	Payment of tax and other amount in instalments
Section 81	Transfer of property to be void in certain cases
Section 82	Tax to be first charge on property
Section 83	Provisional attachment to protect revenue in certain cases
Section 84	Continuation and validation of certain recovery proceedings
Rule 142	Notice and order for demand of amounts payable under the Act
Rule 142A	Procedure for recovery of dues under existing laws
Rule 142B	Intimation of certain amounts liable to be recovered under section 79 of the Act
Rule 143	Recovery by deduction from any money owed
Rule 144	Recovery by sale of goods under the control of proper officer
Rule 144A	Recovery of penalty by sale of goods or conveyance detained or seized in transit
Rule 145	Recovery from a third person
Rule 146	Recovery through execution of a decree, etc
Rule 147	Recovery by sale of movable or immovable property
Rule 148	Prohibition against bidding or purchase by officer
Rule 149	Prohibition against sale on holidays
Rule 150	Assistance by police

Rule 151	Attachment of debts and shares, etc
Rule 152	Attachment of property in custody of courts or Public Officer
Rule 153	Attachment of interest in partnership
Rule 154	Disposal of proceeds of sale of goods or conveyance and movable or immovable property
Rule 155	Recovery through land revenue authority
Rule 156	Recovery through court
Rule 157	Recovery from surety
Rule 158	Payment of tax and other amounts in instalments
Rule 159	Provisional attachment of property
Rule 160	Recovery from company in liquidation
Rule 161	Continuation of certain recovery proceedings

Every provision, explained

SECTION 73 · CGST ACT, 2017

Determination of tax 1 [, pertaining to the period up to Financial Year 2023-24,] not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any willful-misstatement or suppression of facts

Section 73 is the notice-and-order route for tax short-paid, unpaid, wrongly refunded or wrong ITC WITHOUT fraud, for periods up to FY2023-24. Penalty is only 10% of tax (or Rs 10,000). If you pay the tax and interest before the notice, no penalty and no notice; if within 30 days of the notice, no penalty. The order must be passed within 3 years of the annual-return due date.

- Limitation: notice at least three months before the order, and the order within three years of the due date of the annual return for that year. A notice issued beyond that is void, and the date to check first in any file.
- Section 128A gives a full waiver of interest and penalty for section 73 demands for FY 2017-18, 2018-19 and 2019-20 if the tax is paid in full and SPL-01 or SPL-02 is filed by the notified date - the procedure is in Rule 164. Check this before contesting an old 73 demand.
- Paying tax with interest before the notice closes the matter with no penalty (73(5) and (6)); paying within thirty days of the notice ends it with no penalty too.
- A 73 notice cannot be converted into a 74 demand at the order stage - the fraud allegation has to be in the notice.

SECTION 74 · CGST ACT, 2017

Determination of tax 2 [, pertaining to the period up to Financial Year 2023-24,] not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any willful- misstatement or suppression of facts

Section 74 is the demand route where tax was evaded BY FRAUD, wilful misstatement or suppression, for periods up to FY2023-24. Penalty equals 100% of tax, reduced to 15% if paid before notice, 25% within 30 days of notice, or 50% within 30 days of the order. Order within 5 years. If fraud is not proved, it is treated as a section 73 demand.

- The extended five-year limitation is available only if fraud, wilful misstatement or suppression is alleged AND made out - a bare assertion in the notice is the standard ground of challenge.
- If the appellate authority or court finds the fraud ingredient absent, section 75(2) requires the demand to be recomputed as a section 73 demand for the normal period - the whole demand does not fall, so plan for that outcome.
- Section 128A relief does NOT extend to section 74 demands, except where a 74 demand is reclassified as a 73 demand under 75(2).
- Reduced penalties: 15 per cent before notice, 25 per cent within thirty days of notice, 50 per cent within thirty days of the order.

SECTION 74A · CGST ACT, 2017

Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason pertaining to Financial Year 2024-25 onward

From FY2024-25 onward, section 74A is the SINGLE common demand section that replaces the separate section 73 (non-fraud) and section 74 (fraud) routes - both are now folded into one section with one common time limit. Key points: (a) No notice if the amount involved in a financial year is below Rs 1,000 (s.74A(1) proviso). (b) One uniform limitation - the notice must be issued within 42 months of the annual-return due date (or 42 months from the erroneous refund) - s.74A(2); the order must be passed within 12 months of the notice (s.74A(7)), extendable once by up to 6 months by a Joint Commissioner or above. (c) Penalty depends on the ground, not the section: 10% of tax (or Rs 10,000, whichever higher) for non-fraud cases and 100% of tax for fraud/wilful-misstatement/suppression - s.74A(5). (d) Reduced-penalty exits survive: non-fraud - nil penalty if paid before notice, or within 60 days of the SCN (s.74A(8)); fraud - 15% if paid before notice, 25% within 60 days of the notice, 50% within 60 days of the order (s.74A(9)). Note the fraud-case window is now 60 days (was 30 days under old s.74). (e) Self-assessed / collected-but-unpaid tax outstanding beyond 30 days of its due date still attracts the 10% penalty even inside the pre-notice-payment window - s.74A(11). Explanation 2 gives a statutory definition of 'suppression' for the whole Act. Sections 73 and 74 continue to govern periods only up to FY2023-24.

- Applies from FY 2024-25 onwards. For earlier years use section 73 or 74 - using the wrong section is itself a ground of challenge.
- The notice window is forty-two months from the annual-return due date; the order window is twelve months from the notice, extendable once by six months by an officer not below Joint Commissioner.
- The pay-and-close windows are sixty days here, not thirty - a genuine improvement on the old sections and easy to miss.
- Explanation 2 puts a statutory definition of suppression into the Act for the first time; read it before conceding the fraud rate of penalty.

SECTION 75 · CGST ACT, 2017

General provisions relating to determination of tax

Section 75 sets the common rules for adjudication: a personal hearing is mandatory whenever an adverse order is contemplated (even without a request) and adjournments are capped at three; the order cannot exceed the amounts or grounds in the show cause notice; stay periods are excluded from limitation; and self-assessed tax (including GSTR-1 liability not paid in GSTR-3B) can be recovered directly under section 79 without a notice.

- A personal hearing is mandatory before any adverse order, whether or not it is asked for - Bharat Mint and Allied Chemicals (Allahabad HC, 04-03-2022). An order passed without one is routinely set aside for that reason alone.
- The order cannot travel beyond the grounds or the amount in the notice; a new ground introduced in the order is fatal to it.
- 75(12): self-assessed tax, including liability shown in GSTR-1 but not paid in GSTR-3B, is recoverable straight under section 79 with no show cause notice - which is why a GSTR-1 versus 3B gap becomes a recovery notice rather than a demand.
- Adjournments are capped at three; the period of any stay is excluded from limitation.

SECTION 76 · CGST ACT, 2017

Tax collected but not paid to Government

Section 76 says anyone who collected an amount 'as tax' from another person must pay it to the government at once, whether or not the underlying supply was actually taxable, along with interest and a penalty equal to the amount. The adjudication order must be passed within one year.

- It bites on anything collected 'as tax', even where the supply was exempt or the rate charged was too high - the amount belongs to the Government, not to the collector.
- Penalty equals the amount collected, and interest runs from the date of collection, so the exposure is roughly double the sum wrongly charged.
- The surrendered amount can be refunded to the person who actually bore it, which is where the unjust-enrichment enquiry comes in.

SECTION 77 · CGST ACT, 2017

Tax wrongfully collected and paid to Central Government or State Government

Section 77 provides relief where tax was paid under the WRONG head - a supply treated as intra-State but held to be inter-State (or vice-versa): the wrongly paid tax is refunded and no interest is charged on the correct tax subsequently paid.

- Read with section 19 of the IGST Act - between them they cover both directions of the wrong-head error.
- No interest is payable on the correct tax paid later, and the wrongly paid tax is refunded; Rule 89(1A) allows the refund application within two years of the date of payment of the CORRECT tax.
- This is the answer to most place-of-supply reclassifications - the exposure is cash-flow, not interest and penalty, provided the error was genuine.

SECTION 78 · CGST ACT, 2017

Initiation of recovery proceedings

Section 78 requires a taxpayer to pay a confirmed demand within THREE MONTHS of the order, failing which recovery proceedings begin (the officer may shorten this period for reasons recorded).

- Three months from service of the order; the officer may require earlier payment only for reasons recorded in writing in the interest of revenue.
- Filing an appeal with the pre-deposit stays recovery of the balance under section 107(7) - file before the three months run out.

SECTION 79 · CGST ACT, 2017

Recovery of tax

Section 79 lists the RECOVERY MODES for unpaid dues - deduction from refunds, garnishee (third-party/bank), sale of goods, distraint of property, recovery as land revenue, or through the district collector.

- Modes: adjustment against refund, detention and sale of goods, garnishee notice in DRC-13 to a bank or debtor, distraint and sale of movable or immovable property, recovery through the district collector as land revenue, and application to a magistrate.
- Self-assessed tax under section 75(12) is recoverable straight under section 79 with no show cause notice - the commonest recovery in practice.
- A garnishee notice to a bank operates immediately; the remedy is to move the officer with proof of payment or stay, not to argue with the bank.
- Recovery from a distinct person of the same PAN in another State is permitted by the 2021 Explanation to section 79.

SECTION 80 · CGST ACT, 2017

Payment of tax and other amount in instalments

Section 80 lets the Commissioner allow payment of dues (other than self-assessed liability) in monthly INSTALMENTS up to 24 months, with interest, subject to conditions.

- Not available for self-assessed liability shown in a return - only for a confirmed demand.
- Up to twenty-four monthly instalments with interest under section 50; default in one instalment makes the entire balance due at once (Rule 158).

SECTION 81 · CGST ACT, 2017

Transfer of property to be void in certain cases

Section 81 makes any TRANSFER of property done to defraud revenue VOID against the tax claim (with protection for bona fide buyers for value without notice).

- A transfer made after the dues became payable, with intent to defraud revenue, is void against the department; a purchaser for value without notice is protected - so due diligence on GST dues before buying an asset matters.

SECTION 82 · CGST ACT, 2017

Tax to be first charge on property

Section 82 makes GST dues a FIRST CHARGE on the person's property, overriding other claims except those specified under the insolvency law.

- The first charge yields to the Insolvency and Bankruptcy Code - once a resolution plan is approved, GST dues not admitted in it are extinguished (the Ghanashyam Mishra line of authority).

SECTION 83 · CGST ACT, 2017

Provisional attachment to protect revenue in certain cases

Section 83 allows PROVISIONAL ATTACHMENT of property (including bank accounts) during specified proceedings to protect revenue; such attachment lapses after one year.

- Radha Krishan Industries (SC, 20-04-2021): the power is draconian, requires an opinion formed on tangible material and recorded in writing, must be proportionate, and the person must be heard on objections under Rule 159(5).
- Attachment lapses automatically after one year; a fresh order needs fresh reasons.
- Objections go in DRC-22A within seven days of the order; release is in DRC-23 on furnishing security equal to the value attached.
- Attachment is available only while specified proceedings (sections 62, 63, 64, 67, 73, 74, 74A) are pending - an attachment made when nothing is pending is without jurisdiction.

SECTION 84 · CGST ACT, 2017

Continuation and validation of certain recovery proceedings

Section 84 provides that where a demand is reduced or enhanced in appeal/revision, the recovery continues for the modified amount without a fresh notice.

- Where a demand is reduced or enhanced in appeal, recovery already commenced continues for the modified amount on an intimation in DRC-25 - the department does not restart.

RULE 142 · CGST RULES, 2017

Notice and order for demand of amounts payable under the Act

The demand machinery: a summary of the notice in DRC-01, an intimation of tax ascertained before notice in DRC-01A (which lets you pay and close the matter), the taxpayer's reply in DRC-06, the summary of the order in DRC-07, and rectification or modification in DRC-08. This is the rule that decides whether a notice was validly served.

- DRC-01A is the pre-notice intimation - paying at that stage closes the matter without penalty under section 73, and at 15 per cent penalty under section 74.
- The summary in DRC-01 is not the show cause notice itself; a summary uploaded without the notice has been held bad by several High Courts.
- Reply in DRC-06; the order summary is DRC-07, which is what feeds the recovery module.

RULE 142A · CGST RULES, 2017

Procedure for recovery of dues under existing laws

A demand created under an earlier law that becomes recoverable under GST is uploaded in DRC-07A and recovered under GST, with modifications shown in DRC-08A.

RULE 142B · CGST RULES, 2017

Intimation of certain amounts liable to be recovered under section 79 of the Act

Where an amount becomes recoverable under section 79 without a notice - for instance a self-assessed liability or a Rule 88C difference - the officer intimates it in DRC-01D and proceeds to recover it.

RULE 143 · CGST RULES, 2017

Recovery by deduction from any money owed

Recovery by deduction: the officer may direct any officer of the department to deduct the amount from money owed to the defaulter, in DRC-09.

RULE 144 · CGST RULES, 2017

Recovery by sale of goods under the control of proper officer

Recovery by sale of goods under the officer's control: notice in DRC-10, auction, sale confirmation in DRC-11 and sale certificate in DRC-12; perishable goods may be sold at once.

RULE 144A · CGST RULES, 2017

Recovery of penalty by sale of goods or conveyance detained or seized in transit

Where the penalty under section 129(1) is not paid within seven days, the detained goods or conveyance are sold or disposed of by auction after a notice in DRC-10, and the proceeds are adjusted; a conveyance is released on payment of the penalty or one lakh rupees, whichever is less.

RULE 145 · CGST RULES, 2017

Recovery from a third person

Third-party recovery: a notice in DRC-13 to a person who owes money to the defaulter - typically the defaulter's bank or customer - and a certificate in DRC-14 once the amount is paid.

RULE 146 · CGST RULES, 2017

Recovery through execution of a decree, etc

Where money is payable to the defaulter under a decree of a civil court, the officer may ask the court to execute the decree and pay the proceeds to the Government.

RULE 147 · CGST RULES, 2017

Recovery by sale of movable or immovable property

Recovery by sale of the defaulter's movable or immovable property: attachment in DRC-16, notice of sale in DRC-17, sale by public auction or tender with a fifteen-day gap, confirmation in DRC-11 and certificate in DRC-12. Property worth no more than the dues may be attached, and the sale is set aside if the dues are paid before it is confirmed.

RULE 148 · CGST RULES, 2017

Prohibition against bidding or purchase by officer

No officer connected with a sale under these rules may bid for or buy the property, directly or indirectly.

RULE 149 · CGST RULES, 2017

Prohibition against sale on holidays

No sale under this chapter may be held on a Sunday, a recognised general holiday, or a day declared a holiday by the Government.

RULE 150 · CGST RULES, 2017

Assistance by police

The proper officer may ask the officer in charge of the jurisdictional police station for assistance, and that officer is bound to give it.

RULE 151 · CGST RULES, 2017

Attachment of debts and shares, etc

Attachment of debts, shares and other movable property not in the defaulter's possession is made by a written order prohibiting the debtor from paying and the defaulter from receiving; a share is attached by prohibiting transfer or receipt of dividend.

RULE 152 · CGST RULES, 2017

Attachment of property in custody of courts or Public Officer

Where the property is in the custody of a court or a public officer, the attachment order is sent to that court or officer, and the claim ranks with the court's own charges.

RULE 153 · CGST RULES, 2017

Attachment of interest in partnership

A defaulter's interest in a partnership is attached by charging his share of profits and, where necessary, by appointing a receiver or directing a sale of that interest.

RULE 154 · CGST RULES, 2017

Disposal of proceeds of sale of goods or conveyance and movable or immovable property

Sale proceeds are applied first to the administrative cost of the sale, then to the dues recovered, then to any other amount owed under the Act or the State Acts, and the balance is returned to the person whose property was sold.

RULE 155 · CGST RULES, 2017

Recovery through land revenue authority

Recovery through the district collector as an arrear of land revenue, on a certificate sent by the proper officer in DRC-18.

RULE 156 · CGST RULES, 2017

Recovery through court

Recovery through a Magistrate, who recovers the amount as if it were a fine imposed by him under the Criminal Procedure Code, on an application in DRC-19.

RULE 157 · CGST RULES, 2017

Recovery from surety

A surety for the defaulter's dues can be proceeded against under this chapter exactly as if he were the defaulter himself.

RULE 158 · CGST RULES, 2017

Payment of tax and other amounts in instalments

Instalments: on an application in DRC-20 the Commissioner may allow payment in monthly instalments over not more than twenty-four months with interest, but not for a self-assessed liability shown in a return; default in one instalment makes the whole balance due at once.

RULE 159 · CGST RULES, 2017

Provisional attachment of property

Provisional attachment under section 83: an order in DRC-22, communicated to the bank or registering authority; the person may object in DRC-22A within seven days and be heard, and the attachment lapses after one year or is released in DRC-23 on furnishing security equal to the value attached.

RULE 160 · CGST RULES, 2017

Recovery from company in liquidation

Where a company is in liquidation, the Commissioner notifies the liquidator in DRC-24 of the amount that will be payable by the company.

RULE 161 · CGST RULES, 2017

Continuation of certain recovery proceedings

Where a demand is reduced or enhanced under section 84, the intimation or notice continuing the recovery is issued in DRC-25 - the recovery already begun does not have to start over.

When you need more than a guide

This document tells you what the law says. It cannot tell you what it means for your specific numbers, your notice, or your year - and that is usually where the money is.

+91 97554 06939 · wa.me/919755406939

GST registration, returns, notices and appeals. 6+ years, 2,500+ registrations filed, Bhopal, serving all of India.

Source and disclaimer. The provisions summarised here are reproduced and explained from the text published by the Central Board of Indirect Taxes and Customs. The explanations and practice notes are GSTZone's own. This is general information, not legal advice on your particular facts, and GST law changes frequently - check the current position at gstzone.com/gst-hub before acting. © 2026 GSTZone, a Khemchandani Finance initiative.