



Dhadda & Co  
CHARTERED ACCOUNTANTS

# DCoD

DCo Digest

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# Newsletter



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Welcome to the latest edition of DCo Digest! This newsletter is our continued effort to simplify the ever-evolving GST landscape by presenting key statutory updates, judicial developments, system changes, and focused articles in a clear, concise, and practical manner.

In this edition, we bring to you a curated set of significant GST developments, including major enhancements on the GST portal that directly impact taxpayers and their compliance. Among the most critical changes are the mandatory acceptance or rejection of Credit Notes through the IMS mechanism, underscoring the importance of accuracy in compliance, the introduction of a fast-track GST registration process, and developments relating to restructuring of higher GST rates and valuation of sin goods.

On the jurisprudential front, one of our articles examines the renewal of provisional attachment by the learned authority without disclosing the underlying basis, while another addresses the long-standing ambiguity surrounding the interpretation of the terms “proceedings” and “same subject matter.” These articles break down the legal framework, practical implications, and common pitfalls, ensuring that readers are better equipped to navigate these developments.

At Dhadda & Co., our endeavour has always been to make complex legal and procedural changes easier to understand and apply in practice. Through this edition, we aim to equip you with insights that are not only informative but also actionable.

# Preface



## ITC Reversal against CN issued under Section 15(3)(b)(ii)

### Circular No. 253/10/2025 – GST

Section 15 of the CGST Act, 2017 lays down the provisions for determining the value of taxable supply. Under Section 15(3), discounts are excluded from the value of supply subject to specified conditions.

As per Section 15(3)(b)(ii), any post-supply discount can be excluded only where the recipient has reversed the proportionate ITC attributable to such discount, on the basis of the documents issued by the supplier.

CBIC had earlier issued Circular No. 212/6/2024-GST dated 26 June 2024, prescribing a mechanism for suppliers to obtain evidence of ITC reversal. The circular required suppliers to procure a CA/CMA certificate (or a declaration from the recipient) confirming the requisite ITC reversal against credit notes issued.

Though, the Circular No. 253/10/2025 now withdraws the above compliance mechanism, the same shall be ensured through IMS where the recipient has the option to either accept or reject the Credit Note. Acceptance by the recipient shall be considered as reversal of ITC.

## Simplified GST Registration

### Insertion of New Rule 14A vide - NN 18/2025 – CT dated 31-10-2025

Rule 14A of the CGST Rules, 2017 provides an optional, fast-track electronic registration mechanism for small taxpayers whose monthly output tax liability on supplies made to registered persons does not exceed ₹2.5 lakh (including CGST, SGST/UTGST, IGST and Compensation Cess). This option is available only to applicants who opt for Aadhaar authentication, and registration is granted electronically within three working days upon successful authentication. A person registered under this rule cannot obtain another registration in the same State/UT under the same PAN.

The rule also lays down a structured withdrawal mechanism from this option. A registered person may withdraw by filing FORM GST REG-32, subject to furnishing prescribed returns and provided no cancellation proceedings are pending.

Any change in registration particulars must be updated before withdrawal. Withdrawal applications are subject to risk-based Aadhaar or biometric verification, scrutiny by the proper officer, and approval or rejection through FORM GST REG-33 or REG-05. Once withdrawal is approved, the taxpayer can exceed the specified output tax liability limit only from the first day of the succeeding month, ensuring controlled transition to the regular registration framework.

## Higher GST Rates and Valuation of Sin Goods

The Government has issued three inter-linked GST notifications, NN. 19/2025-CT(R), NN19/2025-CT, and NN 20/2025 CT to comprehensively revise the GST rate structure and valuation mechanism for pan masala, tobacco, and specified nicotine products.

### GST Rate Revision - NN. 19/2025 – CT (R)

GST rates have been restructured with effect from 1 February 2026 as under:

Product Category	GST Rate
Pan masala	40%
Unmanufactured tobacco & tobacco refuse (other than leaves)	40%
Cigars, cheroots, cigarillos & cigarettes	40%
Other manufactured tobacco & substitutes (excluding biris)	40%
Heated tobacco / nicotine inhalation products	40%
Biris	18%

### RSP-Based Valuation - NN 19/2025 – Central Tax

The value of supply for the above goods shall be the maximum Retail Sale Price (RSP) declared on the package, inclusive of all taxes, duties, cess, and surcharges where:

- If multiple RSPs are declared, the highest RSP applies.
- If RSP is altered, the altered RSP is to be adopted.
- Where RSP varies by area, the area-specific RSP applies.

### Valuation Formula Prescribed in CGST Rules - NN. 20/2025 – CT

The notification inserts Rule 31D in the CGST Rules, 2017. As per Rule 31D, where tax is payable on the basis of RSP, the taxable value shall be determined using the following formula:

$$\text{Taxable Value} = \text{RSP} \times 100 / (100 + \text{applicable GST rate})$$

This rule also amends Rule 86B, granting relaxation from minimum cash payment requirements to certain non-manufacturer registered persons dealing exclusively in such RSP-based taxed goods.

Compiled by CA Shreyansh Jain

# Judicial Pronouncements

## **Raghuvansh Agro Farms Ltd. vs. State of U.P. [Writ Tax No. 3829 of 2025 order dated 17/12/2025 - HIGH COURT OF ALLAHABAD**

### **Issue Involved:**

1. Whether proceedings under Section 74 can be sustained without specific allegation and proof of fraud, wilful misstatement or suppression of facts?
2. Whether State GST authorities had jurisdiction to initiate proceedings against an assessee falling under Central GST jurisdiction without any cross-empowerment notification?
3. Whether ITC can be denied merely on allegation of circular trading despite documentary evidence available with the taxpayer?
4. Whether non-production of toll plaza receipts can justify adverse inference on movement of goods?

### **Facts of case:**

The M/s Raghuvansh Agro Farms Ltd. (herein after referred as "Petitioner") is the business of supply of agricultural goods and areca nuts. engaged in the supply of agricultural goods and areca nuts, was issued a notice under Section 74 of the UPGST Act based on a survey alleging circular trading.

The Petitioner submitted a detailed reply along with invoices, e-way bills, ledgers, and bank records showing genuineness transactions, however, without granting a personal hearing, the State GST officer passed an order confirming tax, interest, and penalty.

Being aggrieved by the said order, the Petitioner filed an appeal, which has also been dismissed. Aggrieved by the order, the petitioner approached the Allahabad High Court.

### **Submissions of the parties:**

It is contended by the petitioner that:

- It falls under the jurisdiction of the Central GST and not the State GST authority. Further, there was no cross-empowerment notification authorizing State officers to proceed under Section 74.
- Proceedings under Section 74 were invalid as there was no finding of fraud or suppression during the proceedings.
- All transactions were genuine as supported by tax invoices, e-way bills, and banking records and also duly reflected in GSTR-1, 2A, and 3B.
- Proceedings against one of the suppliers (M/s Sibri Traders) had already been set aside by CGST authorities.
- There is no provision under the GST Act requiring toll plaza receipts as proof of movement of goods, hence the authorities were not justified in drawing any adverse inference on this basis.

It is submitted by Respondent that the petitioner engaged in circular trading and failed to produce toll plaza receipts or weighbridge slips to prove actual movement of goods and placed his reliance on the judgement passed by Supreme Court in case of ***State of Karnataka v. Ecom Gill Coffee Trading (P.) Ltd. (2023) SCC online SC 248.***

### **Analysis and Findings by Court:**

It was observed by Court that neither the show cause notice nor the assessment order recorded any finding of fraud, wilful misstatement or suppression supported by evidence. Further, that the petitioner was under Central GST jurisdiction and no cross-empowerment notification (except for refund under Section 54) was produced by the State.

In view of above, it was held by Court that in absence of such empowerment, initiation of proceedings by State GST authorities was held to be without jurisdiction. Further, as neither show cause notice nor the assessment order recorded any finding of fraud, wilful misstatement or suppression supported by evidence, hence, the entire proceedings stood vitiated.

The Court recorded that all transactions done by the Petitioner were genuine as supported by tax invoices, e-way bills, and banking records and also duly reflected in GSTR-1, 2A, and 3B, therefore held that authorities were not justified in drawing adverse inference.

Further, the Court rejected the revenue’s reliance on non-production of toll receipts and held “The revenue has failed to bring on record any provision or rule under the GST Act... which compel the assessee to file toll plaza receipts.” and thus distinguish the case of ***Ecom Gill Coffee Trading Pvt Ltd*** by noting that in present case actual movement of goods and return compliance stood established.

### **DCOExperts**

- This ruling reinforces judicial consistency in requiring strict compliance with Section 74 of the GST Act.
- It emphasizes that jurisdictional boundaries between Central and State GST authorities must be respected, and fraud-based provisions cannot be used arbitrarily.
- The Court’s stance upholds taxpayers’ rights to procedural fairness, bona fide conduct, and protection from harassment through baseless allegations of circular trading.



# Expert's Insight 1



## Interpreting Section 6(2)(b) of the CGST Act

The Supreme Court's Landmark Ruling in *M/s Armour Security (India) Ltd. v. Commissioner, CGST, Delhi East Commissionerate*

### Introduction

In a landmark judgment dated **August 14, 2025**, the **Supreme Court of India** in *M/s Armour Security (India) Ltd. v. Commissioner, CGST, Delhi East Commissionerate & Anr.* [SLP (C) No. 6092 of 2025] delivered crucial clarity on the interpretation of **Section 6(2)(b)** of the **Central Goods and Services Tax Act, 2017** ("CGST Act").

The judgment brings long-awaited clarity on two key aspects that have often led to litigation and confusion –

- what constitutes "**initiation of proceedings**", and
- what qualifies as the "**same subject matter**" under the GST law.

The ruling effectively delineates the boundary between inquiry/investigation and adjudicatory proceedings, and provides a structured framework to prevent overlapping actions by Central and State GST authorities. By upholding the Delhi High Court's decision, the Supreme Court reaffirmed that **summons and investigations do not amount to initiation of proceedings**, and therefore do not violate Section 6(2)(b).

### Factual Background

The petitioner, *M/s Armour Security (India) Ltd.* (herein after referred as "the Petitioner"), a public limited company engaged in providing security services and registered under the Delhi GST, faced proceedings from both State and Central authorities.

#### 1. Initial Show Cause Notice (SCN) - State GST Proceedings:

**FIRST**, the State GST department issued a Show Cause Notice (SCN) under Section 73 of the CGST Act on November 18, 2024, alleging discrepancies in turnover reconciliation, Mismatch in e-way bill data and excess Input Tax Credit (ITC) claims for FY 2020–21.

#### 2. Search and Summons - Central Authorities:

**SECOND**, shortly thereafter, on January 16, 2025, the Central GST authorities conducted a search under Section 67(2) and issued summons under Section 70 to four company directors, requiring them to produce documents. Another summons was issued on January 23, 2025, to a director for production of documents.

### 3. **Petitioner’s Objection:**

Aggrieved by the summons issued by Central Authorities, the petitioner filed a writ petition before the High Court of Delhi by contending that once the State authority had initiated proceedings through an SCN, the Central authority was barred under Section 6(2)(b) from undertaking any parallel proceedings on the same subject matter.

### **Findings of The Delhi High Court**

The Delhi High Court, in its order, dismissed the writ petition and refused to quash the summons issued by the Central authorities. The Court made several significant observations, which became the foundation for the Supreme Court’s later reasoning. The High Court held that:

#### 1. **Summons Are Not Proceedings**

- The Court held that the expression “any proceedings” in Section 6(2)(b) does not include a search or summons.
- Summons issued under Section 70 or search operations under Section 67 are preliminary investigative steps, not formal adjudicatory actions.

Hence, such actions cannot be treated as “initiation of proceedings” for the purposes of Section 6(2)(b).

#### 2. **Distinction Between Inquiry and Proceedings**

The High Court distinguished between:

- Inquiry/Investigation: intended to collect evidence or information; and
- Proceedings: adjudicatory actions triggered by the issuance of a show cause notice (SCN) under Sections 73 or 74.

Thus, Section 6(2)(b) primarily aims to prevent parallel assessment or adjudication, particularly those under Sections 73 and 74 of the CGST Act, not to restrict legitimate inquiries. At the summons stage, authorities are merely gathering information, and the specific course of action is not yet determined.

### 3. **Contextual Interpretation of “Same Subject Matter”**

The Court observed that the term “same subject matter” cannot be interpreted broadly to include every inquiry involving similar issues. Only when two authorities seek to determine or recover identical tax liabilities, then only bar under Section 6(2)(b) apply.

#### 4. **Distinction from Vivek Narsaria v. State of Jharkhand**

- The petitioner had relied on *Vivek Narsaria v. State of Jharkhand*, where the High Court had restrained parallel inquiries.
- However, the High Court distinguished the case, by noting that the search in the present case occurred subsequent to the pending proceedings and was not related to prior assessments.

### **Issues before The Supreme Court**

The Supreme Court was called upon to decide:

- (a) Whether issuance of summons under Section 70 constitutes “initiation of proceedings” under Section 6(2)(b)? and
- (b) Whether the summons issued by the Central authority concerned the “same subject matter” as the SCN issued by the State authority?

### **Petitioner’s submissions before The Supreme Court**

The Petitioner key arguments that:

- Section 6(2)(b) expressly prohibits parallel proceedings on the same subject matter by State and Central GST authorities.
- The summons from CGST authorities were barred since an SCN on the same issue had already been issued by the State GST.
- The High Court narrowly interpreted Section 6(2)(b) by restricting the proceedings under Sections 73 and 74, by arguing that the statutory bar also apply to summons issued under Section 70.

- Common GST portal reflects complete records and status of all proceedings initiated by either the State or Central GST authorities, making both authorities aware of ongoing matters.
- The GST regime is founded on cooperative federalism, requiring one authority to aid proceedings initiated by the other, rather than conducting parallel investigations.
- Reliance was placed on Circular bearing No CBEC/20/43/01/2017-GST dated October 5, 2018, emphasizing harmonious exercise of powers.
- The CGST Act is a Special Statute and a self-contained code and Section 6(2)(b) should be interpreted literally, which clearly envisages a bar on the initiation of any proceedings by a proper officer under the CGST Act on the same subject matter where proceedings have already been initiated by a proper officer under the SGST Act.

### Supreme Court's analysis:

#### (A) Whether issuance of summons can be regarded as "initiation of proceedings" within the meaning of Section 6(2)(b) of the CGST Act?

The Supreme Court endorsed the Delhi High Court's reasoning and categorically held that:

- A search under Section 67(2) or issuance of summons is a preparatory act, not an adjudicatory one. Summons under Section 70 are merely steps in an inquiry or investigation to collect information and such actions do not amount to initiation of proceedings under Section 6(2)(b). (This interpretation aligns with earlier High Court rulings such as *G.K. Trading v. Union of India (Allahabad HC)* and *K.T. Saidalavi v. State Tax Officer (Kerala HC)*).
- The "initiation of proceedings" refers to formal adjudicatory action—specifically the issuance of a show cause notice under Sections 73 or 74. A SCN is a mandatory precondition for raising a demand and marks the commencement of quasi-judicial adjudication.

Until an SCN is issued, the Department retains the discretion not to initiate proceedings.

#### (B) Whether "subject matter" within the meaning of Section 6(2)(b) of the CGST Act includes all matters dealt with in summons under the Act?

The Court clarified the term "subject matter" under Section 6(2)(b):

- **"Subject matter"** is intrinsically tied to the determination of the specific violation as articulated in the show cause notice through its charges, grounds, and quantification of demand. It refers to the alleged offence or non-compliance, together with the relief or demand sought by the Revenue.
- The statutory bar under Section 6(2)(b) is triggered only when the two proceedings seek to assess or recover an identical or overlapping liability. Where the proceedings concern distinct infractions, the bar is not attracted and each Department is entitled to proceed within its respective statutory remit without infringing the prohibition.
- **Twofold Test to determine whether a subject matter is "same":**

**FIRST**, if an authority has already proceeded on an identical liability of tax or alleged offence by the assessee on the same facts.

**SECOND**, the demand or relief sought is identical.

In the present case, the summons alone could not reveal the subject matter, it could only be ascertained from the SCN, which is not issued by the Central Authorities.

#### (C) (A) What is the purport of an "Order" under Section 6(2)(a) of the CGST Act?

Section 6(2)(a) mandates that if a proper officer issues an order under the CGST Act, they must also issue a corresponding order under the SGST or UTGST Act, with intimation to the jurisdictional officer. This provision serves a twofold purpose:

- **FIRSTLY**, to insulate taxpayers from the prospect of being proceeded against by more than one authority for the same subject matter
- Secondly, to vest in the officers functioning under the CGST Act, the SGST Act, or the UTGST Act, to render a comprehensive order, thereby avoiding multiplicity of proceedings.

### **Supreme Court's conclusion:**

- Section 6(2)(b) bars the "initiation of any proceedings" on the "same subject matter".
- Any action arising from the audit of accounts or detailed scrutiny of returns must be initiated by the assigned tax administration.
- Intelligence based enforcement action can be initiated by either Central or the State tax administrations despite the taxpayer having been assigned to the other administration.
- Parallel proceedings should not be initiated by another tax administration once one has already initiated intelligence-based enforcement action.
- All actions that are initiated as a measure for probing an inquiry or gathering of evidence or information do not constitute "proceedings" within the meaning of Section 6(2)(b) of the CGST Act.
- The expression "initiation of any proceedings" in Section 6(2)(b) refers to the formal commencement of adjudicatory proceedings by way of issuance of a show cause notice, not by issuance of summons, search, or seizure etc.
- The expression "subject matter" refers to any tax liability, deficiency, or obligation arising from any particular contravention which the Department seeks to assess or recover.
- The bar under Section 6(2)(b) is attracted where two proceedings seek to assess or recover an identical or partially overlapping tax liability.

- Where the proceedings concern distinct infractions with similar tax liability, deficiency, or obligation, the same would not constitute a "same subject matter" and the bar under Section 6(2)(b) would not be attracted.
- The twofold test for "Same subject matter" involves **FIRSTLY**, the identical tax liability or offence on the same facts, and **SECONDLY**, the demand or relief sought is identical.

### **Guidelines issued by the supreme court for authorities and taxpayers:**

To prevent duplication and to protect taxpayers, the Court issued comprehensive operational guidelines:

- **Compliance with Summons:** An assessee must comply with summons, as mere issuance of summons does not constitute proceedings.
- **Assessee's Duty:** Where an assessee becomes aware that the subject matter of an inquiry or investigation initiated by one authority is already under inquiry or investigation by another authority, it is incumbent upon the assessee to promptly inform the authority initiating the new action, in writing, about the existence of such ongoing proceedings on the same or similar issues.
- **Inter-Authority Communication:** Upon receiving such intimation, tax authorities shall communicate with each other to verify the claim and avoid duplication.
- **Intimation to Assessee regarding Distinct Subject Matters:** If the claim of overlap of enquiries is found untenable and the investigations of the two authorities pertain to different "subject matters", an intimation with reasons and distinct subject matters shall be conveyed to the taxpayer immediately.
- **Quashing of Overlapping SCNs:** Any show cause notice issued in respect of a liability already covered by an existing SCN shall be quashed.

- **Who will Continue:** If the Central or the State tax authority, finds that the matter being inquired into or investigated by it is already the subject of inquiry or investigation by another authority, both authorities shall decide inter-se which authority will continue with the inquiry or investigation, with the other forwarding all relevant material. The taxpayer cannot choose which authority proceeds.
- **Determination of Competent Authority:** Where the authorities are unable to reach a decision as to which of them shall continue, then the one which first initiated the inquiry will continue, and the other shall transfer all material to that authority.
- **Right to Judicial Remedy:** In case of non-compliance with aforesaid guidelines, the taxpayers may file a Writ Petition before High Courts under Article 226.
- **Cooperation by Taxpayer:** The Court emphasized that taxpayers must cooperate with the authorities during investigations and not use Section 6(2)(b) as a shield to evade legitimate inquiries.

### Suggestion on Administrative Coordination

The Supreme Court also highlighted the need for systemic reform.

1. **Need for Coordination:** The Court emphasized that Central and State tax authorities must act in harmony, ensuring proper coordination in handling intelligence inputs and investigations.
2. **Objective:** Such coordination is vital to fulfil the legislative intent of the GST regime, which is based on the principle of “one nation, one tax” and cooperative federalism.

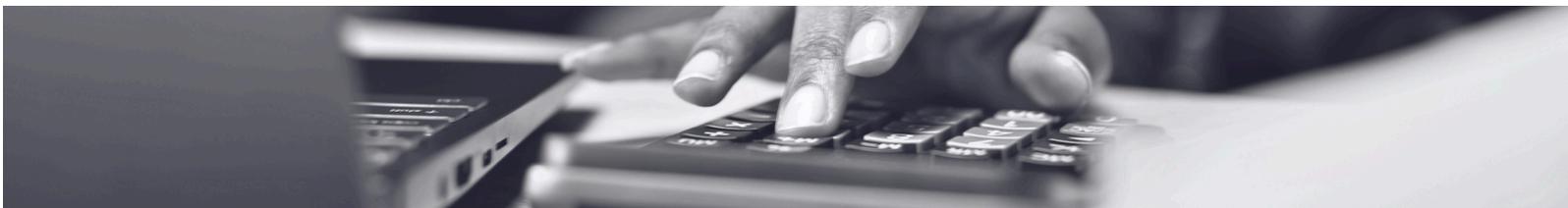
3. **Avoiding Hardship to Taxpayers:** Effective inter-departmental communication would prevent unnecessary hardship to taxpayers arising from overlapping or duplicate proceedings by different authorities.
4. **Direction to DGGI:** The Directorate General of GST Intelligence (DGGI) has been advised to develop a robust mechanism for seamless data and intelligence sharing between Central and State GST authorities.
5. **Real-Time Data Visibility:** The Court suggested that both authorities should have real-time visibility of actions initiated on the basis of intelligence inputs, to ensure transparency and coordination.

### Significance of The Judgment

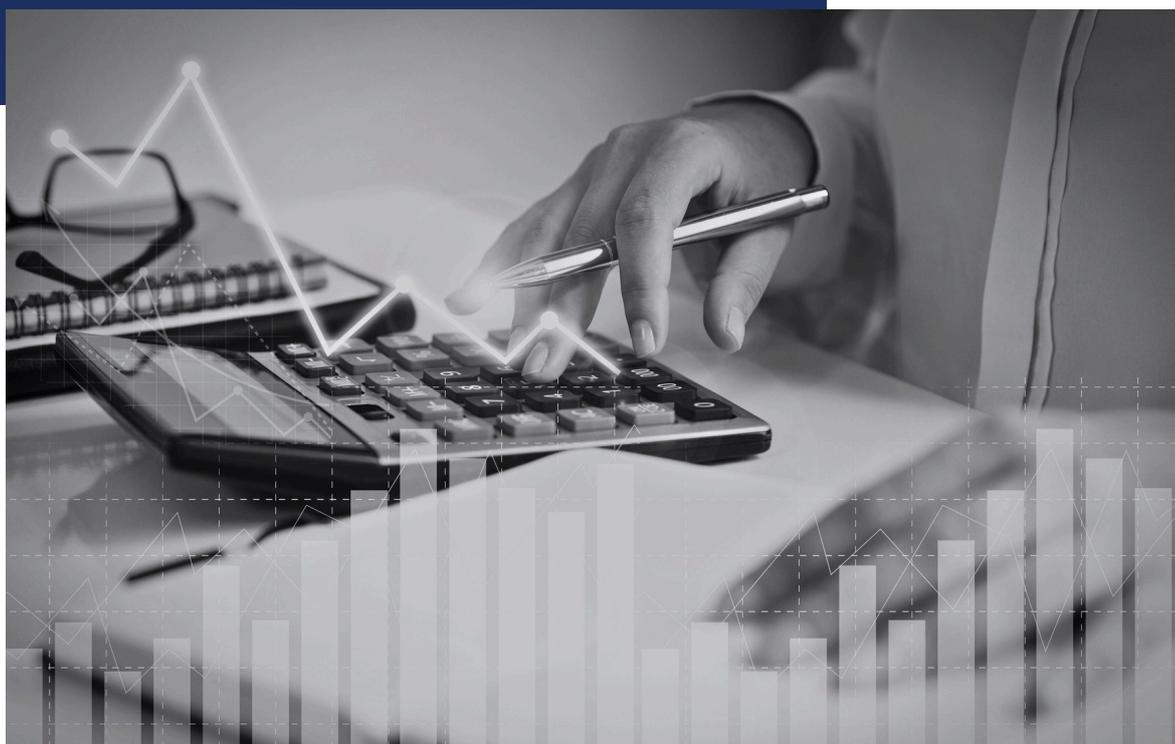
The Armour Security decision is of landmark significance for several reasons:

- It settles the long-standing ambiguity on the meaning of “proceedings” and “same subject matter.”
- It reaffirms that summons and investigations are permissible across jurisdictions without violating Section 6(2)(b).
- The ruling ensures that taxpayers are not subjected to duplicative investigations, while preserving the authorities’ ability to conduct legitimate intelligence-based inquiries.
- It strengthens cooperative federalism by emphasizing coordination over conflict between Central and State authorities.

Written by CA Divya Gupta



# Expert's Insight 2



## Provisional Attachment under GST Renewal After One Year is Valid or Not?

### **Background of Section 83 of the Central Goods and Services Tax Act, 2017- Provisional attachment to protect revenue in certain cases.**

Section 83 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”) empowers the Commissioner to provisionally attach the property, including bank accounts, of a taxable person to protect the interest of revenue during the pendency of certain proceedings under the Act. This is an extraordinary power intended to safeguard government revenue in cases where there is a likelihood of tax evasion or non-recovery. However, being a drastic measure that affects a person’s right to carry on business, its invocation is subject to strict conditions and procedural safeguards.

### **Amendment to Section 83 of the CGST Act**

The Finance Act, 2021, brought significant changes to Section 83 of the CGST Act. Earlier, the power of provisional attachment was confined to proceedings under Sections 62, 63, 64, 67, 73, or 74. Post-amendment, the scope has been expanded to include any proceedings under Chapter XII (Assessment), Chapter XIV (Inspection, Search, Seizure, and Arrest), or Chapter XV (Demands and Recovery). Additionally, the amendment clarified that such attachment may be made against not only the taxable person but also any person specified in Section 122(1A) who retains the benefit of the transaction. The period of validity for such attachment continues to be one year from the date of the order.

The relevant provision reads as under:

“Section 83- Provisional attachment to protect revenue in certain cases.

(1) Where, after the initiation of any proceeding under Chapter XII, Chapter XIV or Chapter XV, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue it is necessary so to do, he may, by order in writing, attach provisionally, any property, including bank account, belonging to the taxable person or any person specified in sub-section (1A) of section 122, in such manner as may be prescribed.

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order made under sub-section (1).”

### **Comparative Legislative Design – Excise, Customs, and GST**

To better understand the legislative intent underlying Section 83 of the CGST Act, it is useful to compare it with analogous provisions under earlier indirect tax laws. Both the Central Excise Act (Section 11DDA) and the Customs Act (Section 28BA) expressly provide that:

Provisional attachment shall remain valid for a minimum period of six months from the date of the order; and

Such attachment may be extended by the Chief Commissioner / Principal Chief Commissioner, for reasons to be recorded in writing, but in any case, the total period cannot exceed two years.

This framework strikes a balance between protecting revenue interests and ensuring taxpayer safeguards, as it prescribes both a minimum validity and a maximum ceiling.

In contrast, Section 83 of the CGST Act is drafted differently. It categorically provides that a provisional attachment order ceases to have effect upon the expiry of one year from the date of the order—without any scope for renewal or extension.

Thus, while the Excise and Customs laws limited the life of a provisional attachment between six months and two years, the CGST Act mandates automatic lapse after one year, creating a materially different and potentially more restrictive framework under GST as compared to the earlier indirect tax enactments.

In this background, it is imperative to discuss the Supreme Court judgment in the case of **Radha Krishan Industries vs. State of Himachal Pradesh**<sup>[1]</sup>. In this case, the Hon’ble Supreme Court held that as follows:

“(iv) The power to order a provisional attachment of the property of the taxable person including a bank account is draconian in nature and the conditions which are prescribed by the statute for a valid exercise of the power must be strictly fulfilled;

(v) The exercise of the power for ordering a provisional attachment must be preceded by the formation of an opinion by the Commissioner that it is necessary so to do for the purpose of protecting the interest of the government revenue. Before ordering a provisional attachment the Commissioner must form an opinion on the basis of tangible material that the assessee is likely to defeat the demand, if any, and that therefore, it is necessary so to do for the purpose of protecting the interest of the government revenue.

(vi) The expression "necessary so to do for protecting the government revenue" implicates that the interests of the government revenue cannot be protected without ordering a provisional attachment;

(vii) The formation of an opinion by the Commissioner under section 83(1) must be based on tangible material bearing on the necessity of ordering a provisional attachment for the purpose of protecting the interest of the government revenue; Section 83 of the Central Goods and Services Tax Act, 2017 (CGST Act) provides the Commissioner with a measure of Provisional attachment to protect revenue in certain cases.”

[1] [2021] 127 taxmann.com 26 (SC).

**In this background, two crucial questions arise: first, whether an attachment that has lapsed after the expiry of one year can be renewed by the authorities; and second, whether a fresh attachment can be issued in the absence of any change in circumstances.**

### **Is Renewal of Provisional Attachment under Section 83 of the CGST Act Valid?**

Section 83 of the CGST Act does not provide any provision for the renewal of a provisional attachment. The language of the law is unambiguous; it clearly states that upon the expiry of one year, the provisional attachment shall cease to have effect. The legislative intent is evident: such attachment is meant to be temporary and must be released after one year. Allowing renewal would directly conflict with Section 83(2) of the CGST Act. Therefore, any attempt to renew the attachment beyond the prescribed period would be invalid and contrary to the provisions of law. Furthermore, what cannot be done directly under the law cannot be done indirectly either.

In this light, it is imperative to discuss the Supreme Court ruling in the case of **Kesari Nandan Mobile v. Office of Assistant Commissioner of State Tax**<sup>[2]</sup>, concerning the provisional attachment of property. The Court held that the renewal of a provisional attachment order after its mandated one-year expiry under Section 83(2) of the CGST Act, is invalid because the Act contains no statutory provision or legislative intent permitting such renewal. By reversing a **Gujarat High Court decision**<sup>[3]</sup>, the Supreme Court affirmed that provisional attachment is a draconian power intended only as a temporary measure to protect revenue, and allowing its perpetual renewal would render the one-year limitation in the statute meaningless.

The court observed that it is an interpretive doctrine that a legal text, especially a statute, should be interpreted in a way that gives the document force rather than makes it fail. Conceding power to the revenue to issue a fresh provisional order of attachment after the initial order has lapsed by operation of law or to renew the same would render the text of sub-section (2) of Section 83 of the CGST Act otiose. Consequently, the Court ordered that the appellant's bank accounts, which were re-attached under the guise of "renewal," must be unfrozen forthwith.

Further, it is pertinent to see the judgment of **RHC Global Exports (P.) Ltd. vs. Union of India**<sup>[4]</sup> passed by Hon'ble Supreme Court, wherein, Hon'ble Court is of the view that there is no provision or jurisdiction with department to once again attach an account after expiry of attachment period under Section 83 of the CGST Act.

### **Is a Fresh Provisional Attachment under Section 83 of the CGST Act Valid?**

The second issue that requires deliberation is whether a fresh provisional attachment can be made under Section 83 of the CGST Act. Two possible situations may arise. The first is where there is a change in facts or circumstances, for instance, when new information comes to light or the Commissioner, based on fresh material, forms an opinion that such attachment is necessary to protect the interest of revenue. In such cases, a fresh provisional attachment may be valid, provided it is supported by new circumstances and independent reasons. The entire procedure must be initiated afresh, and the attachment should not rely on earlier records or grounds.

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[2] [2025] 177 taxmann.com 481 (SC).

[3] Kesari Nandan Mobile v. Assistant Commissioner of State Tax (2) Enforcement [2025] 171 taxmann.com 774(Gujarat).

[4] [2024] 166 taxmann.com 730 (SC).

However, where there is no change in circumstances and the department merely issues a fresh order in the guise of renewal, such action would be invalid, as it effectively amounts to extending the earlier attachment beyond the statutory period, which the law does not permit. In this regard, the Hon'ble Supreme Court in ***Kesari Nandan Mobile v. Office of Assistant Commissioner of State Tax*** held that fresh issuance of a provisional attachment order premised on substantially the same grounds as the earlier one would be in disregard to the safeguard provided in Section 83(2) of the CGST Act. The age-old principle that an act which cannot be done directly cannot be done indirectly would apply in its entirety.

### **Conclusion**

In conclusion, since Section 83 of the CGST Act confers a drastic and far-reaching power, the provision itself emphasizes the need to maintain a delicate balance between protecting the interests of the Revenue and ensuring that the assessee's ability to carry on business is not unduly hampered. However, in practice, it is often observed that the department invokes this power arbitrarily, without adhering to this balance. The recent judgment of the Hon'ble Supreme Court has once again reaffirmed that such powers must be exercised reasonably, strictly within the limits of the statute, and not in an excessive or mechanical manner. The Court has categorically held that renewal of a provisional attachment is not permissible under law and is therefore invalid. Nonetheless, a fresh provisional attachment may be allowed, but only where there is a substantial and demonstrable change in circumstances justifying such action.

Written by Advocate Safal Sethi and  
 Sneha Mishra, Article Assistant



## **Furnishing of Bank Account Details as per Rule 10A**

As per Rule 10A, taxpayers (except those registered under TCS, TDS, or suo-moto registrations) must furnish their bank account details within 30 days of grant of registration or before filing details of outward supplies in GSTR-1 or IFF, whichever is earlier.

Therefore, the taxpayers who have not yet furnished the bank account details till date are advised to update the same at the earliest to avoid suspension of their GST Registration and disruption of business activities.

## **Introduction of Import of Goods details in IMS**

The Invoice Management System (IMS) was introduced on the GST portal from the October 2024 tax period. To further enhance the taxpayer convenience, a new section for "Import of Goods" has been introduced in IMS wherein the Bill of Entry (BoE) filed by the taxpayer for import of goods including import from SEZ, will be made available in the IMS for taking allowed action on individual BoE. This functionality is available from Oct-2025 period onwards.

## **Invoice-wise Reporting Functionality in Form GSTR-7**

Vide notification No. 09/2025 Central Tax dated 11-02-2025, Form GSTR-7 has been amended to enable capture of invoice-wise reporting of tax deducted at source (TDS) from September 2025 tax period.

## **New Changes in Invoice Management System (IMS)**

**Pending action for specified records:** Taxpayers can keep specified records pending for a limited time period. For monthly taxpayers, this period is one tax period (months), for quarterly taxpayers also it is one tax period (quarter) only. The specified records which can be kept pending in the system are mentioned below

- a. Credit notes, or upward amendment of Credit note
- b. Downward amendment of CN where original CN rejected
- c. Downward amendment of Invoice / DN only where original Invoice already accepted and 3B has been filed
- d. ECO-Document downward amendment only where original accepted, and 3B has been filed

It is clarified that, in cases where the recipient has not availed Input Tax Credit (ITC) in respect of the relevant invoice or document, no reversal of ITC shall be warranted. Further, in cases where ITC has been availed only partially, the obligation to reverse ITC shall be limited to the extent of such availment.

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# Thank You