

# RECOVERY OF TAX UNDER GST

*- Indirect Taxes Committee*

*The Institute of Chartered Accountants of India*

# Chapter XVII - Demand & Recovery



Section 66 to 70 - Demand

Section 71 to 78 - Recovery

Same provisions suggested - both for CGST & SGST

More elaborate & rigorous - Compared to present IDT

# Sec. 72: Recovery of Tax

## Modes to recover when amt payable to CG/SG - Not paid

Deduction from any money owed by defaulter

Detaining & Selling any goods belonging to him

Distrain & detain any movable/imm. Property

Recover as land revenue arrears by collector on certificate by P.O.

Recovery from any other person who owes money to defaulter

Recover by magistrate as fine imposed

# Recovery from any other person who owes money to defaulter

## Applies when

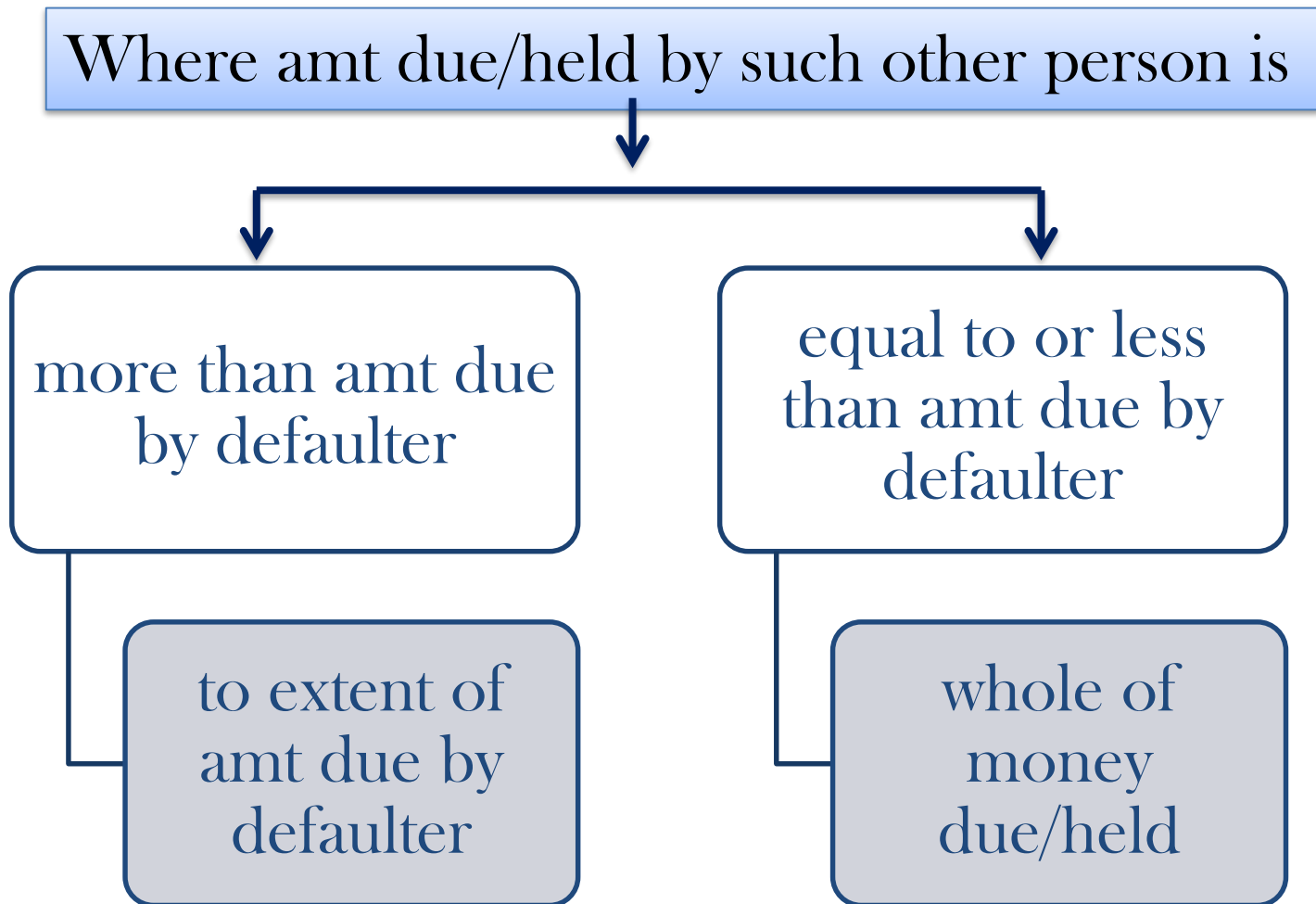
- has become due to pay the defaulter
- is likely to become due to defaulter
- holds money for or on account of defaulter
- may subsequently hold money of defaulter

## Notice issued by Proper officer

- To pay to Govt.
  - forthwith (upon becoming due or being held),
  - At or within time specified in notice, not being before the money becomes due or is held.

# Recovery from any other person who owes money to defaulter

**Amt directed to be paid in notice**



# Recovery from any other person who owes money to defaulter - obligation

Such other person to whom notice issued - bound to comply with notice

Notice to post office, bank or an insurer, - Comply without insisting on production of any passbook, deposit receipt, policy / any other doc for purpose of any entry, endorsement.

Fails to comply - Treated as defaulter to extent of amt mentioned

Notice issued may be amended , revoked or time extension for making payment

Payment will be treated as valid discharge of his liability

# Recovery from any other person who owes money to defaulter - Exception

Money demanded / any part thereof not due to defaulter

At time of service of notice he did not hold any money for or on a/c of defaulter

Money not demanded from him

Any part of money demanded not likely to become due to such other person

Any part of money will not likely be held for or on a/c of such person

# Other points

Bond/ instrument executed referring to recovery as per 72(1)

Recovery in such manner prescribed

Any amt of tax, interest or penalty remains unpaid

Proper officer of CGST may recover it arrears of CGST

Credit to the a/c of SG

Proper officer of SGST may recover it arrears of SGST

Credit to the a/c of CG

Amt recovered less than amt due to CG & SG

Amt credited

Proportionately to each such Govt.



# Sec. 73: Bar on Recovery Proceedings

APPEAL	BAR ON RECOVERY
Filed an appeal u/s 98 or section 101	Proper officer may not enforce payment of demand until appeal is resolved
Amt not under appeal before First Appellate Authority or Tribunal.	This provision does not give any stay against recovery of any amt due

# Sec. 74: Payment of amt due in instalments

- Tax or any amt due
  - On application a taxable person - make payment on monthly instalment basis.
- Power to grant permission - Comm. (SGST) / Chief Comm. (CGST)

Not available to self assessed liability shown in return

Installment period - not beyond 24 Months

Interest applicable

Default in any **one** installment – Facility withdrawn

On default - Balance am payable forthwith

On default - No separate notice required

# Sec.75 Transfer of property to be void in certain cases

- Applicable when **any amount** is due
- Act shall be void, when it is or was with an intention of defrauding Govt. revenue

## VOID

- ✗ Creates a charge on; or
- ✗ Parts with the property
  - ☒ Belonging to him; or
  - ☒ In his possession

By way of sale, mortgage, exchange, or any other mode of transfer whatsoever of any of his properties.

## VALID

- Made for adequate consideration and
- ✓ without notice of the pendency of proceeding
  - ✓ Without notice of such tax or other sum payable by the said person,
  - ✓ With previous permission of the proper officer.

# Sec. 76: Tax to be first charge on property

## Applicable to:

Any amt payable by taxable person or any other person

On account of tax, interest or penalty, which is liable to be paid to Govt.

Those tax, interest or penalty will have first charge on the property of such persons

This will be not withstanding anything contrary contained in any other law

# Sec. 77 Provisional attachment to protect revenue in certain cases

- To protect revenue when proceeding is pending - Comm. may order for attaching any property incl. Bank A/c provisionally by order in writing.
- Provisional attachment shall cease after one year

Opinion that it is necessary to protect Revenue interest

Pending Assessment of Non-filers of return u/s 60

Pending Assessment of Unregistered person

Pending Summary Assessment u/s 61

Determination u/s 66

With an intent to defraud the Govt. Revenue.

# Sec.78 Continuation & Validation of Certain Recovery Proceedings

Applicability: ( Govt. Due = Tax, penalty, interest or other amt)

- Any notice served upon taxable person or **any other person**
- Any Appeal, revision application filed or other proceeding is initiated

## GOVT. DUE - ENHANCED

Comm. shall serve another notice for enhancement

Recovery proceeding covered by notice served before disposal shall be continued from the stage at which such proceeding stood immediately before such disposal.

## GOVT. DUE - REDUCED

No fresh notice - Only intimation

Recovery proceeding covered by notice served before disposal shall be continued from the stage at which such proceeding stood immediately before such disposal

# THANK YOU

**For any Clarification, Please Contact**

**Indirect Taxes Committee of ICAI**

**Email: [idthc@icai.in](mailto:idthc@icai.in) ; Website: [www.idthc.icai.org](http://www.idthc.icai.org)**

**or <https://www.youtube.com/indirecttaxcommittee>**



© Indirect Taxes Committee, ICAI