

Chapter– XIV

Inspection, Search, Seizure and Arrest

- 67. Power of inspection, search and seizure
- 68. Inspection of goods in movement
- 69. Power to arrest
- 70. Power to summon persons to give evidence and produce documents
- 71. Access to business premises
- 72. Officers to assist proper officers

Statutory Provision

- 67. Power of inspection, search and seizure**
- (1) *Where the proper officer, not below the rank of Joint Commissioner, has reasons to believe that –*
- (a) *a taxable person has suppressed any transaction relating to supply of goods or services or both or the stock of goods in hand, or has claimed input tax credit in excess of his entitlement under the Act or has indulged in contravention of any of the provisions of this Act or rules made thereunder to evade tax under this Act; or*
- (b) *any person engaged in the business of transporting goods or an owner or operator of a warehouse or a godown or any other place is keeping goods which have escaped payment of tax or has kept his accounts or goods in such a manner as is likely to cause evasion of tax payable under this Act,*
- he may authorise in writing any other officer of central tax to inspect any places of business of the taxable person or the persons engaged in the business of transporting goods or the owner or the operator of warehouse or godown or any other place.*
- (2) *Where the proper officer, not below the rank of Joint Commissioner, either pursuant to an inspection carried out under sub-section (1) or otherwise, 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, he may authorise in writing any other officer of central tax to search and seize or may himself search and seize such goods, documents, books or things:*
- Provided that where it is not practicable to seize any such goods, the proper officer, or any office authorized by him, may serve on the owner or the custodian of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer:*
- Provided further that the documents or books or things so seized shall be retained by such officer only for so long as may be necessary for their examination and for any inquiry or proceedings under this Act.*

- (3) *The documents, books or things referred to in sub-section (2) or any other documents, books or things produced by a taxable person or any other person, which have not been relied upon for the issue of notice under this Act or the rules made thereunder, shall be returned to such person within a period not exceeding thirty days of the issue of the said notice.*
- (4) *The officer authorized under sub-section (2) shall have the power to seal or break open the door of any premises or to break open any almirah, electronic devices, box, receptacle in which any goods, accounts, registers or documents of the person are suspected to be concealed, where access to such premises, almirah, electronic devices, box or receptacle is denied.*
- (5) *The person from whose custody any documents are seized under sub-section (2) shall be entitled to make copies thereof or take extracts therefrom in the presence of an authorized officer at such place and time as such officer may indicate in this behalf except where making such copies or taking such extracts may, in the opinion of the proper officer, prejudicially affect the investigation.*
- (6) *The goods so seized under sub-section (2) shall be released, on a provisional basis, upon execution of a bond and furnishing of a security, in such manner and of such quantum, respectively, as may be prescribed or on payment of applicable tax, interest and penalty payable, as the case may be.*
- (7) *Where any goods are seized under sub-section (2) and no notice in respect thereof is given within six months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized:
Provided that the period of six months may, on sufficient cause being shown, be extended by the proper officer for a further period not exceeding six months*
- (8) *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, by notification, specify the goods or class of goods which shall, as soon as may be after its seizure under sub-section (2), be disposed of by the proper officer in such manner as may be prescribed.*
- (9) *Where any goods, being goods specified under sub-section (8), have been seized by a proper officer, or any officer authorized by him under sub-section (2), he shall prepare an inventory of such goods in such manner as may be prescribed.*
- (10) *The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to search and seizure, shall, so far as may be, apply to search and seizure under this section subject to the modification that sub-section (5) of section 165 of the said Code shall have effect as if for the word "Magistrate", wherever it occurs, the word "Commissioner" were substituted.*
- (11) *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 this Act or the rules made thereunder for prosecution.

- (12) *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.*

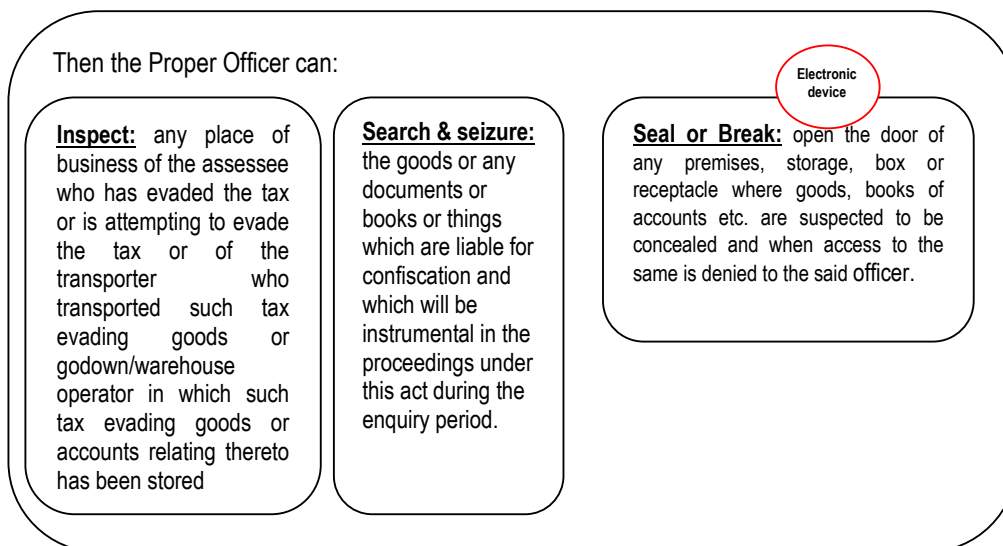
67.1 Analysis

- (i) When the proper officer not below the rank of Joint Commissioner 'has reasons to believe' that the taxable person has suppressed any transaction of supply of goods or services or both or information relating to stock in hand or claimed excess input tax credit or has contravened any of the statutory provisions of this Act, with an intent to evade taxes he shall issue an authorisation in FORM GST INS-01 authorising any other officer subordinate to him to conduct the inspection or search.

The phrase 'reasons to believe' has been interpreted by various courts distinguishing it from 'reason to suspect'. In the case of *Crompton Greaves Ltd. vs. State of Gujarat*, 120 STC 510 the Court observed that, "*these words suggest that belief must be that of honest and reasonable person based upon reasonable grounds, and that the Commissioner may act under this section on direct or circumstantial evidence not on mere suspicion, gossip or rumor. The powers under the present section are wide but not plenary; the words of the section are 'reason to believe' and not 'reason to suspect'.*"

- (ii) The power can also be exercised when there is a reason to believe that any person engaged in the business of transportation of goods or an owner or operator of a warehouse or godown or any other place is storing goods, which have escaped tax payment or has kept his accounts or goods in a manner likely to cause tax evasion.
- (iii) Under such circumstances, he may authorize another officer in writing to:
- (a) Inspect any place of business of the taxable person who has evaded tax or of the transporter who transported such tax evading goods or godown/warehouse in which such tax evaded goods or accounts relating thereto have been stored.
 - (b) Search and seize the goods or any documents or books or things which are liable for confiscation including anything concealed and which will be useful or relevant in the proceedings under this Act.
 - (c) Seal or break open the door of any premises, storage, box, electronic device or receptacle where goods, books of accounts etc. are suspected to be concealed and when access to the same is denied to the officer.
 - (d) If it is not practicable to seize the goods, then the Officer may serve an order on owner or custodian of the goods for not removing, part or deal with the goods without his prior permission.

- (e) The said officer shall return the documents, books or things seized or produced by a taxable or any other person on which no reliance has been placed for issuing notice, within a period of 30 days from the issue of notice. However, the documents books or things relied upon while issuing the notice will be retained.
- (f) The person from whose custody documents are seized is entitled to take photocopy or extract of such documents in the presence of an authorized GST officer at the place and time as predetermined. Copies or extracts may be denied if he is of the opinion that such an act will prejudicially affect the investigation.
- (g) The goods so seized can be released on a provisional basis, upon execution of Bond in Form GST INS -04 and furnish security in form of Bank Guarantee equal to amount of tax, interest and penalty
- (h) If no notice has been issued within 6 months or an extended period of another 6 months, the seized goods/exhibits ought to be returned.
- (i) The officer can dispose of certain notified goods immediately after the seizure, if those goods are of perishable or hazardous nature, or would depreciate in value by passage of time or there are constraints of storage space or any other relevant considerations as may be prescribed.
- (j) The officer who seizes the goods is liable to maintain the inventory of the said goods.
- (k) The provisions of Code of Criminal Procedure, 1973 relating to search and seizure shall be applicable to the GST Laws and in section 165(5) thereof, the word 'Magistrate' should be read as 'Commissioner'.
- (l) The officer can even seize accounts, registers or documents of any person; in case he has reasons to believe that the said person has evaded or is attempting to evade the taxes. However, he has to record the reasons in writing and also shall grant receipt of such seizure. There is no time limit prescribed for such retention by the officer. Further, where any goods, documents, book or things are liable for seizure then proper officer shall make an order of seizure in Form GST INS-02 or where it is not practically possible to seize goods then an order of prohibition in Form INS -03 shall be issued with a condition that goods shall not be removed without permission of such officer.
- (m) The Commissioner or officer authorized by him can authorize any person for purchase of any goods / services to check issue of tax invoices / bills of supply. The goods so purchased by such appointed person, if returned, the taxable person from whom the goods were purchased shall refund the amount so paid and cancel the tax invoice or any bills of supply. There is no time limit prescribed for return of the goods. It should be noted that this provision deals only with return of goods so purchased and there is no provision of return of services so purchased.
- (n) The seized goods may be released on a provisional basis upon execution of a bond for the value of the goods in FORM GST INS-04 and furnishing of a security in the form of a bank guarantee equivalent to the amount of applicable tax, interest and penalty payable.



(iv) The analysis of above provision in a pictorial form is summarised as follows:

For initiating the proceedings Joint Commissioner or any superior officer should have a 'reason to believe' that the assessee has done any of the following:

Suppressed any transaction of supply of goods or services	Stock in hand	Claim of excess input tax credit	Has contravened any of the statutory provisions of this Act or Rules made thereunder
---	---------------	----------------------------------	--

Please consider the comparative understanding of seizure and confiscation to appreciate the areas of similarity and difference so as not to regard them to be synonymous.

Criteria	Seizure	Confiscation
Applicability	Any goods, documents and things	Only offending goods
Manner	Actual custody or constructive custody	Actual custody
Authority	Held in trust, no change of ownership	Held in trust, no change of ownership unless adjudication completed
Duration of holding	6 months, extended for further 6 months by Commissioner to issue notice for adjudication	Until issue of notice for adjudication and office opportunity to pay penalty-in-lieu of confiscation
Conclusion	Return articles that are not 'offending articles'	Title to pass and vest with Central Government as per order of adjudication

67.2. Comparative review

- (i) Similar powers relating to inspection, search and seizure is present in all the erstwhile indirect tax laws viz., Finance Act, 1994 (Service Tax), Central Excise Act, 1944 and in most of the State VAT laws.
- (ii) Interestingly, under the CE Act, provision has been made to safeguard the interest of the assessee against harassment by way of irregular search and seizure by the tax officers. Section 22 of the CE Act prescribes fine upto ₹ 2,000/- on an officer who conducts vexatious search, inspection etc. This provision is conspicuously absent in the CGST Act.

67.3. FAQs

Q1. Under what circumstances there can be inspection, search or seizure operations?

Ans. Initiation of action under this section is when the proper officer not below rank of Joint Commissioner 'has reason to believe' that

- (a) the taxable person has suppressed any transaction of supply of goods or services or stock in hand or claimed excess input tax credit or has contravened any of the statutory provisions.
- (b) any person engaged in the business of transportation of goods or an owner or operator of a warehouse or godown or any other place where goods are stored, which have escaped tax payment or has kept his accounts or goods in a manner likely to cause tax evasion.

Q2. What is the meaning of the phrase 'reason to believe'?

Ans. The phrase 'reason to believe' has been interpreted by various courts distinguishing it from 'reason to suspect'. In the case of *Crompton Greaves Ltd. vs. State of Gujarat*, 120 STC 510 the Court observed that, "*these words suggest that belief must be that of honest and reasonable person based upon reasonable grounds, and that the Commissioner may act under this section on direct or circumstantial evidence not on mere suspicion, gossip or rumor. The powers under the present section are wide but not plenary; the words of the section are 'reason to believe' and not 'reason to suspect'.*"

Q3. Whether goods so seized can be released on provisional basis?

Ans. The goods so seized can be released on provisional basis if bond and security as may be prescribed is furnished or upon payment of applicable tax, interest and penalty.

67.4. MCQs

Q1. Initiation of action under this section is by proper officer not below the rank of

- (a) Superintendent
- (b) Inspector
- (c) Joint Commissioner
- (d) Commissioner

Ans. (c) Joint Commissioner

Q2. In how many days, the officer shall return the seized goods / documents which are not relied upon while issuing notice?

- (a) 15 days
- (b) 30 days
- (c) 60 days
- (d) 90 days

Ans. (b) 30 days

Statutory provision

68. Inspection of goods in movement

The Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified to carry with him such documents and such devices as may be prescribed.

The details of documents required to be carried under sub-section (1) shall be validated in such manner as may be prescribed.

Where any conveyance referred to in sub-section (1) is intercepted by the proper officer at any place, he may require the person in charge of the said conveyance to produce the documents prescribed under the said sub-section and devices for verification, and the said person shall be liable to produce the documents and devices and also allow the inspection of goods.

E-Way Rules

[138. Information to be furnished prior to commencement of movement of goods and generation of e-way bill. -

(1) Every registered person who causes movement of goods of consignment value exceeding fifty thousand rupees—

(i) in relation to a supply; or

(ii) for reasons other than supply; or

(iii) due to inward supply from an unregistered person,

shall, before commencement of such movement, furnish information relating to the said goods in Part A of FORM GST EWB-01, electronically, on the common portal.

[Provided that where goods are sent by a principal located in one State to a job-worker located in any other State, the e-way bill shall be generated by the principal irrespective of the value of the consignment:

Provided further that where handicraft goods are transported from one State to another by a person who has been exempted from the requirement of obtaining registration under clauses (i) and (ii) of section 24, the e-way bill shall be generated by the said person irrespective of the value of the consignment.

Explanation. – For the purposes of this rule, the expression “handicraft goods” has the

meaning as assigned to it in the Government of India, Ministry of Finance, notification No. 32/ 2017-Central Tax dated 15.09.2017 published in the Gazette vide number G.S.R 1158 (E)]

(2) Where the goods are transported by the registered person as a consignor or the recipient of supply as the consignee, whether in his own conveyance or a hired one or by railways or by air or by vessel, the said person or the recipient may generate the e-way bill in FORM GST EWB-01 electronically on the common portal after furnishing information in Part B of FORM GST EWB-01.

(3) Where the e-way bill is not generated under sub-rule (2) and the goods are handed over to a transporter for transportation by road, the registered person shall furnish the information relating to the transporter in Part B of FORM GST EWB-01 on the common portal and the e-way bill shall be generated by the transporter on the said portal on the basis of the information furnished by the registered person in Part A of FORM GST EWB-01:

Provided that the registered person or, as the case may be, the transporter may, at his option, generate and carry the e-way bill even if the value of the consignment is less than fifty thousand rupees:

Provided further that where the movement is caused by an unregistered person either in his own conveyance or a hired one or through a transporter, he or the transporter may, at their option, generate the e-way bill in FORM GST EWB-01 on the common portal in the manner specified in this rule:

Provided also that where the goods are transported for a distance of less than ten kilometers within the State or Union territory from the place of business of the consignor to the place of business of the transporter for further transportation, the supplier or the transporter may not furnish the details of conveyance in Part B of FORM GST EWB-01.

Explanation 1. – For the purposes of this sub-rule, where the goods are supplied by an unregistered supplier to a recipient who is registered, the movement shall be said to be caused by such recipient if the recipient is known at the time of commencement of the movement of goods.

Explanation 2.-The information in Part A of FORM GST EWB-01 shall be furnished by the consignor or the recipient of the supply as consignee where the goods are transported by railways or by air or by vessel.

(4) Upon generation of the e-way bill on the common portal, a unique e-way bill number (EBN) shall be made available to the supplier, the recipient and the transporter on the common portal.

(5) Any transporter transferring goods from one conveyance to another in the course of transit shall, before such transfer and further movement of goods, update the details of conveyance in the e-way bill on the common portal in FORM GST EWB-01:

Provided that where the goods are transported for a distance of less than ten kilometers within the State or Union territory from the place of business of the transporter finally to the place of business of the consignee, the details of conveyance may not be updated

in the e-way bill.

- (6) After e-way bill has been generated in accordance with the provisions of sub-rule (1), where multiple consignments are intended to be transported in one conveyance, the transporter may indicate the serial number of e-way bills generated in respect of each such consignment electronically on the common portal and a consolidated e-way bill in FORM GST EWB-02 may be generated by him on the said common portal prior to the movement of goods.
- (7) Where the consignor or the consignee has not generated FORM GST EWB-01 in accordance with the provisions of sub-rule (1) and the value of goods carried in the conveyance is more than fifty thousand rupees, the transporter shall generate FORM GST EWB-01 on the basis of invoice or bill of supply or delivery challan, as the case may be, and may also generate a consolidated e-way bill in FORM GST EWB-02 on the common portal prior to the movement of goods.
- (8) The information furnished in Part A of FORM GST EWB-01 shall be made available to the registered supplier on the common portal who may utilize the same for furnishing details in FORM GSTR-1:
Provided that when the information has been furnished by an unregistered supplier in FORM GST EWB-01, he shall be informed electronically, if the mobile number or the email is available.
- (9) Where an e-way bill has been generated under this rule, but goods are either not transported or are not transported as per the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal, either directly or through a Facilitation Centre notified by the Commissioner, within 24 hours of generation of the e-way bill:
Provided that an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B.
- (10) An e-way bill or a consolidated e-way bill generated under this rule shall be valid for the period as mentioned in column (3) of the Table below from the relevant date, for the distance the goods have to be transported, as mentioned in column (2) of the said Table:

Table

Sr. no.	Distance	Validity Period
(1)	(2)	(3)
1.	Upto 100 km	One day
2.	For every 100 km or part thereof thereafter	One additional day

Provided that the Commissioner may, by notification, extend the validity period of e-way bill for certain categories of goods as may be specified therein:

Provided further that where, under circumstances of an exceptional nature, the goods cannot be transported within the validity period of the e-way bill, the transporter may generate another e-way bill after updating the details in Part B of FORM GST EWB-01.

Explanation. —For the purposes of this rule, the “relevant date” shall mean the date on which the e-way bill has been generated and the period of validity shall be counted from the time at which the e-way bill has been generated and each day shall be counted as twenty-four hours.

- (11) The details of e-way bill generated under sub-rule (1) shall be made available to the recipient, if registered, on the common portal, who shall communicate his acceptance or rejection of the consignment covered by the e-way bill.
- (12) Where the recipient referred to in sub-rule (11) does not communicate his acceptance or rejection within seventy two hours of the details being made available to him on the common portal, it shall be deemed that he has accepted the said details.
- (13) The e-way bill generated under this rule or under rule 138 of the Goods and Services Tax Rules of any State shall be valid in every State and Union territory.
- (14) Notwithstanding anything contained in this rule, no e-way bill is required to be generated—
 - (a) where the goods being transported are specified in Annexure;
 - (b) where the goods are being transported by a non-motorised conveyance;
 - (c) where the goods are being transported from the port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs; and
 - (d) in respect of movement of goods within such areas as are notified under clause (d) of sub-rule (14) of rule 138 of the Goods and Services Tax Rules of the concerned State.

Explanation. - The facility of generation and cancellation of e-way bill may also be made available through SMS.

138A. Documents and devices to be carried by a person-in-charge of a conveyance. -

- (1) The person in charge of a conveyance shall carry—
 - (a) the invoice or bill of supply or delivery challan, as the case may be; and
 - (b) a copy of the e-way bill or the e-way bill number, either physically or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner.
- (2) A registered person may obtain an Invoice Reference Number from the common portal by uploading, on the said portal, a tax invoice issued by him in FORM GST INV-1 and produce the same for verification by the proper officer in lieu of the tax invoice and such number shall be valid for a period of thirty days from the date of uploading.
- (3) Where the registered person uploads the invoice under sub-rule (2), the information in Part A of FORM GST EWB-01 shall be auto-populated by the common portal on the basis of the information furnished in FORM GST INV-1.
- (4) The Commissioner may, by notification, require a class of transporters to obtain a

unique Radio Frequency Identification Device and get the said device embedded on to the conveyance and map the e-way bill to the Radio Frequency Identification Device prior to the movement of goods.

(5) Notwithstanding anything contained clause (b) of sub-rule (1), where circumstances so warrant, the Commissioner may, by notification, require the person-in-charge of the conveyance to carry the following documents instead of the e-way bill-

(a) tax invoice or bill of supply or bill of entry; or

(b) a delivery challan, where the goods are transported for reasons other than by way of supply.

138B. Verification of documents and conveyances. -

(1) The Commissioner or an officer empowered by him in this behalf may authorise the proper officer to intercept any conveyance to verify the e-way bill or the e-way bill number in physical form for all inter-State and intra-State movement of goods.

(2) The Commissioner shall get Radio Frequency Identification Device readers installed at places where the verification of movement of goods is required to be carried out and verification of movement of vehicles shall be done through such device readers where the e-way bill has been mapped with the said device.

(3) The physical verification of conveyances shall be carried out by the proper officer as authorised by the Commissioner or an officer empowered by him in this behalf:

If on receipt of specific information on evasion of tax, physical verification of a specific conveyance can also be carried out by any officer after obtaining necessary approval of the Commissioner or an officer authorised by him in this behalf.

138C. Inspection and verification of goods. -

(1) A summary report of every inspection of goods in transit shall be recorded online by the proper officer in Part A of FORM GST EWB-03 within twenty four hours of inspection and the final report in Part B of FORM GST EWB-03 shall be recorded within three days of such inspection.

(2) Where the physical verification of goods being transported on any conveyance has been done during transit at one place within the State or in any other State, no further physical verification of the said conveyance shall be carried out again in the State, unless a specific information relating to evasion of tax is made available subsequently.

138D. Facility for uploading information regarding detention of vehicle. -

Where a vehicle has been intercepted and detained for a period exceeding thirty minutes, the transporter may upload the said information in FORM GST EWB-04 on the common portal.]

68.1. Introduction

This section prescribes the mechanism of creating an audit trail on the common portal for movement of goods about a certain monetary value. The trail can be created by the supplier participated or even the transporter, in certain circumstances. Use of e-way bill is not a substitute for tax invoice. Details of the procedure applicable is discussed below.

68.2. Analysis

Object of e-way bill

E-way bill is required only in the case of goods. It has already been discussed that understanding of transactions involving goods are treated as a supply of services. The e-way bill is required not only when the supply is treated as a supply of goods but even when the supply is treated as a supply of services but involves “movement of goods”. It may be kept in mind that e-way bill is required in all cases where goods – inventory, capital goods or inputs for job work or any other business asset – are involved in movement. There is no difference whether the movement is pursuant to a supply arrangement or an innocent relocation of goods within the State itself. The utility of generating audit trail contemporaneously is invaluable for verification and validation at a later point in time.

Date of implementation

The Central Government vide Notification no.74/2017 dated 29th December, 2017 has notified 1st day of February, 2018, as the date from which the provisions of E-way bill system as notified in Notification No. 27/2017 – Central Tax dated 30th August, 2017 shall come into force.

Further, as per CBEC press release, following decisions were taken by the GST council in the 24th GST Council meeting for implementation of nationwide e-way Bill system :

- (i) The nationwide e-way Bill system will be ready to be rolled out on a trial basis latest by 16th January, 2018. Trade and transporters can start using this system on a voluntary basis from 16th January, 2018.
- (ii) The Rules for implementation of nationwide e-way Bill system for Inter-State movement of goods on a compulsory basis will be notified with effect from 1st February, 2018. This will bring uniformity across the States for seamless inter-State movement of goods.
- (iii) While the System for both inter-State and intra-State e-way Bill generation will be ready by 16th January, 2018, the States may choose their own timings for implementation of e-way Bill for intra-State movement of goods on any date before 1st June, 2018. There are certain States which are already having system of e-way Bill for intra-State as well as inter-State movement and some of those States can be early adopters of national e-way Bill system for intra-State movement also. But in any case, the Uniform System of e-way Bill for inter-State as well as intra-State movement will be implemented across the country by 1st June, 2018.

Data Requirement

The data required for generating e-way bill is very simple and limited. The supplier or recipient or even the transporter, where permitted, would be in a position to submit the information on the common portal.

Part A of Form GST EWB-01

On a quick perusal of the information required in Part A, it can be noticed that very limited information is required, namely:

- identity of the parties
- identity of the goods with value
- identity of the place of delivery (not place of supply)
- identity of occasion for transportation
- identity of document for transportation

Part B of Form GST EWB-01

- identity of vehicle

Excluded Goods

Rule 138 lists goods and circumstances of movement, in respect of which requirement to generate e-way bill is excluded, namely:

- goods listed in Annexure comprising of 154 entries in respect of which any movement of goods within the State or outside the State can be freely undertaken without the requirement of generating e-way bill;
- goods being transported through non-motorized conveyance also do not require e-way bill;
- goods being transported from port, airport, air cargo complex and land custom station to an inland container depot or a container freight station for customs clearance
- any other goods that may be notified by the respective State as being eligible for such exclusion from the requirement of e-way bill.

Use Cases

E-way bill is required to be generated when the supply involves the following:

Movement of Goods	Value Limit	E-Way Bill
Outward supply	More than ₹50,000	By any person (supplier, recipient, transporter)
Any other outward movement	More than ₹50,000	By any person (supplier, recipient, transporter)
Inward supply from un-registered supplier, if recipient(registered) is known at the time of commencement of movement of goods	More than ₹50,000	By Registered Recipient
Inward supply from un-registered supplier, if recipient is not known	No limit	Un-registered supplier or Transporter
Inputs or capital goods sent by principal to job worker outside the State	No limit	By Principal only

Handicrafts transported from one State to another	No limit	Handicrafts supplier
All movement	Less than ₹50,000	Option to generate by Registered supplier or transporter
All movement from consignor to transporter or from transporter to consignee within State distance less than 10 km	No limit	Part B of Form EWB-01 not required

Steps Involved

The following steps are involved in e-way bill compliance:

Activity	Responsibility	Result Obtained
Submit Part A	Supplier or Recipient	Get EBN—unique e-way bill number
Submit Part B	Transporter	Get GST EWB-01
Submit Part A	Transporter (where supplier is unregistered)	Get GST EWB-01
Update Part B	Transporter (change of vehicle)	Get GST EWB-01
Update e-way bill number	Transporter (multiple consignments in one conveyance)	Get GST EWB-02

Shelf-life and Confirmation

E-way bill generated has a prescribed shelf life of one day for a distance of up to 100 kilometres and one additional day for multiples thereof. If the goods are not transported or are not transported as per the details furnished in e-way bill after generation of e-way bill, the bill may be cancelled within 24 hours. E-way bill generated against the GSTIN of the recipient will be available for viewing by the recipient on the Common Portal. Recipient is required to accept or reject every e-way bill generated on the Common Portal. If there is no positive action by the recipient – acceptance or rejection – the e-way bill generated will be deemed to be accepted after 72 hours.

Documents for Movement

Every movement shall be accompanied by both of the following documents, namely:

- principal document – tax invoice or bill of supply or other challan; and
- e-way bill or EBN reference, either physically or mapped to a Radio Frequency Identification Device embedded on to the conveyance.

All information required in our tax invoice may be uploaded on the Common Portal in Form GST INV-01 and an Invoice Reference Number (IRN) may be generated. Commissioner is empowered to relax the requirement of carrying e-way bill and may require the person in charge to carry tax invoice, bill of supply, bill of entry or delivery challan.

Commissioner may notify the class of transporter to obtain unique Radio Frequency Identification Device and to get the device embedded on the conveyance.

Verification During Movement

Movement interception, by the Commissioner or proper officer authorised by the Commissioner, is allowed and an online verification report is to be filed within 24 hours. Proof of stoppage for verification is required in Part A of Form GST EWB-03 and final report in Part B of Form GST EWB-03 within three days of inspection.

Where physical verification of conveyance has been done during transit at one place within the State or in any other State, no further physical verification of the conveyance shall be carried in the State out again unless any information relating to tax evasion is made available.

In order to monitor stoppage during movement or detained vehicle, transporter may upload instances of stoppage for a duration exceeding 30 minutes by uploading information on the Common Portal in Form GST EWB-04.

Statutory provision**69. Power to arrest**

- (1) *Where the Commissioner has reasons to believe that a person has committed any offence specified in clause (a) or clause (b) or clause (c) or clause (d) of sub-section (1) of section 132 which is punishable under clause (i) or (ii) of sub-section (1), or under sub-section (2) of the said section, he may, by order, authorise any officer of the central tax to arrest such person.*
- (2) *Where a person is arrested under sub-section (1) for an offence specified under sub-section (5) of section 132, the officer authorise to arrest the person shall inform such person of the grounds of arrest and produce him before a magistrate within twenty-four hours.*
- (3) *Subject to the provisions of the Code of Criminal Procedure, 1973, —*
 - (a) *where a person is arrested under sub-section (1) for any offence specified under sub-section (4) of section 132, he shall be admitted to bail or in default of bail, forwarded to the custody of the Magistrate;*
 - (b) *in the case of a non-cognizable and bailable offence, the Deputy Commissioner or the Assistant Commissioner shall, for the purpose of releasing an arrested person on bail or otherwise, have the same powers and be subject to the same provisions as an officer-in-charge of a police station.*

69.1. Introduction

This section deals with power of arrest when one commits any of the following offences which is punishable under clause (i) or (ii) of sub-section (1), or under sub-section (2) of sec 132 of CGST Act.

- (a) Supplies any goods or services or both without issue of invoice with the intention to evade tax
- (b) Issues any invoice or bill without supplies leading to wrongful availment or utilisation of input tax credit or refund of tax
- (c) Avails input tax credit using invoice or bill referred to in b) above

- (d) Collects any amount as tax but fails to pay the same beyond the period of 3 months from the date on which payment becomes due.

69.2. Analysis

The Commissioner is vested with the power to authorise, by an order, any Officer to arrest a person, where there is a reason to believe that such person has committed the specified offences.

The person committing any offence under clauses (a) or (b) or (c) or (d) u/s 132(1) cited supra and punishable under Section 132(1)(i) or 132(1)(ii) or 132(2) can be arrested by the authorised officer.

Section 132(1) clause (i) tax evasion above Rs 500 Lakhs attracting imprisonment for a term upto 5 years and fine, or clause (ii) tax evasion above Rs 200 Lakhs attracting imprisonment upto 3 years and fine or offence or section 132(2) [repeated offence – second and subsequent offence attracting imprisonment upto 5 years with fine]

Such person is required to be informed about the grounds of arrest and be produced before the Magistrate within 24 hours in case of cognizable offences and in case of non-cognizable and bailable offences the Assistant/Deputy Commissioner can grant the bail and is conferred powers of an officer-in-charge of a police station subject to the provisions of Code of Criminal Procedure, 1973.

All arrests should be made as per the provisions of Code of Criminal Procedure, 1973.

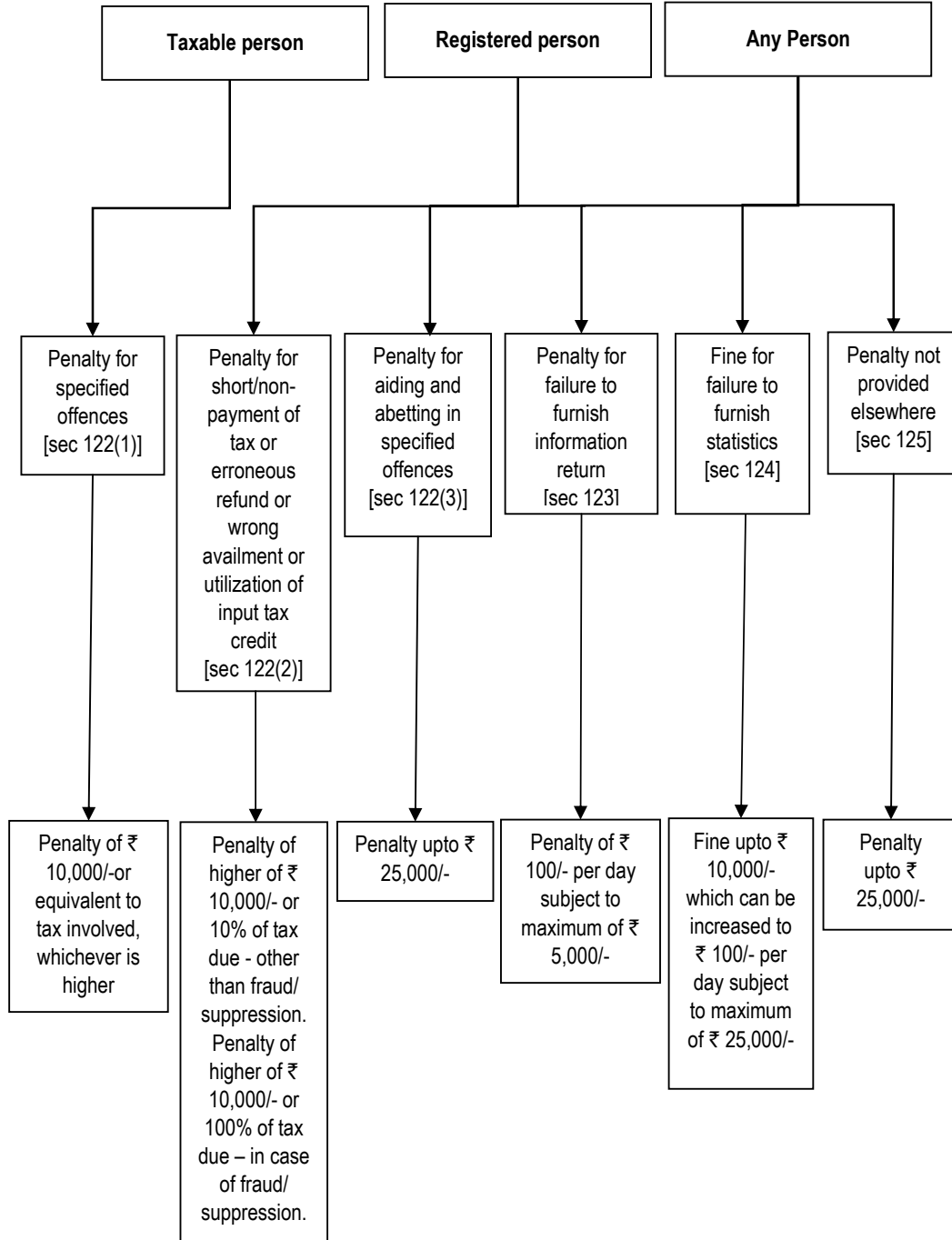
69.3. Comparative review

Similar power of arrest of tax evaders by officer is present in most of the indirect tax legislations.

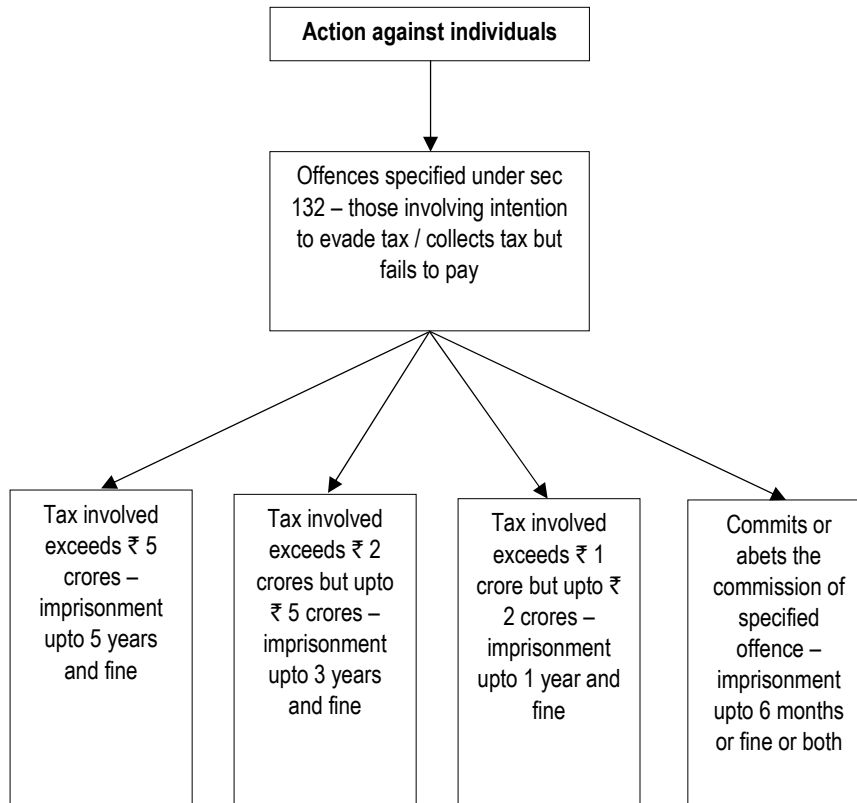
However, under the Finance Act, 1994 the power to arrest can be exercised only in cases where taxes collected and not deposited for an amount exceeding ₹ 200 lakhs.

69.4. Gist of Related provisions of Section 132 for ready reference for which person can be arrested

Section	Description
132(1)(a)	Whoever supplies any goods or services or both without issue of invoice with the intention to evade tax
132(1)(b)	Whoever issues any invoice or bill without supplies leading to wrongful availment or utilisation of input tax credit or refund of tax
132(1)(c)	whoever avails input tax credit using invoice or bill referred to in b) above
132(1)(d)	whoever collects any amount as tax but fails to pay the same beyond the period of 3 months from the due date
132(1)(i)	Prosecution where tax evaded exceeds Rs 500 lakhs. Imprisonment upto 5 years with fine
132(1)(ii)	Prosecution where tax evaded exceeds Rs 200 lakhs. Imprisonment upto 3 years with fine
132(2)	Second or subsequent offence. Imprisonment upto 5 years with fine



Also, reference may be had to actions that may be taken against an individual:



69.5. FAQs

Q1. Power of arrest could be exercised by whom?

Ans. The Commissioner can authorise (by an order) any officer to arrest a person, who has committed specified offences. The Commissioner should have reason to believe that such person has committed the specified offences.

Q2. Who can be arrested?

Ans. The person committing an offence (tax evasion) as specified in –

Section 132(1) clause (i) tax evasion above Rs 500 Lakhs attracting imprisonment for a term upto 5 years and fine, or clause (ii) tax evasion above Rs 200 Lakhs attracting imprisonment upto 3 years and fine or offence or section 132(2) [repeated offence – second and subsequent offence attracting imprisonment upto 5 years with fine] can be arrested by authorised officer.

Q3. What is the procedure to be followed for arrest?

Ans. (i) The person arrested should be informed about the grounds of arrest and be produced before the Magistrate within 24 hours in case of cognizable offences

- (ii) In case of non-cognizable and bailable offences the Assistant/Deputy Commissioner can grant the bail and is conferred powers of an officer-in-charge of a police station subject to the provisions of Code of Criminal Procedure, 1973.
- (iii) All arrests should be made as per the provisions of Code of Criminal Procedure, 1973.

69.6. MCQs

- Q1. All arrests should be made as per the provisions of _____
- (a) Code of Criminal Procedure, 1973
 - (b) Civil Procedure Code
 - (c) Foreign Exchange Management Act
 - (d) Indian Penal Code

Ans. (a) Code of Criminal Procedure, 1973

Statutory provision**70. Power to summon persons to give evidence and produce documents**

- (1) *The proper officer under this Act shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document 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.*
- (2) *Every such inquiry referred to in sub-section (1) shall be deemed to be a "judicial proceeding" within the meaning of section 193 and section 228 of the Indian Penal Code.*

70.1. Introduction

This provision deals with exercise of powers to issue summons for giving evidence and for production of documents

70.2. Analysis

In any inquiry which such officer is making for any of the purposes of this Act, the Proper officer shall have power to summon any person, whose attendance is considered necessary, either to give evidence or to produce a document or any other thing.

Every such inquiry referred to in sub-section (1) shall be deemed to be a "judicial proceeding" within the meaning of section 193 and section 228 of the Indian Penal Code

It would be helpful to read and be familiar with the exact nature of responsibility of acceptance of service of summons and of making statements in response to a summons. Reference may be had to Chapter X and XI of Indian Penal Code. At the same time, Article 20(3) of our Constitution prohibits from a person being made to witness against himself. Therefore, avoidance of service of summons is unlawful but abstinence from making statements is not. Understanding the legality of these matters will assume significance in attending to such matters of inquiry before a judicial officer.

Scope of word “Summon” under Sec 70 is for “Any Inquiry”. Authorised Officer is not empowered under Sec 70 to retain the documents for which summon were issued. It has been held by in T.T.V Dinkaran v. Enforcement Officer 1995 (80) E.L.T. 745 that where summon did not mention the nature of investigation therein, it will be valid since mentioning the details about investigation may alter the person concerned to manipulate his record.

70.3. Comparative review

Name of Statute	Central Excise Act 1944	Finance Act 1994	Custom Act 1962	State Vat Laws
Section Reference	Sec 14	Sec 14 of Central Excise Act read with Sec 83 of Finance Act 1994	Sec 108	Similar powers are conferred under the State Vat laws.

70.4. FAQs

Q1. Who can issue summons and for what purpose?

Ans. Proper officer under this Act can summon to any person whose attendance is considered necessary either to give evidence or to produce a document or any other thing in any inquiry which such officer is making for any of the purposes of the GST Law.

Statutory provision

71. Access to business premises

- (1) Any officer under this Act, authorised by the proper officer not below the rank of Joint Commissioner, shall have access to any place of business of a registered person to inspect books of account, documents, computers, computer programs, computer software whether installed in a computer or otherwise and such other things as he may require and which may be available at such place, for the purposes of carrying out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.
- (2) Every person in charge of place referred to in sub-section (1) shall, on demand, make available to the officer authorised under sub-section (1) or the audit party deputed by the proper officer or a cost accountant or chartered accountant nominated under section 66—
 - (i) such records as prepared or maintained by the registered person and declared to the proper officer in such manner as may be prescribed;
 - (ii) trial balance or its equivalent;
 - (iii) statements of annual financial accounts, duly audited, wherever required;
 - (iv) cost audit report, if any, under section 148 of the Companies Act, 2013 (18 of 2013);
 - (v) the income-tax audit report, if any, under section 44AB of the Income-tax Act, 1961 (43 of 1961); and

(vi) any other relevant record,
for the scrutiny by the officer or audit party or the chartered accountant or cost accountant within a period not exceeding fifteen working days from the day when such demand is made, or such further period as may be allowed by the said officer or the audit party or the chartered accountant or cost accountant.

71.1. Introduction

This provision empowers any officer authorised by the officer not below the rank of Joint Commissioner to have access to any place of business of a registered person to inspect books of account, documents, computers, computer programmes, computer software and such other things as may be required and which may be available at such place, for the purposes of carrying out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.

71.2. Analysis

For this purpose, the officer should be authorized by the officer not below the rank of Joint Commissioner. Experts are apprehensive of far reaching consequences of this section which is potentially capable of misuse. Strong understanding of the legal remedies available will equip in attending to these inspections.

Such an authorized officer shall have access to any place of business of registered person to inspect books of account, documents, computers, computer programs, computer software (whether installed in a computer or otherwise) and such other things as he may require as available at such premises.

The object is to carry out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.

The person in charge of the premises should make available the following:

1. Records maintained by the registered person and declared to proper officer;
2. Trial balance;
3. Audited financial statements wherever required;
4. Cost audit report, if any;
5. Income Tax audit report, if any;
6. Other relevant records.

The documents/records should be made available within 15 working days or such extended period as may be allowed.

The documents/records can be called for by the Audit officer or Chartered Accountant or Cost Accountant nominated by the department.

71.3. Comparative review

In the erstwhile indirect tax laws, and even in various State VAT laws similar provisions exist.

71.4. Related provisions

Section	Description	Remarks
Section 65	Audit by tax authorities	For such purpose access to business premises is permitted under section 71
Section 66	Special Audit	-do-

71.5. FAQs

Q1. What are the documents or records that a person in charge of a place of business shall make available in terms of Provisions of section 71?

Ans. The person in charge of a place of business shall, on demand, make available:

- Records maintained by the registered person and declared to proper officer;
- Trial balance;
- Audited financial statements wherever required;
- Cost audit report, if any;
- Income Tax audit report, if any
- Other relevant records

Q2. Who are the persons empowered to call for documents/records for audit, verification, checks and scrutiny?

Ans. Audit Party deputed by the Proper Officer or a Chartered Accountant or a Cost Accountant nominated u/s 66 by the department for conducting the audit are the persons empowered to call for documents/records for audit, verification, checks and scrutiny.

71.6. MCQs

Q1. The documents called for should be provided within _____

- (a) 20 working days
- (b) 15 working days
- (c) 60 days
- (d) 30 days

Ans. (b) 15 working days

Q2. Who is liable to furnish information to empowered officers?

- (a) Director
- (b) Accountant
- (c) CEO
- (d) Person in charge of Place of Business

Ans. (d) Person in charge of Place of Business

Q3. What empowered officers can do with the information furnished to them?

- (a) Audit
- (b) Scrutiny
- (c) Verification and Checks
- (d) All of the above

Ans. (d) All of the Above

Statutory provision:

72. Officers to assist Proper Officers

- (1) *All officers of Police, Railways, Customs, and those officers engaged in the collection of land revenue, including village officers, officers of State tax and officers of Union territory tax shall assist the proper officers in the implementation of this Act*
- (2) *The Government may, by notification, empower and require any other class of officers to assist the proper officers in the implementation of this Act when called upon to do so by the Commissioner.*

72.1. Introduction

The provision requires all officers of Police, Railways, Customs and those officers engaged in the collection of land revenue including village officers, officers of state and union territory tax to assist the proper officers in the implementation of this Act.

72.2. Analysis

Below officers are empowered and required when called upon, to assist the proper officer in execution of this act:

- All officers of Police,
- Railway Officer,
- Customs Officer
- Officer of State & Union Territory tax.
- Officers engaged in the collection of land revenue including village officers,

Even the Government may issue notification empowering and requiring any other class of officer to assist the proper officers, if required by the Commissioner.

72.3. Comparative review

Name of Statute	Central Excise Act 1944	Finance Act 1944
Section Reference	Sec 15	Sec 14 of Central Excise Act read with Sec 83 of Finance Act 1944

72.4. FAQs

Q1. Which are the officers empowered under an obligation to assist the CGST officers in the implementation of the Act?

Ans. All officers of Police, Railway, Custom, State/Central officer engaged in collection of GST and Land Revenue, Village officers, are empowered and are required to assist the proper officers to carry out the provisions of the Act.

Q2. Can the Commissioner call upon any other officer for assistance?

Ans. In terms of section 72(2) of the Act, the Government may issue notification empowering or requiring any other class of officer to assist the proper officers under this act, if required by the Commissioner.

72.5. MCQs

Q1. The _____ officer is empowered to assist the proper officer.

- (a) Registrar of Companies
- (b) Health
- (c) CBI
- (d) Railway

Ans. (d) Railway

Q2. _____ Officer is not empowered to assist the proper officer u/s 72(1) of the Act.

- (a) Police
- (b) Custom
- (c) State Excise
- (d) Railway

Ans. (c) State Excise