

# 2026

HAPPY NEW YEAR

# THE GST INSIDER

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ENFORCEMENT PROVISIONS UNDER GST

PART 1

CA. SAMARPIT SHARMA

## >>> PREFACE <<<

Welcome to our latest issue of "**The GST Insider**" meticulously compiled by **CA Samarpit Sharma**. As we navigate through the ever-evolving landscape of the Goods and Services Tax (GST), our aim is to bring you the most recent and pertinent updates, including circulars, notifications, press releases, relevant case laws, advance rulings, and other essential documents.

This Newsletter is designed to serve as a comprehensive resource for enhancing your understanding of GST regulations. Each edition is carefully structured to present complex legal content in an accessible and engaging format. Through the use of explanatory visuals and simplified explanations, we strive to make the material not only easier to comprehend but also more interesting to read.

It is important to note that the information provided herein is intended solely for knowledge sharing purposes and should not be utilized as a basis for any form of professional advice. For specific GST-related advice, we recommend consulting with qualified experts.

By integrating visual aids and reformulating the legal text into reader-friendly formats, we hope to enrich your learning experience and keep you updated on significant GST developments. Enjoy the read, and may it spark both your interest and understanding of GST.

Thank you for trusting "The GST Insider" as your go-to source for GST updates. We hope you find this edition both informative and easy to comprehend.



CA. SAMARPIT  
SHARMA

AUTHOR



*Push past your  
comfort zone*

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*Thank You!*

# 2026 JANUARY

SUN	MON	TUE	WED	THU	FRI	SAT
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## >>> STRUCTURE OF THE TWO-PART SERIES ON GST ENFORCEMENT

This publication is presented as a **two-part analytical series** on enforcement provisions under the Goods and Services Tax law. The decision to divide the subject into two parts is deliberate and is rooted in the statutory structure of the Central Goods and Services Tax Act, which draws a clear distinction between administrative enforcement measures and penal consequences.

GST is founded on the principle of self-assessment. While the statute confers wide powers upon the tax administration to safeguard revenue, it simultaneously subjects the exercise of those powers to jurisdictional discipline, procedural safeguards and substantive limits. These limits vary depending upon the nature of the enforcement action contemplated. Administrative measures affecting property and records operate within a different statutory framework from penal measures affecting personal liberty.

The Act itself reflects this separation. Inspection, search, seizure and confiscation are dealt with as civil and administrative mechanisms intended to detect and prevent evasion of tax and to secure goods or records pending adjudication. Arrest and prosecution, on the other hand, are governed by separate provisions, involve higher statutory thresholds and engage constitutional protections relating to personal liberty.

In view of this legislative design, the present series has been structured into two distinct parts, each addressing a specific phase of enforcement under GST.

### **PART 1: INSPECTION, SEARCH, SEIZURE AND CONFISCATION UNDER GST**

Part 1 examines the administrative and civil enforcement powers available to the department. These powers represent the initial stage of State intervention and are intended to operate within tightly regulated statutory boundaries. Emphasis is placed on jurisdiction, statutory pre-conditions, procedural discipline and the safeguards embedded in the Act.

This part covers the framework of self-assessment under GST, the concept of jurisdiction as a condition precedent to enforcement action, inspection under section 67(1), search under section 67(2), the concept of secreted goods and documents, seizure and prohibition orders, provisional release and statutory timelines, and confiscation under section 130 along with limits on departmental discretion.

The focus throughout Part 1 is on property-centric and compliance-centric consequences and on ensuring that administrative enforcement remains aligned with the rule of law.

### **PART 2: ARREST AND PROSECUTION UNDER GST**

Part 2 will deal with arrest and criminal prosecution under the GST law. These provisions represent the most intrusive form of enforcement and are governed by significantly higher thresholds and safeguards. The discussion will move from control

## >>> STRUCTURE OF THE TWO-PART SERIES ON GST ENFORCEMENT

over goods and records to restraint on personal liberty.

Part 2 will examine the statutory framework of arrest under section 69 read with section 132, the nature of offences under GST, authorization and procedure for arrest, rights of arrested persons, bail and anticipatory bail, and the limits on arrest of professionals and consultants. It will also address the effect of jurisdictional defects and illegal proceedings on criminal prosecution.

### Reading This Series

Each part of this series is intended to be self-contained while forming part of a coherent examination of GST enforcement. Readers are encouraged to approach the provisions discussed not as isolated powers but as regulated exceptions to the principle of self-assessment that underpins the GST law.



## ENFORCEMENT POWERS UNDER GST UNDERSTANDING THE BOUNDARIES

The Goods and Services Tax law is consciously designed as a self-assessment based tax regime. The legislative intent is explicit in placing the responsibility of assessment of tax liability upon the registered person, with the tax administration stepping in only where the statute expressly permits such intervention. It is within this framework that the provisions relating to inspection, search, seizure and arrest must be understood.

Inspection, search, seizure and arrest are not routine administrative tools under the GST law. These powers are exceptional in nature and are statutorily permitted only as anti-evasion measures. Their invocation represents a departure from the normal course of self-assessment and adjudication contemplated under the Act. Consequently, the conditions precedent, the manner of exercise and the limits imposed on these powers assume critical importance.

Section 67 of the Central Goods and Services Tax Act confers powers of inspection, search and seizure, while section 69 deals with arrest. These provisions are closely interlinked and must be read in conjunction with the broader statutory scheme, including sections dealing with self-assessment, burden of proof, adjudication and recovery. Any attempt to read these enforcement provisions in isolation risks distorting their scope and purpose.

Experience under GST has demonstrated that misunderstanding of these provisions often leads to misuse

or overreach. Inspection is frequently treated as synonymous with search. Search is often conducted without independent satisfaction of statutory requirements. Seizure is, at times, used as a tool for recovery rather than for securing evidence. Arrest is occasionally perceived as a mechanism for ensuring payment rather than as a step in criminal prosecution. Such practices are inconsistent with the structure of the law. The GST statute itself embeds safeguards to prevent these outcomes. It insists upon prior authorization by specified senior officers. It requires the existence of "reasons to believe" founded on material on record. It restricts the scope of inquiry to evasion of tax. It distinguishes clearly between access, inspection, search and seizure. It also subjects these actions to post-facto scrutiny, both departmental and judicial. For Chartered Accountants and Advocates, these provisions demand close attention not merely at the stage of litigation but at the very inception of proceedings. The validity of authorization, the jurisdiction of the officer, the existence of statutory pre-conditions and the manner in which proceedings are conducted are often determinative of the sustainability of the entire action. Failure to identify jurisdictional defects at the earliest stage may result in acquiescence, which the statute itself recognizes and, in certain circumstances, protects.



## GST AS A SELF-ASSESSMENT REGIME AND THE LIMITS ON DEPARTMENTAL INTERVENTION

The foundation of the GST law rests on the principle of self-assessment. Section 59 of the Central Goods and Services Tax Act entrusts the registered person with the responsibility of assessing the tax payable under the Act and discharging such liability in the manner prescribed. This provision is central to understanding the limits of departmental intervention under GST and must inform the interpretation of all enforcement provisions contained in the statute.

In a self-assessment regime, the role of the tax administration is inherently restrained. The proper officer is not empowered to reassess tax liability merely because an alternative view is possible. Intervention is permitted only where the law expressly authorizes it and only in the manner prescribed. This statutory architecture reflects a conscious legislative choice to move away from officer-centric assessment towards taxpayer-centric compliance, subject to checks embedded in the Act. The implications of self-assessment are further reinforced by the provisions relating to burden of proof. Except in specific situations expressly provided for in the Act, the law does not cast an initial obligation upon the taxpayer to prove the correctness of the self-assessment carried out. The burden to displace the presumption of correctness lies upon the Revenue, particularly where allegations of tax evasion are made. This principle assumes heightened significance in proceedings initiated under section 67.

Inspection, search and seizure are not mechanisms for verifying the correctness of returns filed or for conducting a general review of compliance. They are anti-evasion measures. The statutory trigger for invoking section 67 is not mere doubt, suspicion or difference of opinion, but the existence of "reasons to believe" that specified contraventions involving evasion of tax have occurred. Any action taken without satisfying this threshold undermines the very basis of self-assessment envisaged by the Act.

The concept of jurisdiction is inseparable from this framework. Jurisdiction is not conferred by the act of initiation of proceedings but must pre-exist such initiation. The proper officer must possess territorial, subject-matter and administrative jurisdiction. Further, where the statute requires prior authorization by a higher authority, such authorization must be validly granted in the prescribed form and based on material placed on record. Absence of jurisdiction strikes at the root of the proceedings.

The GST law also carefully delineates the scope of inquiry permissible under different provisions. Where the Legislature intended wide review powers, it has said so explicitly, such as in the case of audit under sections 65 and 66. In contrast, proceedings under section 67 are deliberately confined to specific areas of alleged evasion. Treating inspection or search as a substitute for audit or adjudication is inconsistent with the statutory design.



## GST AS A SELF-ASSESSMENT REGIME AND THE LIMITS ON DEPARTMENTAL INTERVENTION

For professionals advising taxpayers, the recognition of GST as a self-assessment regime serves as the first and most important filter in evaluating the legality of enforcement action. Every instance of inspection, search or seizure must be tested against this foundational principle. Where departmental action effectively seeks to reverse the burden of proof, compel explanations without jurisdiction or conduct open-ended verification, it departs from the mandate of the law.

Understanding this statutory balance is essential not only for challenging unlawful proceedings but also for ensuring that legitimate enforcement remains within the confines laid down by the Legislature. The enforcement provisions of GST derive their legitimacy not from their severity but from their strict adherence to the framework of self-assessment and due process envisaged by the Act



## JURISDICTION AS THE CENTRAL CONTROL ON INSPECTION AND SEARCH UNDER GST

Jurisdiction is the foundational requirement for any valid exercise of power under the GST law. In the context of inspection, search and seizure under section 67, jurisdiction is not a procedural formality but a substantive condition that determines the legality of the entire proceeding. Where jurisdiction is absent, the action itself is rendered invalid, irrespective of the nature of allegations or the quantum of tax involved.

Under the GST framework, jurisdiction operates on multiple planes. First, the officer initiating or executing the proceedings must be a proper officer for the purpose of the provision invoked. Second, such officer must possess territorial jurisdiction over the taxable person or the premises sought to be inspected or searched. Third, where the statute mandates prior authorization, such authorization must be issued by the competent authority in the prescribed form and manner. All these elements must co-exist at the time of initiation of proceedings.

Section 67 expressly conditions the exercise of inspection and search powers on prior authorization by a Joint Commissioner or an officer of equivalent rank. This authorization is not a mere administrative approval. It is a jurisdiction-conferring act. The Joint Commissioner must examine the material placed before him and record satisfaction that the statutory pre-conditions for invoking section 67 are met. Only thereafter can another officer be authorized to carry out inspection or

search.

The form prescribed for this purpose, namely Form GST INS-01, reflects this statutory intent. The form requires identification of the person to be inspected, the place to be accessed and the nature of contraventions alleged. The scope of authorization is therefore limited to what is expressly recorded. Any action beyond the contours of such authorization exceeds jurisdiction and is vulnerable to challenge.

Jurisdiction under section 67 is also linked to the nature of inquiry permitted. Inspection and search are authorized only in relation to evasion of tax and not for general verification of compliance. The statute does not permit a full-scale review of books of account or a roving inquiry into past transactions under the guise of inspection. Where the inquiry travels beyond the specific contraventions forming the basis of authorization, the proceedings lose their statutory anchor.

An important aspect of jurisdiction is the distinction between registered and unregistered persons. The Act contemplates different officers and different conditions depending upon the status of the person sought to be proceeded against. Failure to appreciate this distinction often results in proceedings being initiated by officers who lack subject-matter jurisdiction over the person or premises involved.

Jurisdiction must also be tested with reference to the administrative allocation between Central tax and State tax



## JURISDICTION AS THE CENTRAL CONTROL ON INSPECTION AND SEARCH UNDER GST

authorities. Mapping of taxpayers, territorial competence and administrative assignment are integral to determining whether an officer is empowered to act. An officer lacking such authority cannot cure the defect by subsequent actions or by the mere participation of the taxpayer.

For professionals, jurisdictional examination is the first and most critical step when confronted with inspection or search proceedings. Verification of authorization, officer competence and statutory pre-conditions must precede any substantive engagement on merits. Participation in proceedings without raising jurisdictional objections may, in certain circumstances, amount to acquiescence, a consequence expressly recognized by the GST law.

The insistence on jurisdictional discipline under section 67 is not a technical obstacle to enforcement. It is a legislative safeguard intended to balance the extraordinary nature of inspection and search powers with the principles of self-assessment and rule of law. Proper appreciation of this balance is essential for ensuring that enforcement action under GST remains lawful, proportionate and sustainable



## "REASONS TO BELIEVE" AS THE STATUTORY GATEWAY TO INSPECTION UNDER SECTION 67(1)

The power of inspection under section 67(1) of the Central Goods and Services Tax Act is conditioned upon the existence of "reasons to believe". This expression is not ornamental language. It is the statutory threshold that controls the entry of the tax administration into the otherwise protected domain of a taxpayer's premises. Absence of valid reasons to believe strikes at the very jurisdiction to initiate inspection proceedings.

The statute requires that the reasons to believe must be that of the Joint Commissioner or an officer of equivalent rank who grants authorization. The Authorized Officer who ultimately carries out the inspection does not form these reasons independently. His authority flows entirely from the satisfaction recorded by the sanctioning authority. This distinction is fundamental to the legality of proceedings under section 67.

"Reasons to believe" occupies a position higher than mere suspicion and lower than conclusive proof. The law does not permit inspection based on conjecture, rumour or generalized apprehension. At the same time, it does not require the department to establish tax evasion conclusively before initiating inspection. What is required is the existence of material on record which, upon objective examination, leads the sanctioning authority to a rational belief that specified contraventions involving evasion of tax have occurred.

Section 67 exhaustively enumerates the circumstances in which inspection can

be authorized in respect of a taxable person. **These include suppression of transactions of supply, suppression of stock of goods, availing of input tax credit in excess of entitlement, and contravention of provisions with intent to evade payment of tax.** The reasons to believe must be relatable to one or more of these statutory ingredients. Any belief divorced from these enumerated grounds falls outside the scope of section 67.

In the case of other persons such as transporters or warehouse keepers, the statute prescribes separate and distinct grounds. The reasons to believe must relate to transportation or storage of goods that have escaped payment of tax or to maintenance of accounts or goods in a manner likely to cause evasion. Mixing up these categories or applying the grounds interchangeably reflects a misunderstanding of the provision and vitiates the authorization.

The material forming the basis of reasons to believe must pre-exist the grant of authorization. Discovery made during inspection cannot retrospectively justify the initiation of inspection proceedings. The authorization must stand on its own footing, supported by material that was available and considered at the time it was issued. This requirement ensures that inspection does not become a self-validating exercise.

The law does not mandate disclosure of reasons to believe to the taxpayer at the time of inspection. However, this does not render them immune from scrutiny. The reasons recorded are subject to



## "REASONS TO BELIEVE" AS THE STATUTORY GATEWAY TO INSPECTION UNDER SECTION 67(1)

examination at a later stage, either in proceedings under the Act or in judicial review. Courts have consistently held that while the sufficiency of reasons may not be substituted by judicial opinion, their existence, relevance and rational connection to the statutory grounds are justiciable.

For professionals, the practical implication is significant. An inspection may appear regular on the surface, supported by a formal authorization. However, if the reasons to believe are found to be non-existent, irrelevant or extraneous to section 67, the entire proceeding becomes jurisdictionally defective. Such defects cannot be cured by subsequent participation of the taxpayer or by discovery of incriminating material during inspection. The discipline imposed by the requirement of reasons to believe is a deliberate legislative safeguard. It ensures that inspection under GST remains an exceptional measure, invoked only where objective material justifies intrusion into the taxpayer's premises, and not as a tool for routine verification or exploratory inquiry.



## SCOPE AND LIMITS OF INSPECTION UNDER SECTION 67(1) AND THE CRITICAL DISTINCTION FROM SEARCH

Inspection under section 67(1) is a limited statutory power that permits access to specified premises for the purpose of verifying matters connected with evasion of tax. The scope of inspection is determined entirely by the authorization granted and the statutory object for which such authorization is issued. It is not an open-ended power to examine books of account, seize documents or compel production of records beyond what is incidental to inspection.

The statute draws a clear conceptual distinction between inspection and search. Inspection is the preliminary and less intrusive measure. It allows the authorized officer to access business premises and observe, verify and examine facts relevant to the suspected contraventions recorded in the authorization. Inspection does not, by itself, permit forcible access, opening of locked receptacles or seizure of goods or documents. Any such action falls outside the ambit of section 67(1).

The importance of maintaining this distinction cannot be overstated. Treating inspection as synonymous with search effectively collapses the safeguards built into the statute. The Legislature has consciously structured section 67 in two distinct stages. The first stage permits inspection based on reasons to believe relating to evasion of tax. The second stage permits search only where additional statutory conditions are satisfied. Blurring this distinction renders the procedural

safeguards illusory.

Inspection must remain confined to the specific premises and specific areas of inquiry mentioned in the authorization. The officer conducting inspection cannot travel beyond the scope of authorization by expanding the inquiry to unrelated issues or by examining records unconnected with the alleged contraventions. Such expansion amounts to a jurisdictional excess and undermines the legality of the proceedings.

The GST law also differentiates between inspection under section 67 and access to business premises under section 71. Access under section 71 is a limited power permitting officers to visit business premises for verification of records maintained under the Act. It does not authorize inspection in the sense contemplated by section 67. Confusing access with inspection results in unauthorized exercise of power and defeats the statutory scheme.

Another critical limitation on inspection is that it does not permit seizure of goods or documents. Seizure is expressly linked to search proceedings under section 67(2). Any attempt to seize documents, electronic records or goods during inspection without invoking search proceedings is contrary to the Act. Even copying or taking away records during inspection, except to the extent incidental and permitted by law, must be carefully scrutinized.

Inspection proceedings are also required to be conducted in a manner consistent



## SCOPE AND LIMITS OF INSPECTION UNDER SECTION 67(1) AND THE CRITICAL DISTINCTION FROM SEARCH

with procedural discipline. The authorized officer must disclose identity, show authorization and confine the proceedings to working hours unless circumstances justify continuation. The presence of independent witnesses, adherence to departmental instructions and maintenance of proper records of inspection are not mere administrative conveniences but form part of the safeguards surrounding the exercise of this power.

For professionals advising during inspection, the practical task is to ensure that inspection does not imperceptibly transform into search. The moment actions exceed the limits of inspection, such as opening locked cupboards, accessing electronic devices without authority or removing records, the legality of the proceedings becomes questionable. Recording objections contemporaneously and without obstruction assumes importance in preserving the rights of the taxpayer.

The statutory separation between inspection and search reflects the Legislature's intent to graduate enforcement measures based on the gravity of suspicion and availability of material. Respecting this separation is essential to uphold the balance between effective enforcement and protection against arbitrary intrusion.



## TRANSITION FROM INSPECTION TO SEARCH UNDER SECTION 67(2): STATUTORY PRECONDITIONS AND AUTHORIZATION

The transition from inspection under section 67(1) to search under section 67(2) marks a significant escalation in the degree of intrusion permitted by law. The statute does not permit this transition as a matter of course. It is subject to distinct and additional statutory requirements, the satisfaction of which is a condition precedent to the lawful exercise of search powers.

Search under section 67(2) is permissible only where the proper authority has reasons to believe that goods liable to confiscation or documents, books or things relevant to proceedings are secreted in any place. The focus shifts from evasion of tax to concealment of specific articles. This change in statutory emphasis underscores the legislative intent to restrict search to circumstances involving deliberate concealment and not mere availability of records or goods at business premises.

The authority to permit search must again emanate from the Joint Commissioner or an officer of equivalent rank. The satisfaction required for authorizing search is independent of, and in addition to, the satisfaction recorded for inspection. Authorization for inspection does not automatically carry with it authorization for search. Each power must be traced to its own statutory source and supporting reasons.

The form prescribed for authorization, Form GST INS-01, reflects this

distinction by separately identifying inspection and search. Where inspection and search are both contemplated at the outset, the authorization must expressly cover both aspects and record reasons corresponding to each. Where inspection alone is initially authorized, any subsequent decision to conduct search must be supported by reasons that existed at the time of authorization or were independently recorded before the grant of search authority. Search cannot be justified solely on the basis of what is discovered during inspection unless such discovery is itself traceable to pre-existing material supporting the belief of concealment.

The requirement that reasons to believe for search must pre-exist the authorization serves an important protective function. It prevents inspection from being used as a fishing exercise to uncover grounds for search. The statute does not contemplate a self-generating escalation of powers where inspection validates search merely by producing some material. The satisfaction for search must be objectively demonstrable and rooted in material considered by the sanctioning authority.

Search proceedings carry with them significant additional powers. These include the authority to open locked premises, almirahs, boxes and electronic devices where access is denied. Such powers are expressly confined to search proceedings and cannot be exercised



## TRANSITION FROM INSPECTION TO SEARCH UNDER SECTION 67(2): STATUTORY PRECONDITIONS AND AUTHORIZATION

during inspection. Their lawful exercise therefore depends entirely on the validity of the authorization under section 67(2).

The concept of articles being secreted is central to search. Secrecy implies concealment by design, whether physical or electronic, and not mere storage or maintenance of records in the ordinary course of business. Goods openly lying in declared premises or documents maintained in regular files do not, by themselves, satisfy the statutory requirement of being secreted. Treating all discovered material as secreted dilutes the statutory threshold and renders the distinction between inspection and search meaningless.

Search proceedings must also adhere to procedural safeguards. These include the presence of independent witnesses, proper documentation of the process, preparation of panchnamas and observance of prescribed conduct norms. These safeguards are integral to the legality of search and serve as checks against arbitrary exercise of power.

For professionals, the transition from inspection to search is a critical moment requiring heightened vigilance. Verification of fresh authorization, examination of its scope and recording of objections where authorization is absent or defective are essential steps. Once a search is conducted without valid jurisdiction, the taint extends to seizure and all consequential proceedings.

The statutory architecture of section 67 makes it clear that search is not an extension of inspection but a distinct power triggered by distinct conditions. Respecting this separation is essential to preserve the legality of enforcement action and the credibility of the GST regime.



## CONCEPT OF "SECRETED" ARTICLES AND ITS CENTRAL ROLE IN SEARCH AND SEIZURE

The expression "secreted" occupies a pivotal position in the scheme of search and seizure under section 67(2) of the Central Goods and Services Tax Act. The statute permits search and seizure only where goods liable to confiscation or documents, books or things relevant to proceedings are believed to be secreted in any place. The legality of search and the sustainability of seizure therefore hinge upon a correct understanding and application of this expression.

The Act does not define the term "secreted". However, its placement and usage within section 67(2) provide clear guidance as to its meaning. Secretion implies deliberate concealment. It denotes a conscious act of hiding goods or documents in such a manner that they are intended to escape detection in the ordinary course of inspection or verification. Mere possession or storage of goods or records does not, by itself, amount to secreting.

The requirement that articles must be secreted applies equally to goods and to documents, books or things. Goods that are openly kept at declared business premises, even if unaccounted or disputed, cannot automatically be treated as secreted. Similarly, documents maintained in regular files, cupboards or electronic systems used in the ordinary course of business do not become secreted merely because they are incriminating or inconvenient to the taxpayer.

Secretion may arise from physical concealment, such as storage in

undisclosed premises or hidden compartments. It may also arise from non-physical methods of concealment, including deliberate misdescription, use of misleading records, password protection, undisclosed digital storage locations or other techniques intended to prevent discovery. What is critical is the element of intentional concealment designed to defeat detection.

This distinction assumes particular importance in search proceedings where large volumes of documents or electronic data are encountered. The mere fact that documents are found during search does not establish that they were secreted. The authorized officer must be able to demonstrate why the manner of storage or maintenance constituted concealment within the meaning of section 67(2). Absence of such demonstration renders the seizure vulnerable to challenge.

The concept of secreted articles also controls the scope of seizure. Seizure is permitted only in respect of those goods or documents that satisfy the statutory requirement of being secreted and that are relevant to proceedings. Wholesale seizure of records, devices or goods without identifying how they meet this requirement exceeds statutory authority and undermines the legality of the action. The law further makes it clear that seizure is not intended to deprive the taxpayer of access to records or goods as a punitive measure. Seizure serves the limited purpose of securing evidence or goods pending further proceedings. Where documents or records are required



## CONCEPT OF "SECRETED" ARTICLES AND ITS CENTRAL ROLE IN SEARCH AND SEIZURE

by the taxpayer for ongoing business or statutory compliance, the manner and extent of seizure must reflect this balance.

For professionals, scrutiny of the basis on which articles are treated as secreted is essential. This scrutiny must focus on the factual circumstances of discovery, the manner in which the articles were kept and the reasons recorded by the officers for treating them as secreted. Recording contemporaneous objections where seizure is effected without satisfying this statutory condition is critical to preserving the taxpayer's position.

The insistence on secrecy as a condition for search and seizure is not incidental. It is a deliberate legislative safeguard intended to prevent search powers from degenerating into routine evidence-gathering exercises. Proper application of this concept ensures that search and seizure under GST remain confined to cases involving deliberate concealment and not mere disputes over compliance or interpretation.

## SEIZURE UNDER SECTION 67: NATURE, PURPOSE AND STATUTORY LIMITS

Seizure under section 67 of the Central Goods and Services Tax Act is a consequential power that arises only in the course of valid search proceedings. The statute does not confer an independent or standalone power of seizure. Seizure is inextricably linked to search under section 67(2) and must be understood within that limited statutory context.

The purpose of seizure is narrowly defined. It is intended to secure goods liable to confiscation or documents, books or things that are relevant to proceedings under the Act and that are found to be secreted. Seizure is not a mechanism for enforcing payment of tax, interest or penalty. Any use of seizure as a tool for recovery is contrary to the structure and intent of the law.

The statute makes a clear distinction between seizure and recovery. Recovery of tax is governed by a separate and comprehensive code under the Act, which prescribes issuance of notice, adjudication and statutory remedies. Seizure bypasses none of these safeguards. It merely preserves the subject matter pending further proceedings. This distinction is fundamental to the legality of seizure and must guide its exercise.

Only those goods that are liable to confiscation can be seized. Goods that are not offending goods within the meaning of the Act cannot be seized merely because they are found at the premises or are connected to disputed transactions. Similarly, documents or records can be seized only if they are

useful or relevant to proceedings and satisfy the statutory condition of being secreted. Wholesale seizure of records without identifying their relevance exceeds statutory authority.

The Act also restricts the effect of seizure. Seizure does not divest the taxpayer of ownership. It places the articles under the custody of the department for a limited purpose and period. The taxpayer retains rights subject to the outcome of proceedings. This understanding is crucial to prevent seizure from degenerating into a punitive measure.

Procedural discipline is central to lawful seizure. The authorized officer is required to prepare a seizure order containing details of the search, the articles seized, the circumstances of discovery and the presence of witnesses. This documentation is not a mere formality. It forms the evidentiary foundation of subsequent proceedings and is subject to scrutiny at later stages.

The statute also contemplates situations where physical seizure may not be practicable. In such cases, prohibition orders may be issued to restrain the taxpayer from dealing with the goods. Such orders operate as a substitute for seizure and must satisfy the same statutory conditions. They cannot be used to impose blanket restrictions beyond what seizure itself would permit. For professionals, the critical task during seizure is to examine whether the statutory conditions are met and whether the seizure remains within its intended



## SEIZURE UNDER SECTION 67: NATURE, PURPOSE AND STATUTORY LIMITS

purpose. Objections to seizure effected without valid search, beyond the scope of authorization or for purposes of recovery must be raised promptly and recorded. Failure to do so may weaken subsequent challenges.

Seizure under GST is a powerful but tightly regulated tool. Its legitimacy flows not from the gravity of allegations but from strict adherence to statutory limits. Proper application of these limits preserves the balance between effective enforcement and protection against arbitrary deprivation of property, a balance that the GST law consciously seeks to maintain.



## WHAT CAN BE SEIZED AND WHAT CANNOT BE SEIZED UNDER SECTION 67

The scope of seizure under section 67 is carefully circumscribed by the statute. The law does not permit indiscriminate or blanket seizure of goods, documents or records found during search. What can be seized is determined by a combination of statutory conditions relating to the nature of the article, its relevance to proceedings and the manner in which it is found.

In so far as goods are concerned, the statute permits seizure only of goods that are liable to confiscation and that are found to be secreted. Goods that are not liable to confiscation fall outside the scope of seizure, regardless of the disputes that may exist in relation to tax liability. Even where goods are alleged to be unaccounted or irregularly dealt with, seizure is not automatic unless the statutory conditions are satisfied.

The distinction between offending goods and non-offending goods is of particular importance. Capital goods, raw materials or finished goods that are otherwise lawfully held cannot be seized merely because they form part of an ongoing investigation. Liability to confiscation must be demonstrable with reference to the provisions of the Act. Seizure without this foundation is without authority of law.

With respect to documents, books and things, the statute imposes two cumulative conditions. First, such documents must be useful or relevant to proceedings under the Act. Second, they must be found to be secreted. Documents maintained in the ordinary course of business, even if

incriminating, do not become liable to seizure unless the element of concealment is established. The mere fact that a document supports the department's case does not justify its seizure.

Electronic records occupy a special position in this context. Computers, laptops, servers, mobile devices and storage media may contain large volumes of data, much of which may be unrelated to the alleged contraventions. Seizure of entire devices without identifying specific data relevant to proceedings raises serious issues of proportionality and statutory compliance. The law contemplates seizure of records, not wholesale deprivation of access to digital infrastructure.

The statute also recognizes that seizure should not be used to prevent access by the taxpayer to records required for ongoing business or statutory compliance. Where documents are seized, reasonable access or copies must be facilitated, subject to safeguards. Denial of access beyond what is necessary to secure evidence undermines the limited purpose of seizure.

Certain categories of articles are expressly excluded from seizure by implication. Articles that are neither liable to confiscation nor relevant to proceedings cannot be seized under any circumstances. Personal effects, unrelated correspondence and records pertaining to third parties unconnected with the investigation fall outside the scope of section 67. Inclusion of such



## WHAT CAN BE SEIZED AND WHAT CANNOT BE SEIZED UNDER SECTION 67

items in seizure proceedings reflects excess of jurisdiction.

For professionals, scrutiny of the seizure list is a critical exercise. Each item seized must be examined with reference to its nature, relevance and the statutory basis for its seizure. Objections must be raised where items do not meet the statutory criteria or where seizure extends beyond what is permissible under the Act.

The limits on what can be seized are integral to the statutory design of section 67. They ensure that seizure remains a focused and proportionate measure aimed at securing specific evidence or goods, rather than a broad instrument of coercion. Adherence to these limits is essential for the legality and sustainability of enforcement proceedings under GST.



## PROHIBITION ORDERS, SEIZURE OF CASH AND SEIZURE OF ELECTRONIC RECORDS

The statute recognizes that physical seizure of goods or articles may not always be practicable or necessary. In such situations, section 67 permits the issuance of prohibition orders as an alternative to seizure. A prohibition order restrains the person in possession from removing, parting with or otherwise dealing with the goods without prior permission of the department. Although less intrusive in form, a prohibition order operates as a substantive restriction and must satisfy the same statutory conditions that govern seizure.

A prohibition order cannot be issued casually or as a default option. It presupposes the existence of valid search proceedings and the identification of goods that are liable to confiscation. The order must be specific as to the goods covered and the nature of restraint imposed. Blanket or vague prohibition orders that immobilize business operations beyond what is necessary to secure the goods are inconsistent with the statutory purpose and are vulnerable to challenge.

The duration and effect of a prohibition order are also subject to statutory discipline. Such an order cannot operate indefinitely. It is a temporary measure intended to preserve the status of goods pending further proceedings. Where the department fails to initiate appropriate proceedings within the time prescribed or to convert the prohibition into lawful seizure where warranted, continuation of restraint becomes unlawful.

The seizure of cash under section 67 raises distinct legal considerations. Cash is not goods for the purposes of confiscation under the Act. Its seizure must therefore be justified, if at all, only as a thing relevant to proceedings and found to be secreted. The mere presence of cash at business premises does not establish its relevance to tax evasion or its liability to seizure. Treating cash as seizable per se conflates suspicion with statutory authority.

Where cash is seized, the department must be able to demonstrate its relevance to proceedings under the Act. Absence of such nexus renders the seizure unsustainable. Courts have consistently emphasized that cash cannot be seized merely on the assumption that it represents undisclosed proceeds or unaccounted transactions, without material connecting it to alleged contraventions under GST.

Electronic records and devices present additional challenges in search and seizure proceedings. The law permits seizure of electronic records that are useful or relevant to proceedings and that are found to be secreted. However, this does not automatically justify seizure of entire devices such as computers, servers or mobile phones. The statute contemplates seizure of records, not indiscriminate deprivation of access to digital assets.

Where electronic records are concerned, proportionality assumes importance. The authorized officer must identify the



## PROHIBITION ORDERS, SEIZURE OF CASH AND SEIZURE OF ELECTRONIC RECORDS

specific data or records relevant to proceedings. Copying or imaging of data, subject to safeguards, may often achieve the statutory objective without disrupting business operations. Wholesale seizure of devices without considering less intrusive alternatives exceeds the limited purpose of section 67.

Procedural safeguards apply with equal force to prohibition orders, seizure of cash and seizure of electronic records. Proper documentation, identification of relevance and recording of reasons are essential. Failure to adhere to these requirements weakens the legal foundation of subsequent proceedings and exposes the action to challenge.

For professionals, close scrutiny of prohibition orders and seizure of cash or electronic records is critical. Each such action must be tested against the statutory conditions of relevance, secrecy and necessity. Prompt and reasoned objections, recorded contemporaneously, play an important role in preserving the taxpayer's rights and in ensuring that enforcement action remains within the bounds of law.



## PROVISIONAL RELEASE OF SEIZED GOODS AND DOCUMENTS: STATUTORY RIGHT, CONDITIONS AND TIMELINES

The GST law expressly recognizes that seizure under section 67 is not intended to result in prolonged deprivation of goods or documents. To balance the interests of investigation with the rights of the taxpayer, the statute provides for provisional release of seized goods, documents and things, subject to conditions prescribed under the rules. Provisional release is not a discretionary indulgence but a statutory mechanism that must be administered in accordance with law.

Rule 140 of the Central Goods and Services Tax Rules governs provisional release of seized goods. The provision contemplates release upon execution of a bond for the value of the goods and furnishing of security in the form of a bank guarantee equivalent to the amount of applicable tax, interest and penalty that may be payable. The rule reflects the principle that seizure is intended to secure the subject matter of proceedings and not to paralyse business activity.

The right to seek provisional release arises immediately upon seizure. There is no requirement that adjudication proceedings must first be initiated or concluded. Once goods are seized, the taxpayer is entitled to request release, and the proper officer is required to consider such request objectively. Refusal of provisional release without cogent reasons defeats the statutory intent and renders the continued seizure vulnerable to challenge.

Provisional release is not limited to goods alone. Documents, books and

other things seized during search are also subject to statutory timelines for retention. The Act mandates that where documents or things seized are relied upon for issuance of a show cause notice, they may be retained only so long as is necessary for the proceedings. Documents not relied upon must be returned within the prescribed period. Retention beyond these limits is without authority of law.

Section 67 imposes strict timelines for the continuation of seizure. Where no notice is issued within six months from the date of seizure, the goods are required to be returned. This period may be extended by a further six months by the proper officer, provided reasons are recorded. The power of extension is not automatic and must be exercised judiciously. Mechanical extensions undermine the statutory safeguard and are open to challenge.

The consequences of failure to adhere to statutory timelines are significant. Continued retention of seized goods or documents beyond the permissible period renders the seizure illegal. The illegality does not get cured by subsequent issuance of notice or initiation of proceedings. Once the statutory time limit expires without lawful extension, the department loses the authority to retain the seized articles.

The conditions imposed for provisional release must also satisfy the test of proportionality. The requirement of bond and bank guarantee is intended to secure the interests of revenue and not to



## PROVISIONAL RELEASE OF SEIZED GOODS AND DOCUMENTS: STATUTORY RIGHT, CONDITIONS AND TIMELINES

impose punitive or excessive conditions. Demands for security unrelated to the statutory framework or disproportionate to the alleged liability are inconsistent with the purpose of provisional release. Another important aspect of provisional release is the effect of such release on subsequent proceedings. Provisional release does not amount to admission of liability by the taxpayer, nor does it validate the seizure retrospectively. It merely restores custody subject to undertakings. Any illegality in the original seizure continues to remain open to challenge notwithstanding provisional release.

For professionals, advising on provisional release requires close attention to statutory timelines, conditions imposed and the manner in which discretion is exercised by the authorities. Applications for provisional release should be timely and reasoned. Where release is denied or delayed without justification, the same must be placed on record and contested through appropriate remedies.

The framework for provisional release under GST underscores the Legislature's intent to prevent seizure from becoming a tool of coercion or prolonged disruption. Proper enforcement of these provisions ensures that investigative needs are met without sacrificing the fundamental requirement of fairness embedded in the law.



## RELATIONSHIP BETWEEN SEIZURE AND CONFISCATION UNDER GST: WHY SEIZURE MUST PRECEDE CONFISCATION

Confiscation under the GST law is a serious civil consequence that results in permanent deprivation of property. Given the gravity of this outcome, the statute carefully structures confiscation as a downstream proceeding that can arise only after compliance with specified preliminary steps. One such indispensable step is seizure. The relationship between seizure and confiscation is not incidental but foundational to the legality of confiscation proceedings.

Section 130 of the Central Goods and Services Tax Act deals with confiscation of goods and conveyances. Confiscation is attracted only where goods are liable to confiscation on account of specified contraventions enumerated in the statute. However, before confiscation can be contemplated, the goods must first be identified, secured and subjected to lawful custody. This is achieved through seizure under section 67.

The requirement that seizure must precede confiscation flows from both the structure of the Act and the principles of due process. Seizure serves to identify the offending goods and to preserve them pending adjudication. Without lawful seizure, the department lacks control over the subject matter and cannot meaningfully initiate confiscation proceedings. Any attempt to proceed directly to confiscation without seizure is contrary to the statutory scheme.

The Act distinguishes clearly between seizure and confiscation in terms of

purpose and effect. Seizure is temporary and investigative. It does not divest ownership and is subject to statutory timelines and provisional release. Confiscation, on the other hand, is punitive and final, subject only to adjudication and appeal. Collapsing these two stages defeats the layered safeguards deliberately built into the law. Only goods that are liable to confiscation can be seized, and only seized goods can be confiscated. This reciprocity underscores the interdependence of the two provisions. Where seizure itself is invalid due to lack of jurisdiction, absence of search or failure to satisfy statutory conditions, any confiscation proceedings founded upon such seizure are equally tainted. Illegality at the stage of seizure permeates subsequent proceedings.

Confiscation proceedings must be preceded by issuance of a show cause notice, affording the person concerned an opportunity of being heard. The notice must clearly specify the grounds on which confiscation is proposed and the provisions allegedly contravened. The existence of seized goods provides the factual substratum for such notice. In the absence of seizure, allegations of confiscation become abstract and unenforceable.

The Act also provides the option of provisional release of seized goods even where confiscation proceedings are contemplated. This reinforces the principle that confiscation is not



## RELATIONSHIP BETWEEN SEIZURE AND CONFISCATION UNDER GST: WHY SEIZURE MUST PRECEDE CONFISCATION

automatic upon seizure. It must be determined through adjudication. The ability of the taxpayer to seek release pending adjudication further emphasizes that seizure is a preliminary measure and not an adjudicatory conclusion.

An important corollary of this relationship is that seizure cannot be justified retrospectively on the basis of confiscation proceedings. The legality of seizure must be tested independently at the time it is effected. Subsequent initiation of confiscation proceedings does not cure defects in seizure. Where seizure is found to be without authority of law, confiscation proceedings lack jurisdictional foundation.

For professionals, examining the sequence of enforcement action is critical. Any deviation from the statutory order of seizure followed by confiscation must be promptly identified and challenged. This includes cases where goods are threatened with confiscation without prior seizure or where seizure is effected without satisfying the conditions necessary to support confiscation.

The insistence that seizure must precede confiscation reflects the Legislature's intent to ensure fairness, transparency and proportionality in enforcement. By requiring goods to pass through the disciplined process of seizure before confiscation is adjudicated, the law seeks to protect against arbitrary deprivation of property while still enabling effective

enforcement in genuine cases of contravention.



## CONCLUDING OBSERVATIONS ON ADMINISTRATIVE ENFORCEMENT UNDER GST

**Part 1** of this series has examined the administrative and civil enforcement powers available under the Goods and Services Tax law. Inspection, search, seizure and confiscation constitute the first level of State intervention into the affairs of a taxpayer and operate within a tightly regulated statutory framework. These provisions are designed to address alleged evasion of tax while preserving the foundational principle of self-assessment on which the GST regime is built.

A consistent theme across these provisions is the primacy of jurisdiction. Jurisdiction does not arise merely because proceedings are initiated. It must exist in law before any power is exercised. Whether it is inspection under section 67(1), search under section 67(2), seizure of goods or documents, or confiscation under section 130, each action must be traceable to a competent authority acting within statutory limits. Where jurisdiction is absent, proceedings are vitiated at their inception, irrespective of the allegations involved.

The statute also reflects a deliberate gradation of powers. Inspection, search, seizure and confiscation are distinct stages, each involving a progressively higher degree of intrusion and each subject to additional safeguards. Treating these powers as interchangeable or collapsing them into a single process undermines the statutory design and renders enforcement action legally vulnerable.

Another important safeguard is the requirement of objective satisfaction expressed through the formulation of “reasons to believe”. This requirement restrains arbitrary action and ensures that intrusive powers are exercised only where material on record justifies such intervention. The existence and relevance of these reasons remain open to scrutiny and form a key control on the exercise of power.

Seizure, as discussed in this part, is not a mechanism for recovery or punishment. It is a temporary measure intended to secure goods or records pending further proceedings. The statutory provisions relating to provisional release, timelines for retention and limitations on what may be seized reflect the Legislature’s intent to prevent seizure from becoming coercive or punitive.

Confiscation represents the culmination of administrative enforcement and carries serious civil consequences. The law therefore mandates adjudication, clear pleading of statutory ingredients and proportionate exercise of discretion. Confiscation cannot be presumed and cannot stand independently of a valid seizure and lawful proceedings leading up to it.

**Part 1 has thus focused on the property-centric and compliance-centric aspects of GST enforcement, governed by jurisdictional discipline and due process. These provisions form the administrative backbone of the enforcement framework and must be applied strictly within the limits prescribed by law.**

**Part 2 of this series will examine arrest and prosecution under GST, where enforcement shifts from control over property to restraint on personal liberty and where statutory safeguards assume even greater significance.**

## MORE INFORMATION ABOUT US



### The GST Insider: Stay Informed, Stay Compliant

As we conclude this edition of **The GST Insider**, we hope the insights and updates have provided valuable knowledge to our readers. Our commitment remains steadfast in delivering timely, accurate, and relevant information to help you navigate the complexities of the GST landscape. We have explored significant developments and shared expert opinions to help you stay compliant and maximize benefits.

We are grateful for your continued support and engagement. Your feedback and suggestions are invaluable as we strive to make "The GST Insider" a trusted resource for all your GST-related needs.

Until the next issue, stay informed, stay compliant, and keep thriving in your business endeavors.

**Email us for a copy and for more info!**

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