



# Lawgics

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## Section 79(2), 79(3) & 79(4) of CGST Act, 2017

### Section 79: Recovery of tax

Section 79(2)	Where the terms of any bond or other instrument executed under this Act or any rules or regulations made there under provide that any amount due under such instrument may be recovered in the manner laid down in sub-section (1), the amount may, without prejudice to any other mode of recovery, be recovered in accordance with the provisions of that sub-section.
Section 79(2) <b>Interpretation</b>	<p><b><u>Recovery in case of Bond or Other Instruments</u></b></p> <p>This provision allows the recovery of tax via enforcing the bond or instrument executed under the Act or any rules or regulations made under the CGST Act 2017.</p> <p>If the bond/instrument provides that the amount becoming due shall be recovered in terms of Section 79(1), then the recovery shall be effected as discussed in Section 79(1), irrespective of whether other mode of recovery exists or not.</p>
Section 79(3)	Where any amount of tax, interest or penalty is payable by a person to the Government under any of the provisions of this Act or the rules made there under and which remains unpaid, the proper officer of State tax or Union territory tax, during the course of recovery of said tax arrears, may recover the amount from the said person as if it were an arrear of State tax or Union territory tax and credit the amount so recovered to the account of the Government.
Section 79(3) <b>Interpretation</b>	<p><b><u>Recovery by Proper Officer</u></b></p> <p>Recovery of tax, interest or penalty can be done by the proper officer of the State Government or Union Territory Government, wherein, any CGST arrears will be recovered as if it were an SGST / UTGST arrears. Such an amount will be recovered, and then, shall be credited to the account of the Central Government. This means that SGST Officer/ UTGST Officer while recovering SGST/UTGST arrears may also recover any amount due from the defaulter under CGST Act as if it is under SGST/UTGST Act and later pass it on to the Central Government.</p>
Section 79(4)	<p>Where the amount recovered under sub-section (3) is less than the amount due to the Central Government and State Government, the amount to be credited to the account of the respective Governments shall be in proportion to the amount due to each such Government.</p> <p>Explanation.—For the purposes of this section, the word person shall include “distinct persons” as referred to in sub-section (4) or, as the case may be, sub-section (5) of section 25.</p>
Section 79(4) <b>Interpretation</b>	<p><b><u>Proportionate Recovery by State Government &amp; Central Government</u></b></p> <p>In case the amount recovered is less than the amount due to the Central Government and State Government, then the amount will be apportioned among the Central Government and State / UT Government in proportion to the amount due to each such Government.</p>

**Other Relevant Rules**

Rule 146	<p><b><u>Recovery through execution of a decree, etc.</u></b></p> <p>Where any amount is payable to the defaulter in the execution of a decree of a civil court for the payment of money or for sale in the enforcement of a mortgage or charge, the proper officer shall send a request in FORM GST DRC-15 to the said court and the court shall, subject to the provisions of the Code of Civil Procedure, 1908 (5 of 1908), execute the attached decree, and credit the net proceeds for settlement of the amount recoverable.</p>
Rule 151	<p><b><u>Attachment of debts and shares, etc.</u></b></p> <p>(1) A debt not secured by a negotiable instrument, a share in a corporation, or other movable property not in the possession of the defaulter except for property deposited in, or in the custody of any court shall be attached by a written order in FORM GST DRC-16 prohibiting.-</p> <p>(a) in the case of a debt, the creditor from recovering the debt and the debtor from making payment thereof until the receipt of a further order from the proper officer;</p> <p>(b) in the case of a share, the person in whose name the share may be standing from transferring the same or receiving any dividend thereon;</p> <p>(c) in the case of any other movable property, the person in possession of the same from giving it to the defaulter.</p> <p>(2) A copy of such order shall be affixed on some conspicuous part of the office of the proper officer, and another copy shall be sent, in the case of debt, to the debtor, and in the case of shares, to the registered address of the corporation and in the case of other movable property, to person in possession of the same.</p> <p>(3) A debtor, prohibited under clause (a) of sub-rule (1), may pay the amount of his debt to the proper officer, and such payment shall be deemed as paid to the defaulter.</p>
Rule 152	<p><b><u>Attachment of property in custody of courts or Public Officer.</u></b></p> <p>Where the property to be attached is in the custody of any court or Public Officer, the proper officer shall send the order of attachment to such court or officer, requesting that such property, and any interest or dividend becoming payable thereon, may be held till the recovery of the amount payable.</p>
Rule 153	<p><b><u>Attachment of interest in partnership.</u></b></p> <p>(1) Where the property to be attached consists of an interest of the defaulter, being a partner, in the partnership property, the proper officer may make an order charging the share of such partner in the partnership property and profits with payment of the amount due under the certificate, and may, by the same or subsequent order, appoint a receiver of the share of such partner in the profits, whether already declared or accruing, and of any other money which may become due to him in respect of the partnership, and direct accounts and enquiries and make an order for the sale of such interest or such other order as the circumstances of the case may require.</p> <p>(2) The other partners shall be at liberty at any time to redeem the interest charged or, in the case of a sale being directed, to purchase the same.</p>
Rule 157	<p><b><u>Recovery from surety</u></b></p> <p>Where any person has become surety for the amount due by the defaulter, he may be proceeded against under this Chapter as if he were the defaulter.</p>
Rule 160	<p><b><u>Recovery from company in liquidation</u></b></p> <p>Where the company is under liquidation as specified in section 88, the Commissioner shall notify the liquidator for the recovery of any amount representing tax, interest, penalty or any other amount due under the Act in FORM GST DRC -24.</p>

### **To Summarize: Modes of Recovery under GST**

The GST officers can recover the tax amount due by such defaulters in the below-given modes:

Deduction of the due amount from any money owed by the GST department to such person.	Section 79(1)(a) read with Rule 143
Selling goods belonging to such person under control of (detained by) GST officer	Section 79(1)(b) read with Rule 144
Recovery of tax from a third person, who holds or may subsequently hold money for or on account of the defaulter	Section 79(1)(c) read with Rule 145
Detention and selling of any movable or immovable property belonging to such person.	Section 79(1)(d) read with Rule 147
Recovery of tax through the collector of the district, in which such person owns any property or resides or carries on his business as if it were an arrear of land revenue.	Section 79(1)(e) read with Rule 155
Recovery of tax by way of application to the appropriate magistrate, who in turn shall proceed to recover the amount as if it were a fine imposed by him.	Section 79(1)(f) read with Rule 156
Recovery of tax via enforcing the bond or instrument executed under the Act or any rules or regulations made under the Act	Section 79(2)
Recovery of tax done by the proper officer of the State Government or Union Territory Government, wherein, any CGST arrears will be recovered as if it were an SGST / UTGST arrear. Such an amount will be recovered, and then later credited to the account of the Central Government.  In case the amount recovered by this means is less than the amount due, then the amount will be apportioned among the Central Government and State / UT Government in proportion to the amount due to each such Government.	Section 79(3) & Section 79(4)
Recovery through the execution of a decree of a civil court for the payment of money or for sale in the enforcement of a mortgage or charge.	Rule 146
Recovery from surety	Rule 157
Recovery from company in liquidation	Rule 160
<b><u>Other Relevant Rules</u></b>	
Prohibition against bidding or purchase by officer	Rule 148
Prohibition against sale on holidays	Rule 149
Assistance by police	Rule 150
Attachment of debts and shares, etc.	Rule 151
Attachment of property in custody of courts or Public Officer.	Rule 152
Attachment of interest in partnership.	Rule 153

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