



Lawgics

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Section 93 of CGST Act, 2017



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93. Special provisions regarding liability to pay tax, interest or penalty in certain cases.

(1) Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, (31 of 2016) where a person, liable to pay tax, interest or penalty under this Act, dies, then—

- (a) if a business carried on by the person is continued after his death by his legal representative or any other person, such legal representative or other person, shall be liable to pay tax, interest or penalty due from such person under this Act; and
- (b) if the business carried on by the person is discontinued, whether before or after his death, his legal representative shall be liable to pay, out of the estate of the deceased, to the extent to which the estate is capable of meeting the charge, the tax, interest or penalty due from such person under this Act,

whether such tax, interest or penalty has been determined before his death but has remained unpaid or is determined after his death.

(2) Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, (31 of 2016) where a taxable person, liable to pay tax, interest or penalty under this Act, is a Hindu Undivided Family or an association of persons and the property of the Hindu Undivided Family or the association of persons is partitioned amongst the various members or groups of members, then, each member or group of members shall, jointly and severally, be liable to pay the tax, interest or penalty due from the taxable person under this Act up to the time of the partition whether such tax, penalty or interest has been determined before partition but has remained unpaid or is determined after the partition.

(3) Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, (31 of 2016) where a taxable person, liable to pay tax, interest or penalty under this Act, is a firm, and the firm is dissolved, then, every person who was a partner shall, jointly and severally, be liable to pay the tax, interest or penalty due from the firm under this Act up to the time of dissolution whether such tax, interest or penalty has been determined before the dissolution, but has remained unpaid or is determined after dissolution.

(4) Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, (31 of 2016) where a taxable person liable to pay tax, interest or penalty under this Act,—

- (a) is the guardian of a ward on whose behalf the business is carried on by the guardian; or
- (b) is a trustee who carries on the business under a trust for a beneficiary,

then, if the guardianship or trust is terminated, the ward or the beneficiary shall be liable to pay the tax, interest or penalty due from the taxable person upto the time of the termination of the guardianship or trust, whether such tax, interest or penalty has been determined before the termination of guardianship or trust but has remained unpaid or is determined thereafter.

Our Interpretation

Section 93

This Section states the special provisions regarding liability to pay tax, interest or penalty in certain cases :

1. Death of person (individual)-

If a person (an individual) who is liable to pay tax dies: –

(a) In case of continuation of business: the legal representative or the any other person who carries on the business after his death is liable to pay tax, interest, penalty or any other dues which is due from the deceased person whether it has been determined before his death but has remained unpaid or it has been determined after his death; or

(b) In case of discontinuation of business: the legal representative is liable to pay the tax, interest, penalty or any other dues to the government, from and to the extent of the estate of the deceased whether it has been determined before his death but has remained unpaid or it has been determined after his death.

2. Partition of HUF or AOP-

In case of a HUF or AOP property is partitioned between the member or group of members then the liability to pay tax, interest or penalty is on each member or group of members (jointly and severally) who got a portion in that property. The member or the group of members is/are liable only upto the time of partition whether such Tax, interest and penalty has been determined before partition but has remained unpaid or is determined after such partition.

3. Dissolution of firm

In case the firm is dissolved, every person who was a partner upto the time of dissolution is jointly and severally liable to pay the tax, interest or penalty. The person who was a partner is liable to pay tax even if it is determined before dissolution but not paid or determined after dissolution. This provision is applicable for LLP as well.

4. On termination of guardianship or trust

In case of the termination of guardianship or trust, the ward or the beneficiary shall be liable to pay the tax, interest or penalty due, upto the time of the termination of the guardianship or trust, whether such tax, interest or penalty has been determined before the termination of guardianship or trust but has remained unpaid or is determined thereafter.

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