



Lawgics

By Nidhi, Advocate



Serial No.: 099
Dt.: 02-06-2023



<https://chat.whatsapp.com/le4VxuhvToe76Us7e5>

CLICK TO JOIN
WHATSAPP GROUP

Section 94 of CGST Act, 2017

94. Liability in other cases.

(1) Where a taxable person is a firm or an association of persons or a Hindu Undivided Family and such firm, association or family has discontinued business—

- (a) tax, interest or penalty payable under this Act by such firm, association or family up to date of such discontinuance may be determined as if no such discontinuance had taken place; and
- (b) every person who, at the time of such discontinuance, was a partner of such firm, or a member of such association or family, shall, notwithstanding such discontinuance, jointly and severally, be liable for the payment of tax and interest determined and penalty imposed and payable by such firm, association or family, whether such tax and interest has been determined or penalty imposed prior to or after such discontinuance and subject as aforesaid, the provisions of this Act shall, so far as may be, apply as if every such person or partner or member were himself a taxable person.

(2) Where a change has occurred in the constitution of a firm or an association of persons, the partners of the firm or members of association, as it existed before and as it exists after the reconstitution, shall, without prejudice to the provisions of section 90, jointly and severally, be liable to pay tax, interest or penalty due from such firm or association for any period before its reconstitution.

(3) The provisions of sub-section (1) shall, so far as may be, apply where the taxable person, being a firm or association of persons is dissolved or where the taxable person, being a Hindu Undivided Family, has effected partition with respect to the business carried on by it and accordingly references in that sub-section to discontinuance shall be construed as reference to dissolution or to partition.

Explanation.—For the purposes of this Chapter,—

- (i) a “Limited Liability Partnership” formed and registered under the provisions of the Limited Liability Partnership Act, 2008 (6 of 2009) shall also be considered as a firm;
- (ii) “court” means the District Court, High Court or Supreme Court.

Our Interpretation

Section
94

This section discusses the liability of partners of firm or members of AOP/HUF on discontinuation of business.

In case of discontinuance of the business in firm/AOP/HUF, the liability of the firm/AOP/HUF shall be determined (upto the date of discontinuance) as if no such discontinuance had taken place and every partner of such firm or member of such AOP/HUF at the time of discontinuance shall be jointly and severally liable for payment of tax, interest and penalty imposed. Discontinuance includes dissolution of firm/association and partition in case of HUF.

In case of change in the constitution of the firm or association, the partners and members who existed before reconstitution shall be liable jointly and severally to pay tax, interest or penalty for any period upto the date of reconstitution. This will operate even if the retirement was intimated to the Commissioner in terms of Section 90.

This provision shall apply to the LLP, the way it applies to a partnership firm.

We expressly disclaim liability to any person in respect of anything done in reliance of the contents of this publication.