



# Lawgics

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## Section 158 of CGST Act, 2017



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### 158. Disclosure of information by a public servant.

(1) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act (other than proceedings before a criminal court), or in any record of any proceedings under this Act shall, save as provided in subsection (3), not be disclosed.

(2) Notwithstanding anything contained in Indian Evidence Act, 1872, (1 of 1872) no court shall, save as otherwise provided in sub-section (3), require any officer appointed or authorised under this Act to produce before it or to give evidence before it in respect of particulars referred to in sub-section (1).

(3) Nothing contained in this section shall apply to the disclosure of,—

- a) any particulars in respect of any statement, return, accounts, documents, evidence, affidavit or deposition, for the purpose of any prosecution under the Indian Penal Code or the Prevention of Corruption Act, 1988, (45 of 1860) (49 of 1988) or any other law for the time being in force; or
- b) any particulars to the Central Government or the State Government or to any person acting in the implementation of this Act, for the purposes of carrying out the objects of this Act; or
- c) any particulars when such disclosure is occasioned by the lawful exercise under this Act of any process for the service of any notice or recovery of any demand; or
- d) any particulars to a civil court in any suit or proceedings, to which the Government or any authority under this Act is a party, which relates to any matter arising out of any proceedings under this Act or under any other law for the time being in force authorising any such authority to exercise any powers thereunder; or
- e) any particulars to any officer appointed for the purpose of audit of tax receipts or refunds of the tax imposed by this Act; or
- f) any particulars where such particulars are relevant for the purposes of any inquiry into the conduct of any officer appointed or authorised under this Act, to any person or persons appointed as an inquiry officer under any law for the time being in force; or
- g) any such particulars to an officer of the Central Government or of any State Government, as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty; or
- h) any particulars when such disclosure is occasioned by the lawful exercise by a public servant or any other statutory authority, of his or its powers under any law for the time being in force; or
- i) any particulars relevant to any inquiry into a charge of misconduct in connection with any proceedings under this Act against a practising advocate, a tax practitioner, a practising cost accountant, a practising chartered accountant, a practising company secretary to the authority empowered to take disciplinary action against the members practising the

the profession of a legal practitioner, a cost accountant, a chartered accountant or a company secretary, as the case may be; or

- j) any particulars to any agency appointed for the purposes of data entry on any automated system or for the purpose of operating, upgrading or maintaining any automated system where such agency is contractually bound not to use or disclose such particulars except for the aforesaid purposes; or
- k) any particulars to an officer of the Government as may be necessary for the purposes of any other law for the time being in force; or
- l) any information relating to any class of taxable persons or class of transactions for publication, if, in the opinion of the Commissioner, it is desirable in the public interest, to publish such information.

### Our Interpretation

#### Section 158

This Section lays down the guidelines for non-disclosure of information obtained during the course of any proceeding and the situations when such information can be disclosed.

##### **Non-disclosure:**

The following shall be kept confidential and should not be disclosed:

- All details contained in any statement / returns / accounts / documents which are submitted as per the Act.
- All details contained in any evidence given during any proceeding under the Act or in any record of proceedings under the Act

All details obtained from any evidence during the proceedings before a criminal court **need not be confidential.**

##### **Exceptions to non-disclosure:**

The following details can be disclosed:

##### Situation 1 – required under other Law:

Statement, return, accounts, documents, evidence, affidavit or deposition, for prosecution under the Indian Penal Code / the Prevention of Corruption Act, 1988 / or any other law in force.

##### Situation 2 – for verification purposes:

Particulars which are to be given to the Central / State Government or to any person discharging his functions under this Act, for the purpose of carrying out the object of the Act.

##### Situation 3 – for service of notice / demand:

If such disclosure is necessary for the service of notice or the recovery of demand.

##### Situation 4 – for Civil Court / Tribunal proceeding:

Particulars are to be disclosed to a Civil Court & the disclosure is in relation to any suit or proceeding. In such proceeding, the Government or any authority under the Act is a party. The disclosure relates to any proceeding as per the Act or under any other law authorizing any such authority to exercise such powers.

Situation 5 – for Audit:

Particulars to any officer appointed for the purpose of audit of tax receipts or refunds of the tax levied under the Act.

Situation 6 – for inquiry on any GST Officer:

Particulars relevant for any inquiry into the conduct of any GST officer, to any person(s) appointed as an inquiry officer under any relevant law.

Situation 7 – to levy or realize tax / duty:

Such facts to an officer of the Central / State Government as necessary for the purpose of enabling that Government to levy or realize any tax or duty.

Situation 8 – to public servant:

Such particulars, if such disclosure is necessary before a public servant or any statutory authority, due to his or its powers under any law.

Situation 9 – to conduct inquiry on professionals:

Such particulars as relevant to any inquiry under the Act conducted into a charge of misconduct against a practicing advocate / cost accountant / a chartered accountant, company secretary / tax practitioner to the authority empowered to take disciplinary action against the members practicing such profession. (i.e. ICAI / ICAI (CWA) / ICSI / Bar Council)

Situation 10 – to data entry agency for department:

Disclosures to any agency appointed for the purposes of data entry on any automated system or for operating, upgrading or maintaining any automated system (if such agency is contractually bound not to use or disclose such particulars except for the aforesaid purposes)

Situation 11 – to Government:

Particulars to an officer of the Central / State Government necessary for any law for the time being in force.

Situation 12 – for publication in public interest:

Information relating to any class of taxpayers / transactions for publication, if, in the opinion of the Competent authority, it is desirable in the public interest, to publish such information.