

## CHAPTER 16 - REFUND

### **Illustration 1**

Explain the following terms:

1. Inspection
2. Search
3. Seizure

### **Solution**

Inspection	Search	Seizure
Is the act of examining something, often closely. In tax / legal language, it is a softer provision than search. It enables officers to access any place of business of a taxable person and also any place of business of a person engaged in transporting goods or who is an owner / operator of a warehousing or godown.	Involves an attempt to find something. Search, in tax / legal parlance, is an action of a government official (a tax officer or a police officer, depending on the case) to go and look through or examine carefully a place, person, object etc. in order to find something concealed or to discover evidence of a crime. The search can only be done under the proper and valid authority of law.	The term 'seizure' has not been specifically defined in GST. In legal parlance, seizure is the act of taking over something or someone by force through legal process, such as the seizure of evidence found at the scene of a crime. It generally implies taking possession forcibly against the wishes of the owner.

### **Illustration 2**

State the circumstances under which goods shall be confiscated?

### **Solution**

As per section 130 of CGST Act, goods become liable to confiscation when any person does the following:

1. Supplies or receives any goods in contravention of any of the provisions of this Act or rules made thereunder leading to evasion of tax.
2. Does not account for any goods on which he is liable to pay tax under this Act
3. Supplies any goods liable to tax under this Act without having applied for the registration

4. Contravenes any of the provisions of the CGST Act or rules made thereunder with interest to evade payment of tax.

**Note:** The person from whom documents and books of accounts are thus seized, shall have the right to take copies of such documents and books of accounts, subject to the approval of the proper officer.

### **Illustration 3**

Explain the term 'Arrest' and its relevant provisions (Section 69)?

### **Solution**

The term '**arrest**' has not been defined in the GST Act.

However, as per judicial pronouncements, it denotes '**the taking into custody of a person under some lawful command or authority**'.

**As per section 69, Arrests can be carried out only where the person is accused of offences specified for this purpose and the tax amount involved is more than specified limit.**

Further, the assets under GST Act can be **made only under authorization from the Commissioner**. Whenever the Commissioner has reason to believe that any person has committed any such offence, he can authorize any other officer subordinate to him, to arrest such person.

The nature of **offences which are thus punishable with imprisonment are as per Section 132** of the Act.

### **Illustration 4**

What are the safeguard for a person who is placed under arrest?

### **Solution**

There are certain safeguard provided under section 69 for a person who is place under arrest. These are:

If a person is <b>arrested for a cognizable offence</b>	He must be informed in writing of the grounds of arrest and he must be produced before a magistrate within 24 hours of his arrest.
If a person is arrested for a <b>non cognizable and bailable offence</b>	The Deputy / Assistant Commissioner can release him on bail and he will be subject to the same provision as an officer in - charge of a police station under section 436 of the Code of Criminal Procedure, 1973.

All arrest must be in accordance with the provisions of the code of criminal procedure, 1973 relating to arrest.

**Illustration 5**

Explain the various categories of offences?

**Solution****Categories of Offences**

<b>Cognizable</b>	<b>Bailable</b>	<b>Non - cognizable</b>	<b>Non - bailable</b>
Cognizable offence means serious category of offences in respect of which police officer has the authority to make an arrest without a warrant and to start an investigation with or without the permission of a court.	A bailable offence is a criminal offence in which the accused shall be offered to be released on suitable bail upon his arrest by the police or the court informing about his right to be so released.	Non - cognizable offence means relatively less serious offences in respect of which a police officer does not have the authority to make an arrest without a warrant and an investigation cannot be initiated without a court order.	A non - bailable offence is an offence in which the accused person shall not be automatically entitled to be released on bail. However, it does not mean that the court may not order him to be released on a suitable bail - with or without any condition