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Legality of Seizure of Cash or Other Valuables under the GST Law

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Introduction

Tax evasion is one of the biggest white-collar crime due to which the Global economy faces US\$492 billion abuse of tax in a single year out of which \$28 billion is from India itself. In India under the GST Law the proper officer under Section [67\(1\)](#) of the CGST/SGST Act, 2017 has power to inspect and search in any places of business of the taxable person or the persons engaged in the business of transporting goods or the owner or the operator of warehouse or godown or any other place to stop such tax evaders before or after issuing notice under Section [73](#) or [74](#) of the CGST Act to multiple persons for tax short paid or excess ITC claims by fraud. Section 67(2) of the CGST Act empowers the officers to conduct search and seizure of goods or things wherein the officer has reasons to believe that these goods or things are linked with the evaded tax or attempting to evade the payment of any tax. Recently it has been observed that the officer while conducting search and seizure under Section 67 of the CGST Act ends up seizing anything and everything including Cash and other valuables of the accused which is totally **unlawful**. Although Section 67(2) of the Act gives power to seize goods and things but the officer under the GST Law cannot seize cash or any other valuables of the accused which does not form part of stock-in-trade of business.

2. Section 67 of the CGST Act, 2017

"67. Power of inspection, search and seizure. —

- (1) *Where the proper officer, not below the rank of Joint Commissioner, has reasons to believe that—*
 - (a) *a taxable person has suppressed any transactionto evade tax under this Act; or*
 - (b) *any person engaged in the business of transporting goods ortax payable under this Act,*
*he may authorise in writing any other officer of central tax to **inspect any places of business of the taxable person or the persons engaged in the business of transporting goods or the owner or the operator of warehouse or godown or any other place.***
- (2) *Where the proper officer, not below the rank of Joint Commissioner, either pursuant to an inspection carried out under sub-section (1) or otherwise, has reasons to believe that any goods liable to confiscation or any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Act, are secreted in any place, he may authorise in writing any other officer of*

central tax to search and seize or may himself search and seize such goods, documents or books or things:....."

3. Section 67(2) of the CGST Act *ibid*, relates to only those goods can be seized which the proper officer has reasons to believe that those goods, any documents or books or things, which form part of stock-in-trade of the business or shall be useful for or relevant to any proceedings under the CGST Act. Moreover, as defined in Section [2\(52\)](#) of the CGST Act, the expression 'goods' covers all movable property **other than 'money' and 'securities'** and from Section 2(75) we find that 'Cash/Currency' falls squarely within the definition of word 'money'. Thus, 'Cash', being covered in definition of 'money' under Section 2(75) is clearly excluded from the definition of the term 'goods' under Section 2(52) of the Act, **hence, cash or any other valuables of the taxable person cannot be seized by the proper officer if the goods does not form part of stock-in-trade of business or the officer has no reasons to believe that these goods or things are linked with the evaded tax or attempting to evade the payment of any tax.**

Judicial decisions on seizure of Cash or other Valuables under the GST Law.

4. In a recent decision passed by the Hon'ble High Court of Kerala in case of *Centre C Edtech Pvt. Ltd. v. Intelligence Officer, Office intelligence Unit, State Goods And Service Tax Department, Kerala* W.A. No. 1934 and 1962 of 2024, dated 27-1-2025 wherein the GST authorities seized cash amounts of Rs.39,70,760/- from the petitioners premises and subsequently cash so seized was later handed over to the Income Tax Department in pursuance of the requisition send by the Income Tax Department to the GST authorities under Section [132A](#) of the IT Act, 1961. The Hon'ble Bench held that not only the initial seizure of the cash by the GST Department was **blatantly illegal since it was without the authority of law** but also **handing over of the cash to the Income Tax Department, cannot be seen as legal acts** merely because the money was now handed over to the Income Tax Department pursuant to a requisition sent by them under Section 132A of the IT Act, hence, the cash amount seized from the premises of the appellants cannot be retained either by the GST Department of the State or the Income Tax Department.

5. In the *supra* case the Hon'ble Bench relied on the decision of the Division Bench of the same Court in case of *Sabu George & Ors. v. Sales Tax Officer (IB) & Ors* WA NO. 514 OF 2023 which has been confirmed by the Supreme Court in *Sales Tax Officer (IB) & Ors. v. Sabu George & Ors* S.L.P. (Civil) Diary No. 27670 of 2023, dated 31-7-2023 wherein the Hon'ble Bench held that the power of the GST Authorities to seize any "thing" while functioning under the provisions of the statute cannot be seen as permitting a seizure of cash from the premises of a dealer more so when the cash in question was not part of the stock in trade of the business conducted by the dealer. Hence, dismissing the Special Leave Petition filed by the Department against the Order passed by the Hon'ble High Court of Kerala.

6. Similarly, the Hon'ble High Court of Delhi in case of *Deepak Khandelwal v. Commissioner of CGST, Delhi West* W.P. (C) No. 6739 of 2021, dated 17-8-2023 which has been confirmed by the Hon'ble Supreme Court in *Commissioner of CGST v. Deepak Khandelwal* S.L.P. (Civil) Diary No. 31886 of 2024 with Diary No. 29073 of 2024, dated 14-8-2024 wherein the Hon'ble Bench of Supreme Court dismissed the S.L.P. filed by the department against the Order passed by the Hon'ble High Court of Delhi in *W.P. (C) No. 6739 of 2021, dated 17-8-2023* stating that only those goods, which were subject matter of supply and consequent evasion of tax could be seized under Section 67 of GST Act and **seizure of currency and other valuables on ground of it being unaccounted wealth, was not sustainable as purpose of Section 67 of CGST Act, was not recovery of tax but to empower authorities to unearth tax evasion.**

Conclusion

7. A systematic reading of Section 67 and other provisions of CGST Act itself states that the expression 'goods' under Section 2(52) covers all movable property other than 'money' and 'securities' and 'Cash/Currency' falls squarely within the definition of word 'money' under section 2(75) of the CGST Act. Moreover, the officer under the GST Act can seize only those goods or things which form part of stock in trade of business or wherein the officer has reasons to believe that these goods or things are linked with the evaded tax or attempting to evade the payment of any tax. **The search and seizure operations under section 67 of the Act are not for the purpose of seizing unaccounted**

income or assets or ensuring that the same are taxed. The said field is covered by the Income-tax Act, 1961. Hence, Section 67 of CGST Act is not recovery of tax but to empower authorities to unearth tax evasion, even if some unaccounted cash or valuable asset is found during the search, the same are not liable to be seized under section 67(2) of the Act.

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