

Serial No.	Provision under Old Law	Provisions under GST Law	Remarks(GST Law)
1	<ul style="list-style-type: none"> • Show Cause Notice is issued under Section 73 of the Finance Act, 1994 within the normal period of 30 months. • As per Section 11A of Central Excise Act, 1944 Show Cause is issued within the normal period of 2 years from relevant date. • Cases involving fraud, misrepresentation, suppression of facts with an intent to evade payment of duty extended period of 5 years can be invoked under Section 11A(4) of Central Excise Act, 1994 and under Section 73(1) of the Finance Act, 1994. • Interest on delayed payment of duty is levied under Section 11AA of Central Excise Act at the rate of 10% not exceeding 36% per annum. • Penalty for short levy or non levy of duty is invoked under Section 11AC of the Central Excise Act, 1944 at the rate of 10% or Rs. 5,000/- • In cases involving fraud, evasion, suppression, willful misrepresentation under Section 11AC(c) if duty has been paid under Section 11A(10) then equal amount of penalty is levied. 	<ul style="list-style-type: none"> • Time limit to issue a Show Cause Notice in cases not involving fraud under Section 73 of the GST Law is 3 months prior to issuance of order and order can be issued in such cases within 3 years from due date. • When the issue involves fraud under Section 74 of the GST Law time limit to issue a Show Cause Notice is 6 months prior to issuance of order and time limit to issue an order is 5 years from the due date. • In cases not involving fraud under Section 73 penalty amount is equal to 10% of tax amount or Rs. 10,000 after 30 days from the issue of notice • When the case involves fraud under Section 74 penalty amount would be equal to 50% of tax made within 30 days of communication of order. 	<ul style="list-style-type: none"> • Despite a particular case not involving any fraud and post adjudication the adjudication authority could take time to pass an impugned order which could result in backlogs and pendency of disputes at the first stage of litigation itself. • In cases involving fraud amount of penalty to be paid is increased to 50% resulting in harsher penal provisions.
2	<ul style="list-style-type: none"> • Appeals before Appellate Authority along with procedures are specified in Sections 35 and 35 A of Central Excise Act, 1944 and Sections 85 and of the Finance Act, 1994. 	<ul style="list-style-type: none"> • Under Section 107(1) of the GST Law an appeal should be filed against an Adjudicating Authority order with the Appellate Authority within 3 months from date of 	<ul style="list-style-type: none"> • Unlike the erstwhile regime sufficient time limit given for Appellant to prefer an appeal against the order. Thus Appellant gets more time to

	<ul style="list-style-type: none"> • As per Section 35 of Central Excise Act, 1944 and Section 85 of the Finance Act, 1994 appeals against an Adjudicating Authority are filed before Appellate Authority within 60 days from date of receipt of order in Form GSTR APL-01 in electronic form or as per provisions notified by the commissioner. • Application to the Appellate Authority is in Form GST APL-03 • Under Section 35F of Central Excise Act Appellant will have to pay a pre deposit of 7.5% for preferring appeals before Commissioner Appeals. • Provisional acknowledgment is issued for filing the appeals. • Within 7 days from date of filing the appeal a certified copy of the order is submitted and final appeal acknowledgment is issued in Form GST APL-02. 	<p>receipt of order.</p> <ul style="list-style-type: none"> • Department could file an appeal under Section 107(2) of GST Law within 6 months from date of communication of the order to him. • Both the Appellants and the department have an extension of one month to prefer an appeals if the normal period for filing appeals are over under Section 107(4) of GST Law. • As per Section 107(6)(b) a pre deposit of 10% has to be made for filing the appeals against Order in Original. • Appellate Authority passes the order within 1 year and the Appellant and respondents are heard in person under Section 107(11) of GST Law. 	<p>analyse the order and prepare a proper appeal against the same.</p> <ul style="list-style-type: none"> • Pre deposit provisions is harsh as compared to the erstwhile regime.
	<ul style="list-style-type: none"> • Appeals before Appellate Tribunal along with procedures are specified in Section 35B of Central Excise Act, 1944 and Section 86 of the Finance Act, 1994. • Under Section 35B of Central Excise Act , 1944 and Section 86 of the Finance Act, 1994 appeals against the Appellate Authority order is filed before the Tribunal in Form GST APL-05 along with appeal fees of Rs. 1,000 or 5,000 or 10,000. • Application to the Appellate Tribunal is in Form GST APL-07 	<ul style="list-style-type: none"> • Under Section 112(1) of the GST Appeals against an order of Appellate Authority should be filed before the Appellate Tribunal within 3 months from date of receipt of order. • Department should file an appeal within 6 months from date of communication of order to them under Section 112(3) of GST Law. • As per Section 112(6) an Appeal could be filed with a further condonation 	<ul style="list-style-type: none"> • Time limit for filing appeals remains the same. However pre deposit provisions are harsher and increased to 20%. • Impact would be on Appellants who are fighting cases involving huge demand amount.

	<ul style="list-style-type: none"> • Under Section 35F of the Central Excise Act, 1944 a pre deposit of 10% is paid for preferring appeals before the Tribunal. • Orders are passed by the Tribunal under Section 35C of Central Excise Act, 1944 either in Appellants favour or remand the matter back to the lower authority for fresh adjudication. • Provisional acknowledgment is granted to the Appellant. • Memorandum of cross objections is filed in Form GST APL-06. • Certified copy of the order is submitted within 7 days of filing the appeal and final acknowledgment including appeal number is issued in Form GST APL -02. • Summary of CESTAT order is issued in Form GST APL-04 	<p>period of 3 months beyond the normal period.</p> <ul style="list-style-type: none"> • As per Section 112(8)(b) a pre deposit of 20% has to be made for filing appeals before the Tribunal. • As per Section 113(1) of GST Law Appellate Tribunal may either pass an order in Appellants favour or remand the matter back to lower authority for fresh adjudication. 	
3	<ul style="list-style-type: none"> • Under Section 35G of Central Excise Act, 1944 appeals are filed before High Court within 180 days from date of receipt of order by the Appellant and the department with an appeal of Rs. 200. 	<ul style="list-style-type: none"> • Under Section 117(1) of GST Law an Appellant can file an appeal against order of Appellate Tribunal within 180 days from date of receipt of order before the High Court. 	No change between erstwhile regime and GST regime.
	<ul style="list-style-type: none"> • Under Section 35L of Central Excise Act, 1944 Appeals against a Tribunal or High Court Order is filed before the Supreme Court. 	<ul style="list-style-type: none"> • Under Section 118(1)(a)(b) of GST Law an Appellant can file an appeal against an order of Appellate Tribunal or High Court . 	No change between erstwhile regime and GST regime.

GENERAL PROVISION: DEMAND AND RECOVERY**1. Section 75**

Overview: Time period exclusion with regards to passing of order and general provisions pertaining to demand are specified in this Section.

- When the Service of Notice/issuance of orders has been stayed by a court/tribunal such period is excluded from maximum time limit of issuance of order.
- When fraud, willfull misstatement, misrepresentation and suppression not established under Section 74(1) of GST Law tax payable is determined under Section 73 of the GST Law.
- Orders of Tribunals/Courts should be issued within 2 years from date of communication of direction.
- Personal hearing is granted to the Appellant and also the Appellant has an option to request for three adjournments.
- Interest payment is mandatory in cases of short paid or not paid whether or not specified in the order.
- If order is not issued within 3 years post adjudication then the adjudication proceedings are deemed to be concluded.

2. Section 76 (Tax is collected but not deposited to the government)

- Any Tax that is collected but not remitted to the governments both central/state is required to be paid to the government regardless of whether the supplies are taxable or not.
- Show Cause Notice is issued to recover the tax amount. Even the proper officer can determine the tax amount and pass orders within one year.
- Amount payable to the government is adjusted against tax payable in relation to supplies made. Even after adjustments if any surplus is left the amount shall either be credited to the fund or refunded to the person who has borne the incidence of such amount.

3. Section 77:(Tax wrongfully collected and deposited to the government)

- Taxable person has paid CGST/SGST considering a transaction to be intra-state supply which was subsequently held to be an interstate supply is allowed as refund.
- Taxable person has paid IGST on a transaction considered to be an Inter State Supply but subsequently was held to be an intra state supply. Interest on amount of CGST/SGST not required to be paid.

4. Section 78 (Initiation of recovery proceedings)

- Recovery proceedings under the erstwhile regime are initiated under Section 87 of the Finance Act, 1994 which is recovery of any amount due to the central government and the same are specified under Section 11 of the Central Excise Act, 1944.
- In GST Law any amount payable in pursuant of an order passed shall be paid within a period of 3 months from date of the order.

5. **Section 79(Recovery of Tax)**

- Under this section recovery could be initiated if amount to be paid to the government remains unpaid in the following manner
 1. Adjust the demand amount payable with the money due to the Appellant as specified by the proper officer.
 2. Detain goods belonging to the Appellant and place it under the control of the proper officer.
 3. Recoveries from any other person who owes money to the Appellant by issuance of notice.
 4. In case of any non recoveries movable/ immovable property under the control of the Appellant can be recovered and sold within 30 days in case of non recovery.
 5. Preparation of recovery certificate specifying the amount due and send it to the district collector in respect of the Appellant. Collector has powers to recover goods treating it similar to arrears of land revenue.
 6. Even Magistrate has been given powers to initiate recoveries from the Appellant.

6. **Section 80(Payment of Tax and other amount in instalments)**

- If a tax payer makes an application in writing to the commissioner to extend time/allow to make payment due in monthly instalments within 24 months. If there is a default in payment of any one instalment on the due date then the whole outstanding balance becomes payable on the date in which it becomes due and also liable for recovery.

7. **Section 84 (Continuation and validation of recovery)**

- Commissioner services notice to taxable person on enhanced demand amount.
- Demand notice is served on the taxable person before appeals, revision or any other proceedings then recovery of enhanced amount would be initiated from the stage at which initial proceedings stood and requirement for issuing fresh demand notice to the extent covered by the earlier notice does not arise.

Interest and Penalty provisions

8. Section 122 :(Penalty for certain offences)

Nature of Offences	Penalty
(I.) Supply of goods without invoice	1. Rs.10,000/- 2. An amount equal to amount of tax evaded/ tax collected not paid/tax not paid or ITC availed or distributed or passed irregularly or refund claimed fraudulently Higher of the following
(II.) Invoice issued without supply of goods	
(III.) Tax Collected but not paid to the government	
(IV.) Failed to deduct or collect tax and also failed to pay to the government.	
(V.) Input Tax Credit availed without receipt of goods	
(VI.) Tax collected in contravention of the act	
VII.) Refund obtained by fraud	
VIII.) Financial Records manipulated	
(IX.) Fails to get registered	
(X.) Provides false information	
(XI.) Transporting taxable goods without documents	
XII.) Credit availed or distributed in violation of provisions of the act	
XIII.) Failure to maintain books of accounts	
XIV.) Failure to provide required information and documents	
XV.) Obstructs or prevents an officer in charge	
XVI.) Suppresses turnover	
XVII.) Tampers or destroys evidences	
XVIII.) Disposes or tampers goods detailed or seized	

9. Section 122(2)

- Tax is not paid or short paid or erroneously refunded, credit wrongly availed or utilized by a registered person for any reasons other than fraud is liable for penalty of Rs.10,000/- or 10% of tax due whichever is higher.
- Tax is not paid by a registered person for reasons of fraud such person is liable to pay penalty of Rs.10,000/- or tax due whichever is higher.

Subsection (3)

- Applicable to any person who aids or abets any offences under Section 85(1) of GST Law.
- Acquires goods that is liable to confiscation
- Supply of services received in contravention of the act.
- Failure to appear before GST office for summons issued
- Failure to issue invoices and record the same is liable to pay penalty of Rs.25,000.

Section 123

- Failure to furnish the information of returns under Section 150 is liable to pay penalty of Rs.100/day for the period in which such failure continues and maximum amount is up to Rs.25,000.

Section 124

- Failure to furnish returns under Section 151 without a reasonable cause or furnishes false returns the Appellant is liable for maximum penalty of Rs.10,000/- and if the offense continues 100/day during which the offense continues.
- Maximum penalty is Rs.25,000

Section 125

- Contravention of provisions of the act is liable for maximum penalty of Rs.25,000/-

Remarks

1. Litigation proceedings are contained in Section 73 to Section 125 of the GST Law along with penal provisions.
2. Only pre deposit provisions are notified and enhanced as compared to erstwhile regime.

3. Time frame for issuance of order is within 3 years from due date which could result in huge backlog of cases and pendency of issues.
4. Payment of pre deposit enhanced in the GST Law which could impact Appellants who are filing appeals in cases involving huge demand amount.
5. Penal provisions are harsher in cases involving fraud.