Offences and penalties under GST

Offences are most important part of any ACT which provide stick to the Act for it smooth functioning and implementation

66. Offences and penalties

(1) Where a taxable person who -

(i) supplies any goods and/or services without issue of any invoice or issues an incorrect or false invoice with regard to any such supply;

(ii) issues any invoice or bill without supply of goods and/or services in violation of the provisions of this Act, or the rules made there under;

(iii) collects any amount as tax but fails to pay the same to the credit of the appropriate Government beyond a period of three months from the date on which such payment becomes due;

(iv) collects any tax in contravention of the provisions of this Act but fails to pay the same to the credit of the appropriate Government beyond a period of three months from the date on which such payment becomes due;

(v) fails to deduct the tax in terms of sub-section (1) of section 37, or deducts an amount which is less than the amount required to be deducted under the said sub-section, or where he fails to pay to the credit of the appropriate Government under sub-section (2) thereof, the amount deducted as tax;

Section -37(1) Tax Deducted at Source

[to deduct tax at the rate of one percent from the payment made or credited to the supplier [hereinafter referred to in this section as "the deductee"] of taxable goods and/or services, notified by the Central or a State Government on the recommendations of the Council, where the total value of such supply, under a contract, exceeds rupees ten lakh]

(va) fails to collect tax in terms of sub-section (1) of section 43C, or collects an amount which is less than the amount required to be collected under the said sub-section, or where he fails to pay to the credit of the appropriate Government under sub-section (4) thereof, the amount collected as tax;

43C. Collection of tax at source

(1) Notwithstanding anything to the contrary contained in the Act or in any contract, arrangement or memorandum of understanding, every electronic commerce operator (hereinafter referred to in this section as the "operator") shall, at the time of credit of any amount to the account of the supplier of goods and/or services or at the time of payment of any amount in cash or by any other mode, whichever is earlier, collect an amount, out of the amount payable or paid to the supplier, representing consideration towards the supply of goods and /or services made through it, calculated at such rate as may be notified in this behalf by the Central/State Government on the recommendation of the Council.

(vi) takes and/or utilizes input tax credit without actual receipt of goods and/or services either fully or partially, in violation of the provisions of this Act, or the rules made there under;

(vii) fraudulently obtains refund of any CGST/SGST under this Act;

(viii) takes or distributes input tax credit in violation of section 17, or the rules made There under;

(ix) falsifies or substitutes financial records or produces fake accounts and/or documents or furnishes any false information or return with an intention to evade payment of tax due under this Act;

(x) is liable to be registered under this Act but fails to obtain registration;

(xi) furnishes any false information with regard to particulars specified as mandatory,either at the time of applying for registration, or subsequently;

(xii) obstructs or prevents any officer in discharge of his duties under the Act;

(xiii) transports any taxable goods without the cover of documents as may be specified in this behalf;

(xiv) suppresses his turnover leading to evasion of tax under this Act;

(xv) fails to keep, maintain or retain books of account and other documents in accordance with the provisions of this Act or the rules made there under;

(xvi) fails to furnish information and/or documents called for by a CGST/SGST officer in accordance with the provisions of this Act or rules made there under or furnishes false information and/or documents during any proceedings under this Act;

(xvii) supplies, transports or stores any goods which he has reason to believe are liable to confiscation under this Act;

(xviii) issues any invoice or document by using the identification number of another taxable person;

(xix) tampers with, or destroys any material evidence;

(xx) disposes off or tampers with any goods that have been detained, seized, or attached under this Act;

There shall be penalty of rupees ten thousand or an amount equivalent to the tax evaded or the tax not deducted or short deducted or deducted but not paid to the Government or input tax credit availed of or passed on or distributed irregularly, or the refund claimed fraudulently, as the case may be, whichever is higher.

(2) Any registered taxable person who repeatedly makes short payment of tax shall be liable to a penalty of rupees ten thousand or ten percent of the tax short paid, whichever is higher.

Explanation.- For the purposes of this sub-section, a taxable person shall be deemed to have made short payments 'repeatedly', if there were short payments in three returns during any six consecutive tax periods.

(3) Any person who

(a) aids or abets any of the offences specified in clauses (i) to (xx) of sub-section (1) above;

(b) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with any goods which he knows or has reason to believe are liable to confiscation under this Act or the rules made there under;

(c) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reason to believe are in contravention of any provisions of this Act or the rules made there under;

(d) fails to appear before the CGST/SGST officer, when issued with a summon for appearance to give evidence or produce a document in an enquiry;

(e) fails to issue invoice in accordance with the provisions of this Act or rules made There under, or fails to account for an invoice in his books of account;

shall be liable to a penalty which may extend to rupees twenty five thousand.

67. General penalty

Any person, who contravenes any of the provisions of this Act or any rules made There under for which no penalty is separately provided for in this Act, shall be liable to a penalty which may extend to rupees twenty five thousand.

Offences and penalty provided in GT Act is likely to be rational and transparent which will decrease the litigation as it is provided with Explanation wherever there is confusion

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