L&S Update

an e-update to clients from
Lakshmikumaran & **Sridharan**

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Model GST Law - Recovery

Recovery

Modes of Recovery

- Model GST Law provides for recovery of due amount by any resorting to any one or more of the following methods, namely:-
    1. Deduction from money in control of the officer. Typical example would be deduction from Cash Ledger (PLA account), refund due to taxpayer, etc.
    2. Detention and sale of movable property belonging to the taxpayer in the control of officer.
    3. Garnishee Notice viz. notice to person owing money to defaulting taxpayer.

Modes of Recovery (contd.)

4. Distrain movable/immovable property of the defaulting taxpayer and detain the same until payment. Such property may also be sold in case of non-payment of dues by the taxpayer within 30 days of seizure and detention.
5. Recovery of tax by issuing Recovery Certificate to District Collector as if it were an arrear of land revenue.
6. Application to the appropriate Magistrate for recovery of the due amount as if it were a fine imposed by him.

- The Model GST Law as such does not prescribe any prioritization amongst these modes.
- Model GST Law also seeks to empower the CGST officers to recover SGST dues and vice versa, during the course of recovery CGST and SGST arrears respectively.

Payment of tax in Installments

- Much in line with the Central Excise, Service Tax, Customs and VAT laws, GST Law also provides for deferred payment of tax/ payment of tax in instalments. The said facility is available subject to approval from specified officer and payment of interest on deferred payment.
- Benefit of deferred payment/ payment in installments is subject to strict conditions. Any default in payment of even one instalment disentitles the whole scheme to the taxpayer, making the whole outstanding balance payable forthwith by the taxpayer.

Tax to be first charge on property

- Notwithstanding anything to the contrary contained in any law for the time being in force, any amount payable by a taxable person or any other person on account of tax, interest or penalty which he is liable to pay to the Central or a State Government shall be a first charge on the property of such taxable person, or as the case may be, such person.
- Here it may be noted that there is no saving clause in respect of sums due under the Securitisation and Reconstruction of Financial Assets and the Enforcement of Security Interest (SARFAESI) Act, 2002, etc. (unlike in the case of existing Central Excise and service tax laws).

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