

SEARCH, INSPECTION AND SUMMONS IN GST!

[18 August 2026]

CA Pritam Mahure and Associates



WHAT IS IT?

PANORAMA
STUDIOS

T
SERIES
FILMS

GULSHAN KUMAR & T-SERIES PRESENT
A PANORAMA STUDIOS PRODUCTION

RAJ

HEROES DON'T ALWAYS COME IN UNIFORM

16TH MARCH

OFFICIAL TRAILER

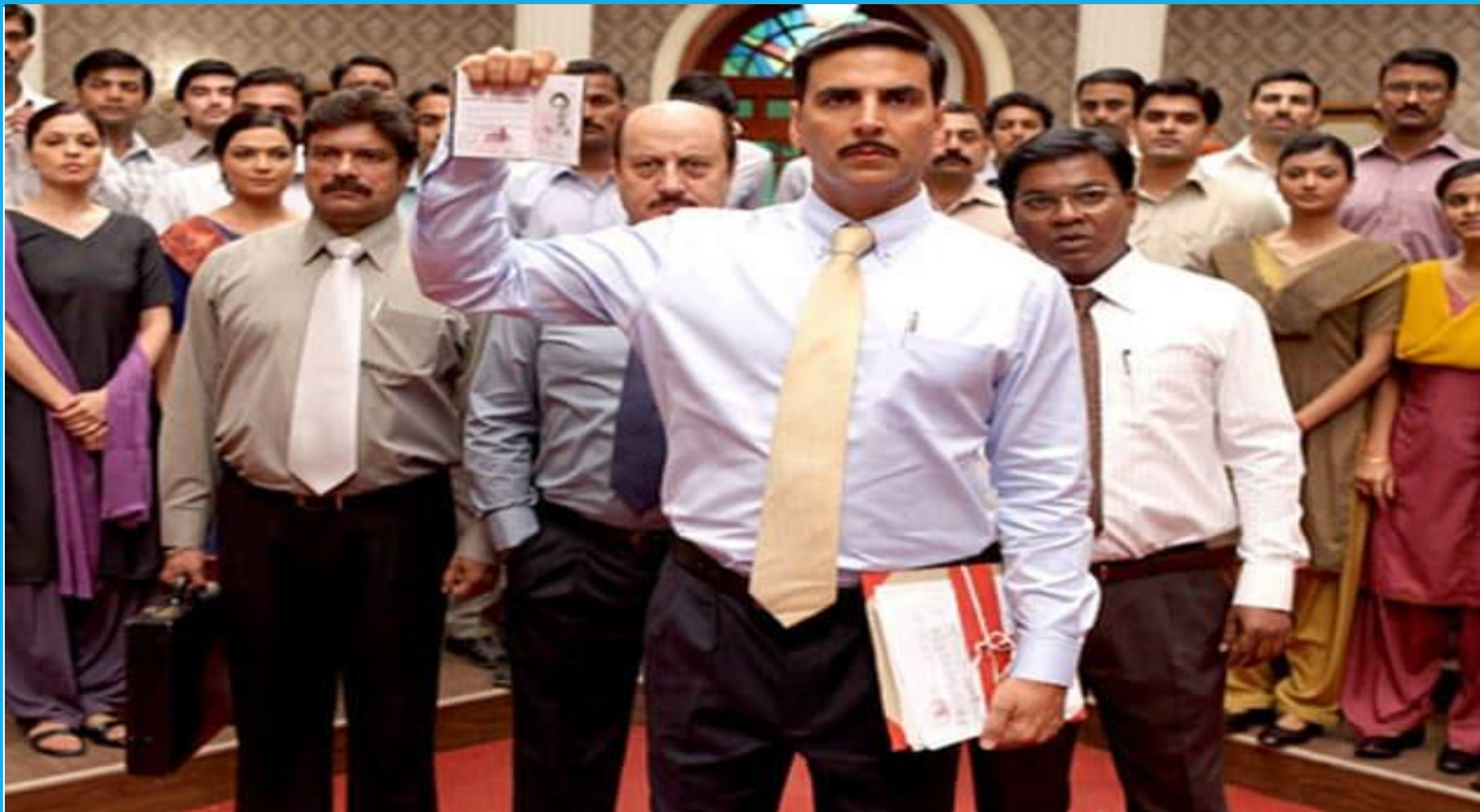
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What it is?

Raid	Inspection [Sec. 67 (1)]	Inspection [Sec. 70]	Search	Seizure	Investigation
Scrutiny	Inquiry	Verification	Audit	Assessment	Adjudication
	Summon	Recovery	Arrest	Any other legal proceedings	

'SEARCH' HISTORY!



Your 'Search' History!

Income Tax Act, 1922

Central Excise Act,
1944

Income Tax Act, 1961

Customs Act, 1962

Narcotic Drugs and
Psychotropic
Substances Act, 1985

Finance Act, 1994
(Service Tax)

Legal Metrology Act,
2009

DTC

etc

IS 'SEARCH'
PERMISSIBLE?

Art. 265

Article 265

- *Taxes not to be imposed save by authority of law.—No tax shall be levied or collected except by authority of law.*

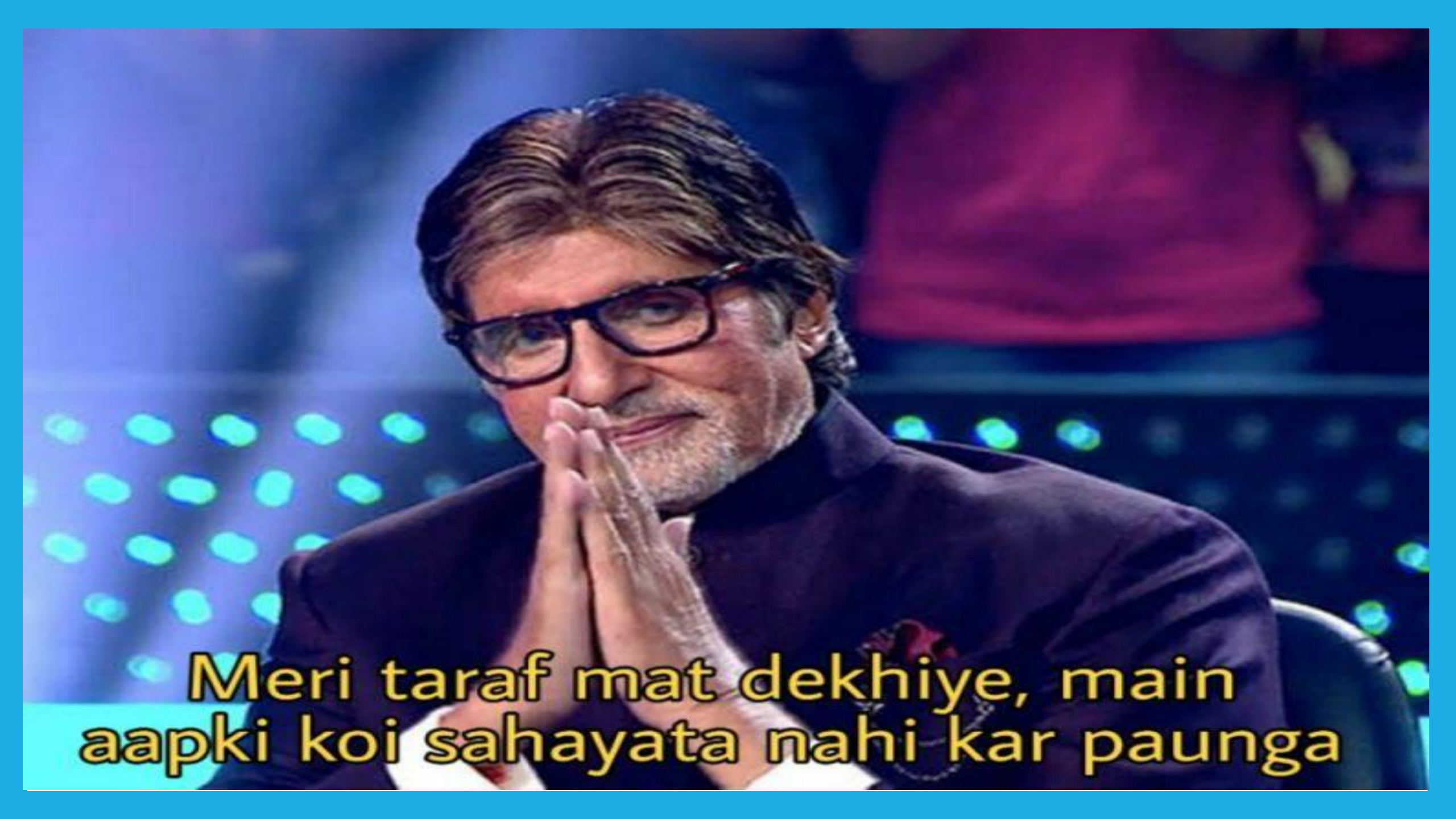
246A. Special provision with respect to goods and services tax.—

- (1) **Notwithstanding anything contained in articles 246 and 254, Parliament, and, subject to clause (2), the Legislature of every State,** have power to make laws **with respect to** goods and services tax imposed by the Union or by such State.
- (2) Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place **in the course of inter-State trade or commerce.**

Explanation.—The provisions of this article, shall, in respect of goods and services tax referred to in clause (5) of article 279A, take effect from the date recommended by the Goods and Services Tax Council.

Summons, arrest etc are ancillary and incidental to power to levy and collect!

- *The Parliament, under Article 246A of the Constitution, has the power to make laws regarding GST and, as a necessary corollary, **enact provisions against tax evasion**.... The impugned provisions lay down the power to **summon and arrest, powers necessary for the effective levy and collection of GST**... the legislative power to levy and collect tax, a Constitution Bench of Seven Judges in *R.S. Joshi v. Ajit Mills Ltd.*, (1977) 4 SCC 98 held : All powers necessary for the levy and collection of the tax concerned and for seeing that the tax is not evaded are comprised within the legislative ambit of the Entry as **ancillary or incidental**.*
- *... penalty or prosecution mechanism for the levy and collection of GST, and for checking its evasion, is a **permissible** exercise of legislative power. The GST Acts, in pith and substance, pertain to Article 246A of the Constitution and the powers to **summon, arrest and prosecute are ancillary and incidental to the power to levy and collect goods and services tax**. In view of the aforesaid, the vires challenge to Sections 69 and 70 of the GST Acts must fail and is accordingly rejected*
- **RADHIKA AGARWAL [2025 (95) G.S.T.L. 225 (S.C.)]**



Meri taraf mat dekhiye, main
aapki koi sahayata nahi kar paunga

**‘SEARCH’ VIOLATES
ARTICLE 19 (1) (F)?**

Search and Seizure – For protection of social security and regulated by law!

- *In M.P. Sharma v. Satish Chandra - AIR 1954 SC 300 ... the challenge to the power of issuing a search warrant under Section 96(1) as violative of **Article 19(1)(f)** was repelled on the ground that a power of search and seizure is in any system of jurisprudence **an overriding power** of the State **for the protection** of social security and that power is necessarily regulated by law. As pointed out in that case a **search by itself is not a restriction** on the right to hold and enjoy property though a **seizure is a restriction** on the right of possession and enjoyment of the property seized. That, however, is **only temporary** and **for** the limited purpose of **investigation**".*
 - AGARWAL IRON INDUSTRIES 2014 (310) E.L.T. 226 (S.C.)

IS INVESTIGATION A HARASSMENT?

Investigation cannot be labelled as harassment!

- *The allegations raised of harassment and high-handedness cannot be considered in a petition under Article 226 of the Constitution. An operation carried out by a statutory authority invested with the powers of search, inspection and seizure, by reason only of such activities having been carried out in the **residences and offices** of any person under **investigation for a long time**, cannot be labelled as harassment or high-handed. Nor could the inconvenience caused to the person under investigation, especially of remaining in the premises for the entire duration, termed to a detention pursuant to an arrest. A search and seizure operation necessarily brings with it certain discomforts, which are to be endured in the best interest of the person under investigation who witnesses every action of the inspection team. **The allegations are also not substantiated.***
 - SURESH KUMAR P.P. 2020 (41) G.S.T.L. 17 (Ker.) [Affirmed in 2021 (50) GSTL J73 (SC)]

A woman with long dark hair, wearing a white shirt and a vibrant, multi-colored patterned scarf, is looking towards a man. The man is wearing a dark suit, a white shirt, and a red tie, and is looking back at her. They appear to be in a public space, possibly a train or a crowded area, with a metal railing visible between them. The background is slightly blurred, showing other people and structures.

"Bhaisahab, aap convince ho gaye ya main aur bolun?"

WHY SECTION 67 EXISTS?

Object is to collect evidence or prevent violation!

- *...the object of search and seizure is, more often than not, **to collect evidence** relating to an ongoing investigation of an offence or violation, and in some cases, **to prevent a violation.***
 - ITC Ltd. v. State of Karnataka [(2025) 34 Centax 332 (S.C.)]

Purpose of section 67 is to unearth tax evasion!

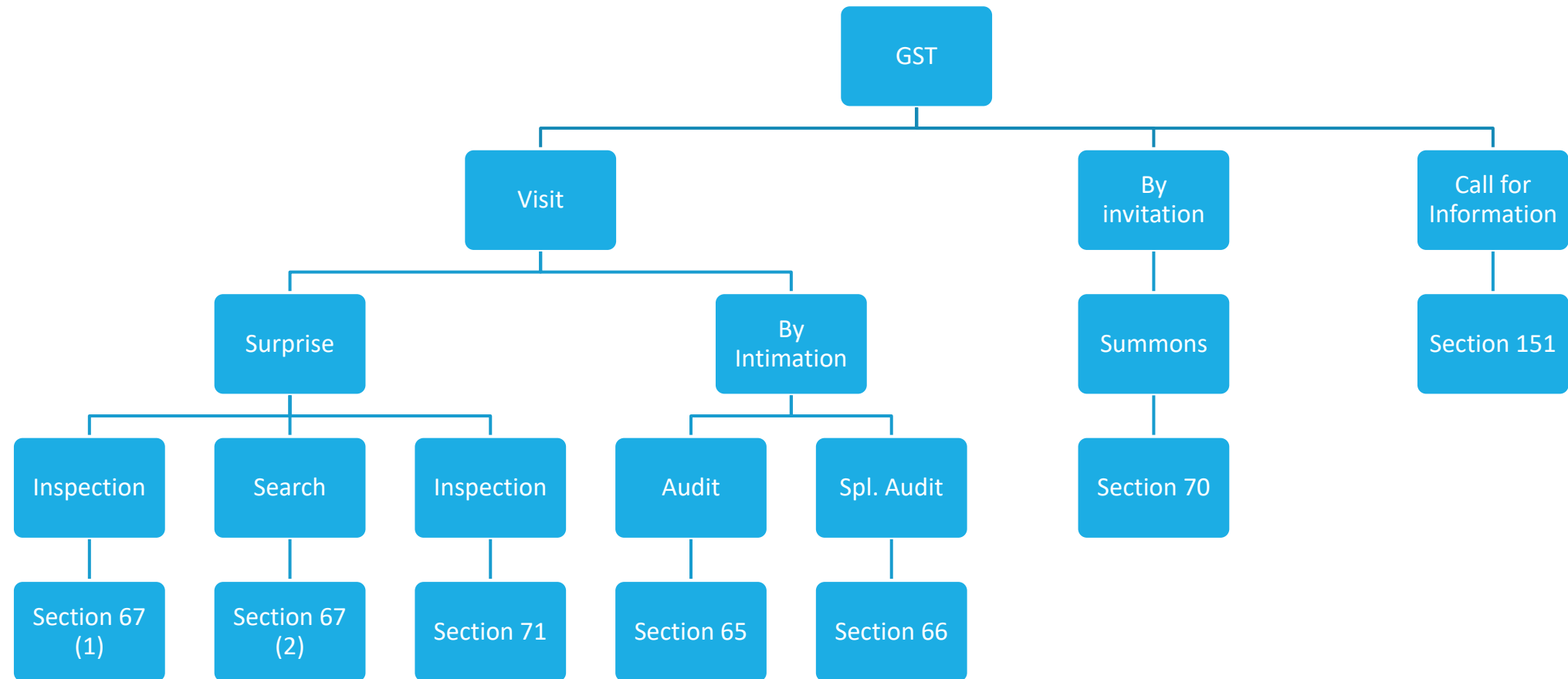
- *It is clear from the schematic reading of Section 67 as well as other provisions of the Act that the purpose of Section 67 of the Act is **not recovery of tax**; it is **not a machinery provision** for enforcing a liability. The purpose of Section 67 of the Act is to empower authorities **to unearth tax evasion** and ensure that taxable supplies are brought to tax...*
- Deepak Khandelwal v. Commissioner of CGST (2023) 9 Centax 244 (Del.) [(2024) 21 Centax 463 (S.C.)] - SLP was dismissed]

KNOCK! KNOCK!!

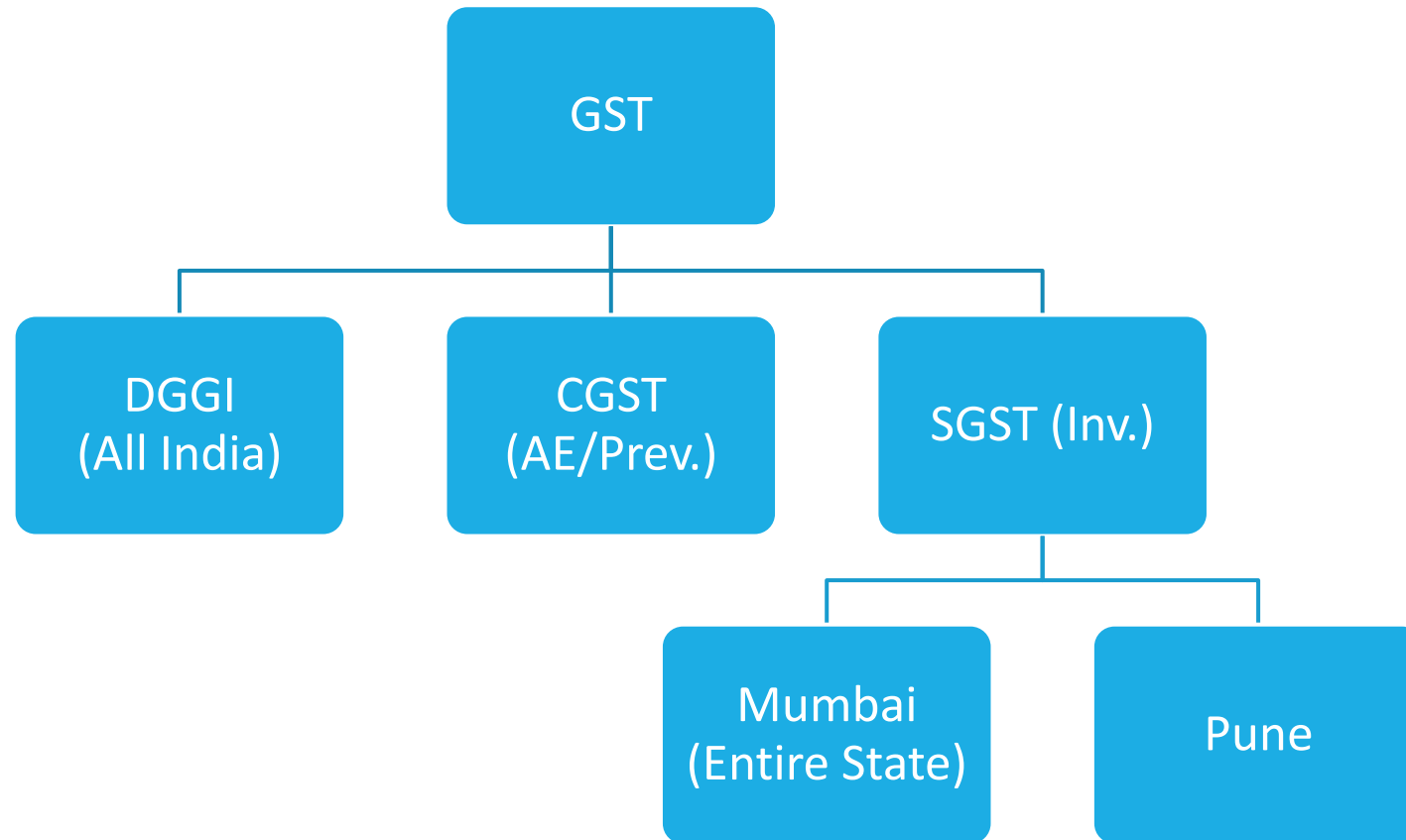


First reaction!

Whose there?



GST - Who?



THINGS YOU MUST KNOW!

Meme of the Week:

**Bacha Hai
Tu Mera**



Starting line!

All data is available online!

Authorities have data much
beyond GSTR-2A/2B
(say IP address)!

Statements of vendors/
transporters!

Its a Team-work and all
dimensions are debated
and well thought through!

Details of earlier visits also
available!

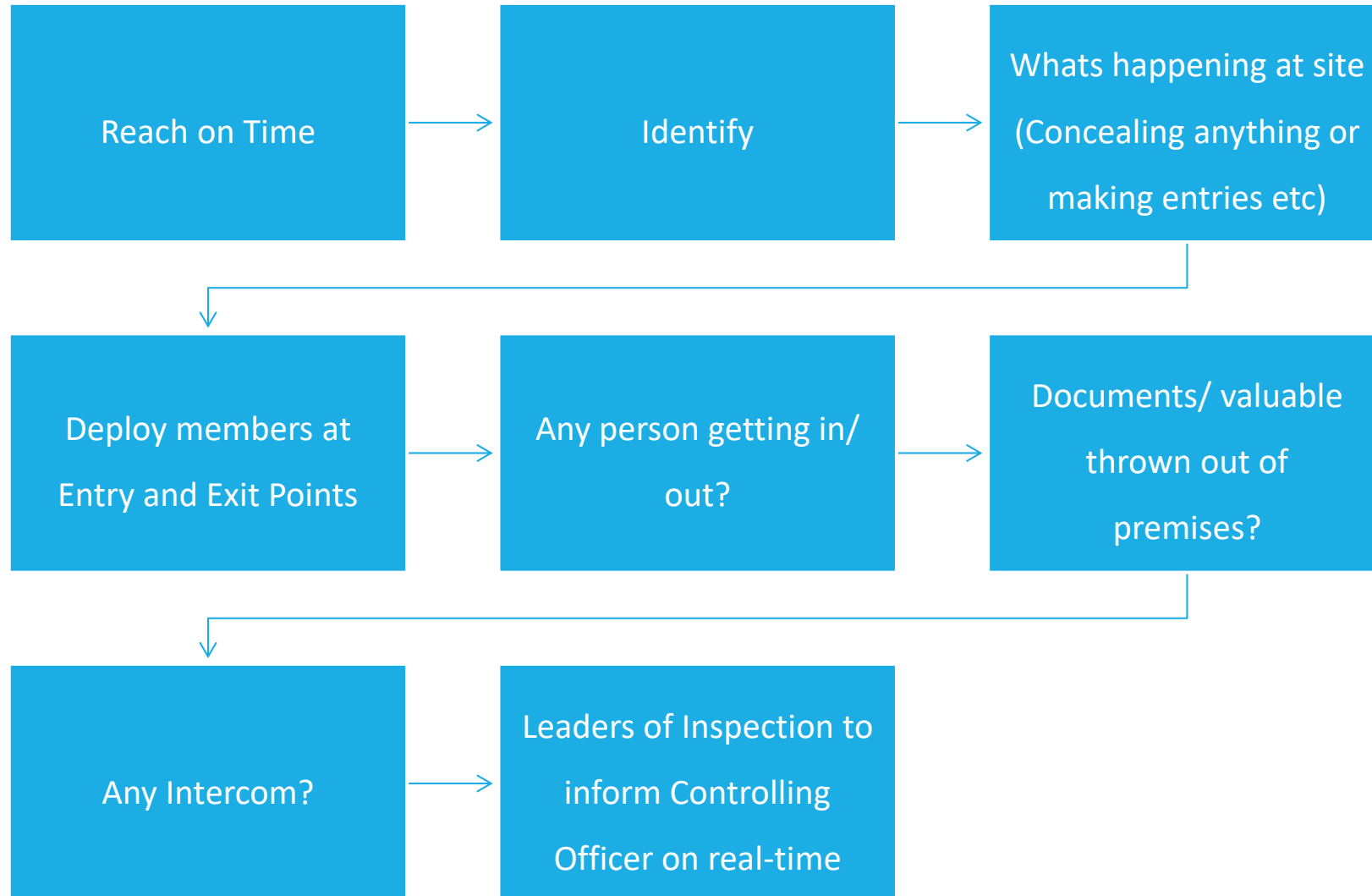
May be 'n'th visit in similar
case!

Visit is with a target of
stopping leakage of
revenue!

Even the consultant's name
is known in advance!

Sample purchase/ industry
practice

Step Plan!



Visits!

Its

- First time!
- Nth time!

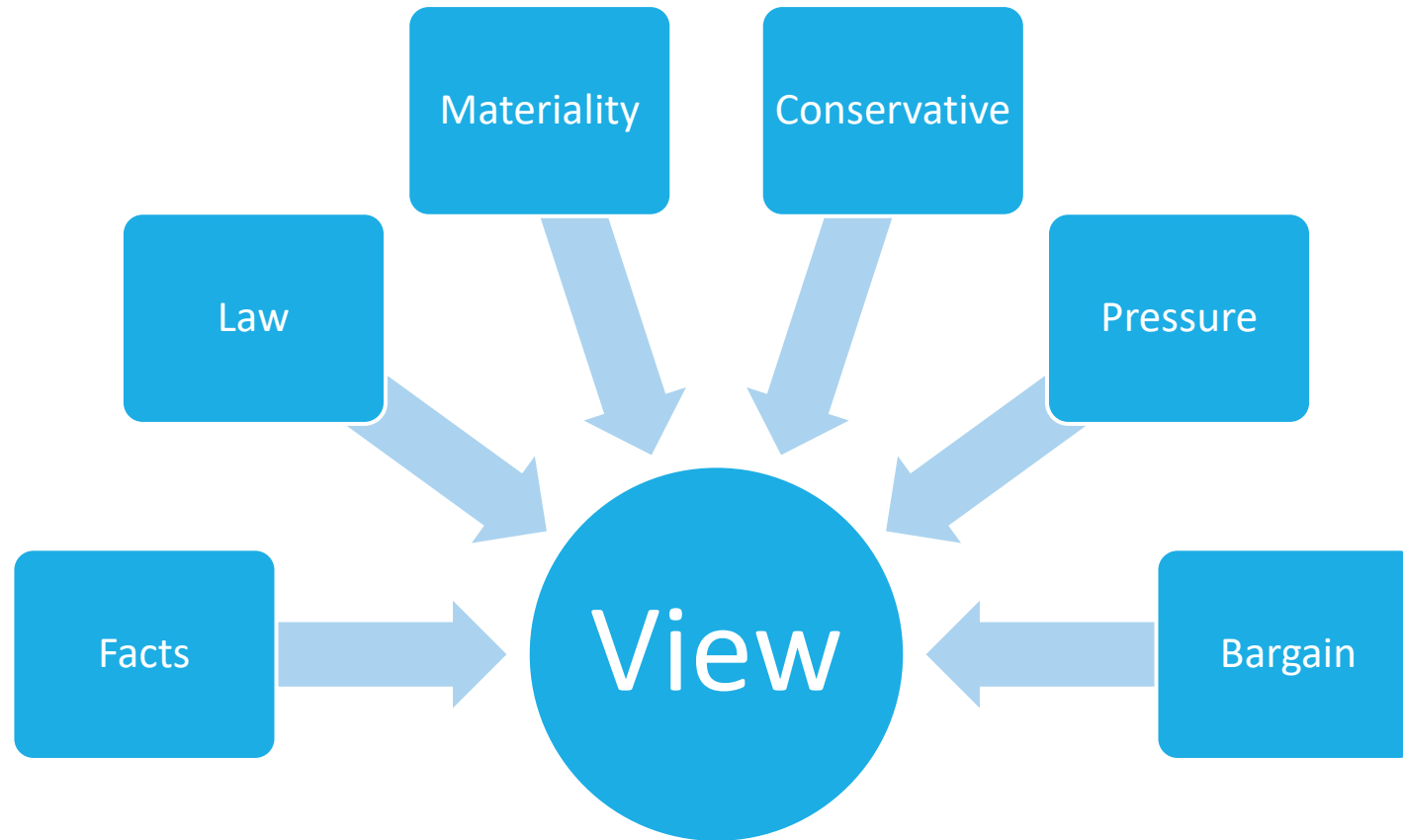
At stake!

- Revenue
- Expense

Approach

- Facts
- Law

How many answers?





SECTION 67

ALWAYS
TRENDING!

Section 67 (1)

(1) Where the proper officer, not below the rank of Joint Commissioner, has **reasons to believe** that —

- (a) a taxable person has **suppressed** any transaction relating to supply of goods or services or both or the stock of goods in hand, or has claimed **input tax credit in excess** of his entitlement under this Act or has indulged in **contravention of any of the provisions** of this Act or the rules made thereunder **to evade tax** under this Act; or
- (b) ...

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**.

Section 67 (2)

*(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 :*

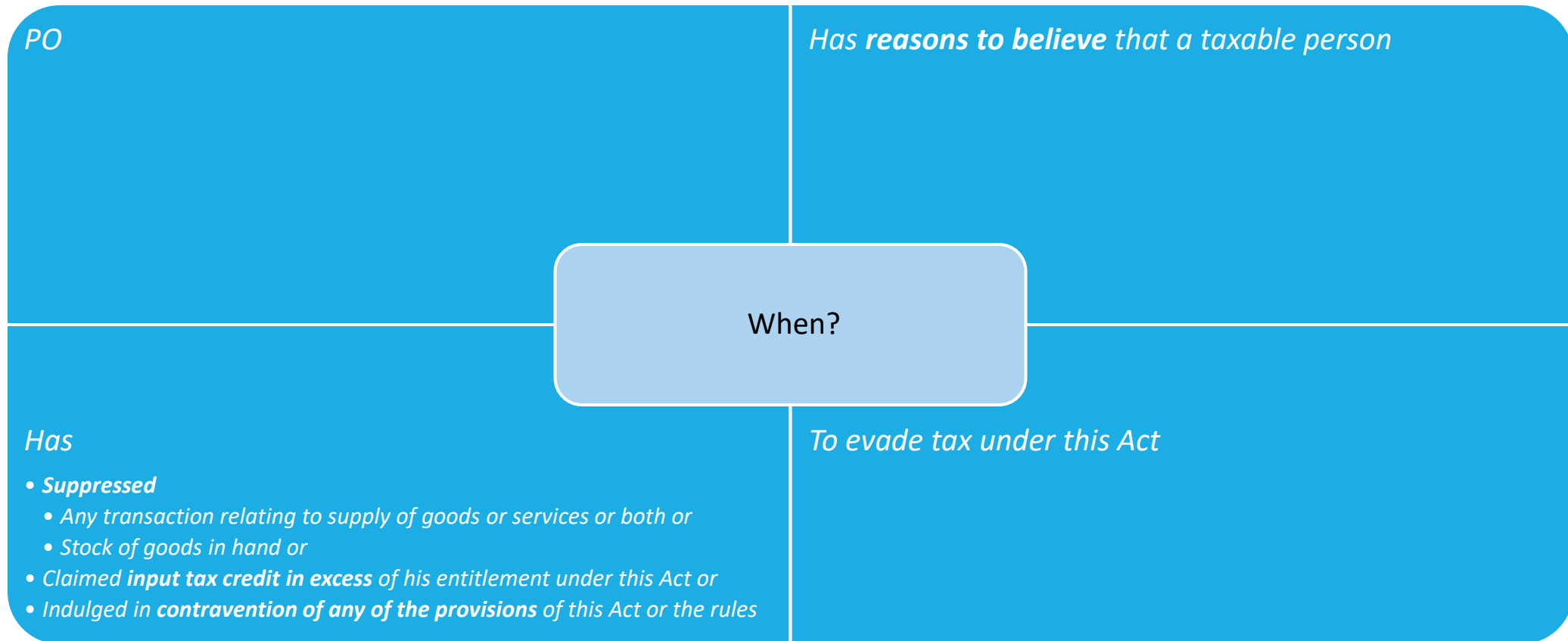


Search at residence!

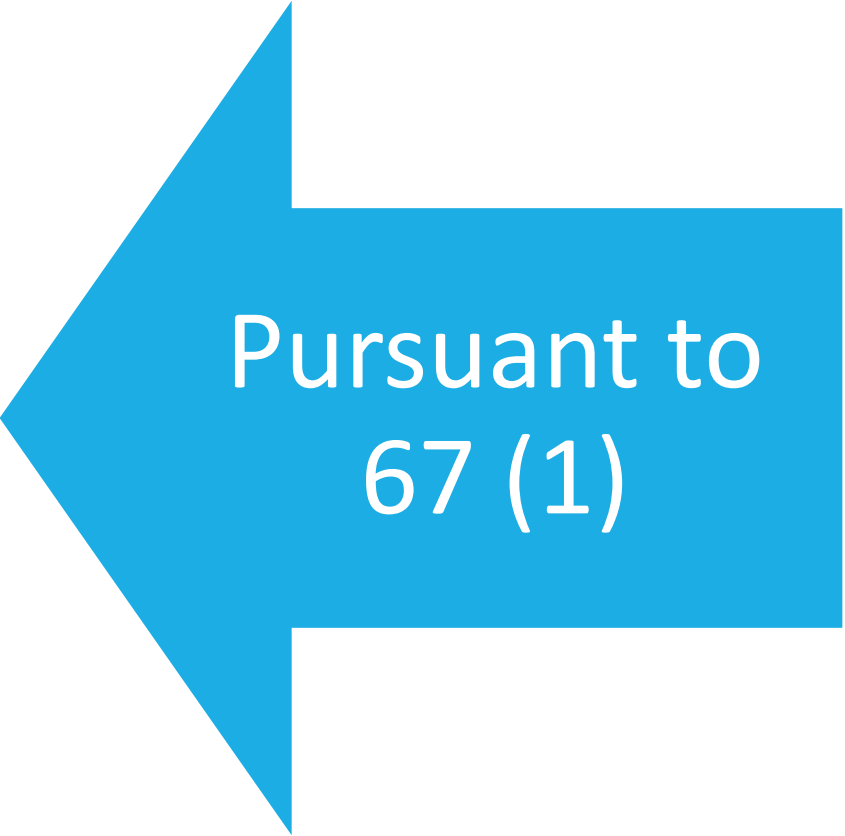
Inspection vs Search!

Particulars	Inspection [Section 67 (1)]	Search [Section 67 (2)]
Reason to believe	Yes (Suppressed)	Yes (Secreted)
Location	PoB or Any other place	Any place
Intensity	Medium	High / Severe
Purpose	Say, data gaps or interpretation issue	Typically, to ensure documents are not destroyed (say clear case of evasion)
Mobile phone	Typically, calls allowed	May be seized
Seizure	No	Yes
Conversion	From 67 (1) → (2) possible	-

When is Section 67 (1) invoked?



When is Section 67 (2) invoked?



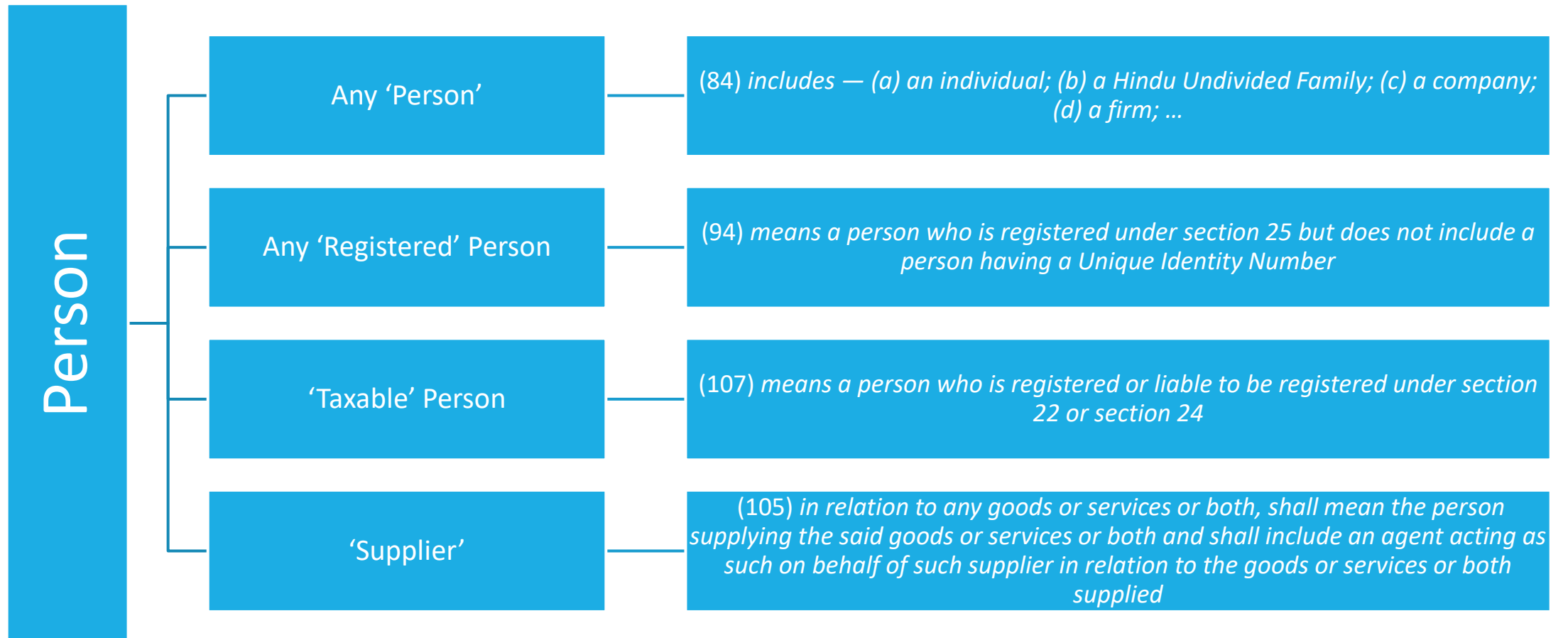
Pursuant to
67 (1)



Otherwise...

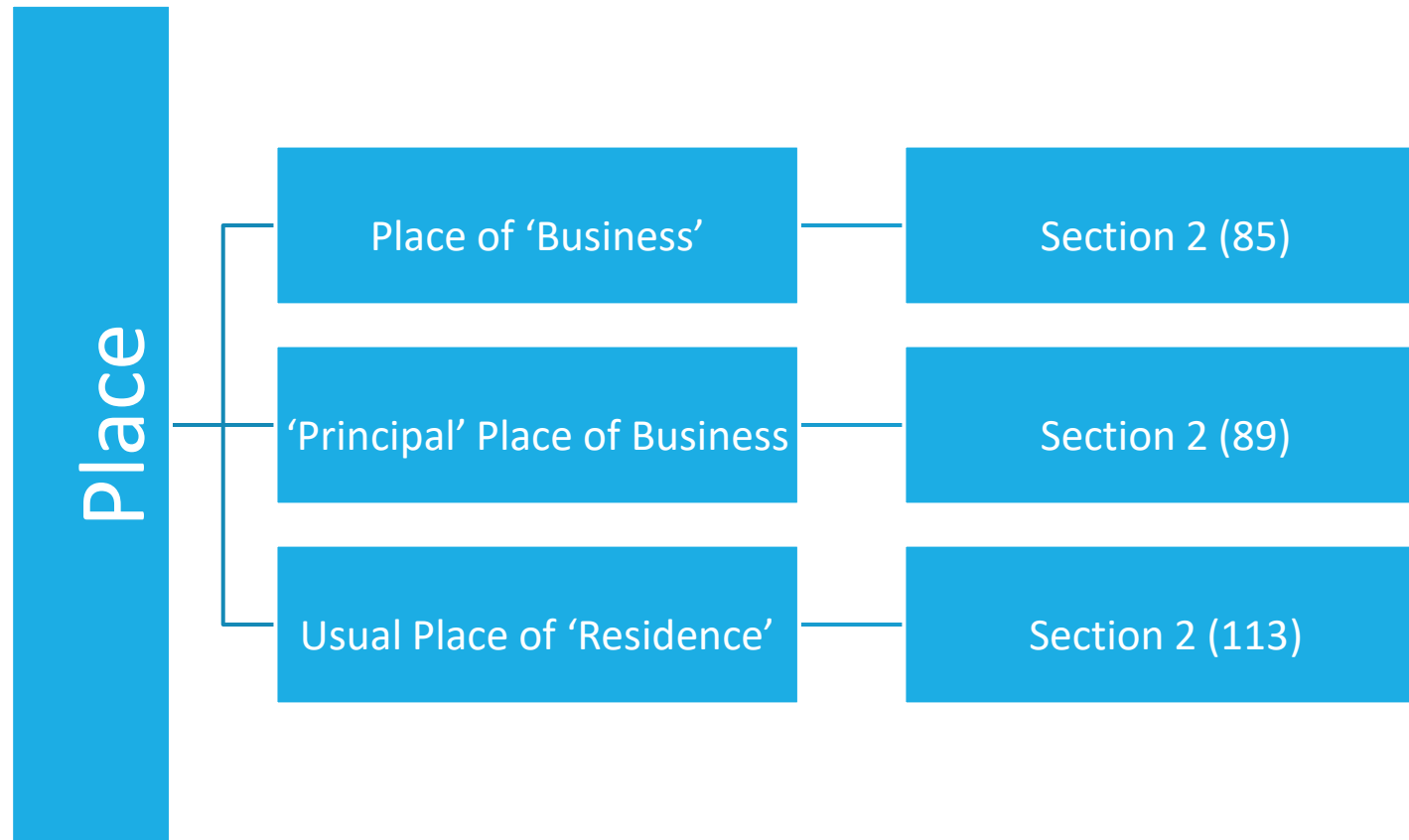
PERSON!

Who?



PLACE!

Who?

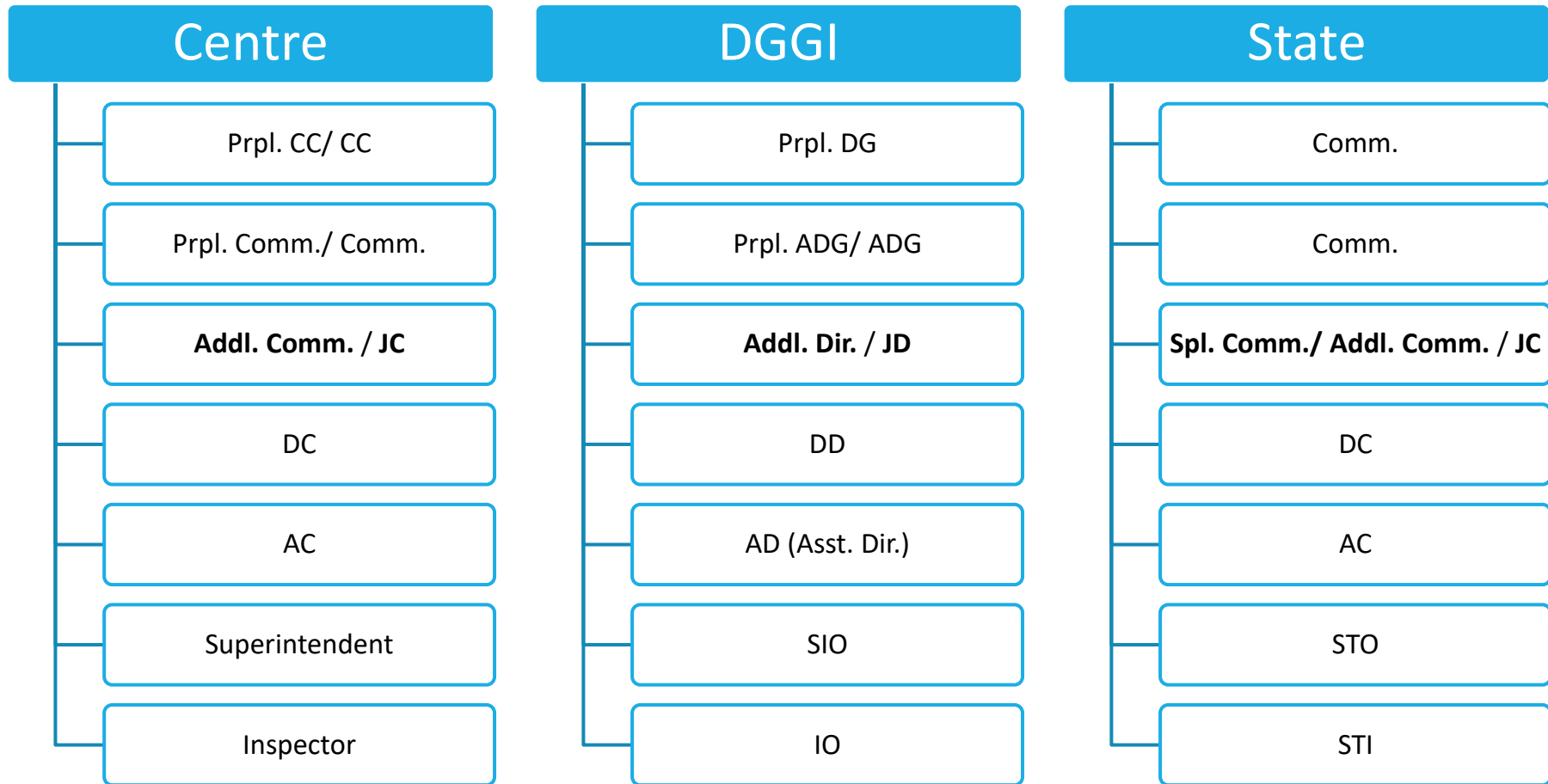


Section 2

2 (85) "Place of business" includes	(89) "Principal place of business"	(113) "Usual place of residence"
(a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or (b) a place where a taxable person maintains his books of account; or (c) a place where a taxable person is engaged in business through an agent, by whatever name called;	means the place of business specified as the principal place of business in the certificate of registration	means — (a) in case of an individual, the place where he ordinarily resides; (b) in other cases, the place where the person is incorporated or otherwise legally constituted;

WHO IS PO?

JC and above?



Who is “PO”?

- Section 2 (91)
 - *“Proper officer” in relation to any function to be performed under this Act, means the **Commissioner or the officer** of the central tax **who is assigned that function** by the Commissioner in the Board*

WHAT IS 'REASONS TO
BELIEVE'?

“Reasons to believe”

Reason to
believe

Reasons to
believe

Reasons to be
recorded

Reason to
doubt

Reason to
suspect

Reasonable
belief

Reasonable
suspicion

Reasonable
Cause

Reasonable
diligence

Deems it
necessary

Reason and To Believe – Two Words!

- *Reason to believe has been considered to be the most salutary safeguard on the exercise of power by the officer concerned. It is made up of **two words reason and to believe**.*
- *The word reason means cause or **justification** and the word believe means **to accept** as true or have faith in it. Before the officer has faith or accepts a fact to exist there must be a justification for it.*
 - Ganga Prasad Maheshwari V/s. CIT 21 CTR 83 (1983) (All. HC)

REASONS TO BELIEVE A MUST?

Search is intrusive and thus, Legislature have ring fenced it with 'reason to believe'!

- 9.3 What is crystal clear upon a perusal of the provisions of sub-sections (1) and (2) of Section 67 is that the expression “reasons to believe” controls the exercise of powers under the said provisions. Therefore, unless the basic **jurisdictional facts exist**, in a case, the power conferred under sub- sections (1) and (2) of section 67 cannot be exercised.
- 13. The officers concerned should bear in mind that the search and seizure power conferred upon them, is an **intrusive power**, which needs to be wielded with utmost care and caution. The Legislature has, therefore, **consciously ring-fenced this power** by inserting the controlling provision, i. e., “reasons to believe”.
 - R.J. TRADING CO. 2021 (55) G.S.T.L. 277 (Del.) [SLP dismissed in 2024 (16) CEN 262 (SC)]

CAN 'SEARCH' TAKE PLACE
BASED ON COURT ORDER?

Direction of Special Judge may not be a 'Reason to believe'!

- 8. It is clear from the record that apart from the **directions** issued in terms of the order dated 5-4-2023, there were **no reasons** for the respondent **to initiate the search** against the petitioners under section 67(1) of the CGST Act. The authorization issued is thus, **patently erroneous as none of the grounds** as set out in the said authorization are borne out from the information or material on the record of the respondent. Concededly, the inspection was conducted pursuant to the order dated 5-4-2023, passed by the **learned Special Judge**.
- 9. We have **serious reservations** as to whether any such directions could have been issued by the Special Judge for conducting a **roving and fishing inquiry** by the GST authority. It is clear that the said directions were given **without reference to the statutory provisions** of the CGST Act and without being cognizant of the powers of the GST authorities to conduct inspection, search and seizure operations under the said Act.
 - Bhagat Ram Om Prakash Agro Pvt Ltd. (2023) 13 Centax 155 (Del.)

Direction of Special Judge may not be a 'Reason to believe'!

- *11. Insofar as the petitioners' prayer that the documents be returned to the petitioners, is concerned, it is stated on behalf of the respondent that no documents have been seized, however, certain photocopies of the documents/documents were collected. Clearly, since the conditions for inspection under section 67(1) of the CGST Act were not satisfied, the said **documents are required to be returned** to the petitioners. It is so directed.*
- *12. Insofar as the summons issued under section 70 of the CGST Act are concerned, we do not consider it apposite to issue any directions. The GST authorities are not precluded from continuing or initiating proceedings in accordance with the provisions of the CGST Act.*
 - Bhagat Ram Om Prakash Agro Pvt Ltd. (2023) 13 Centax 155 (Del.)

CAN 'SEARCH' TAKE PLACE
BASED ON LETTER OF
ANOTHER JC?

Without ‘reason to believe’ search is unsustainable in law!

- A careful perusal of this communication would show (something that we have noticed hereinabove) that the **Joint Commissioner (AE)**, Gautam Budh Nagar **wanted to know**, in connection with the investigation of an entity going by the name M/s. Mridul Tobie Inc., as to **whether RJT**, which was its L2 category supplier, **actually existed**. There is **nothing stated in the document which could have formed the basis** for issuing an authorization of even date by the Additional Commissioner CGST Delhi North Commissionerate. In other words, the communication dated 5-3-2021 gives no clue that “any” goods of RJT were liable for confiscation or “any” documents, or books or things which would be useful for or relevant for proceedings under the CGST Act had been secreted to any place; a prerequisite for the formation of belief, and therefore, for the exercise of powers concerning search and seizure... Thus, according to us, the very trigger for conducting the **search** [i.e. the authorization issued by the Additional Commissioner, CGST Delhi North Commissionerate] was **flawed and unsustainable in law**. ... Liberty is, **however**, given to the concerned officer to **retain copies** of the same in case they are required **for carrying out further investigations** against RJT.
 - R.J. TRADING CO. 2021 (55) G.S.T.L. 277 (Del.) [SLP dismissed in 2024 (16) CEN 262 (SC)]

IS ASSERTION 'REASON TO
BELIEVE'?

Bare assertion may or may not suffice!

- Section 67(1) of the Act employs the expression “has reason to believe”. The Hon’ble Supreme Court in *Income Tax Officer, Calcutta and Ors. v. Lakhmani Mewal Das*, (1976) 3 SCC 757 held that the existence of the belief can be challenged by the assessee but not the sufficiency of reasons for the belief. The expression “reason to believe” does not mean a purely subjective satisfaction on the part of the officer. It must be held in good faith. It cannot be merely a pretence.
- In the case on hand, **bare assertion** has been made that the impugned proceedings were initiated based on the intelligence developed by CGST (HPU), Madurai that the petitioner is evading GST by misdeclaring the goods while importing. **But not a scrap of material was produced** before the Court... This is **sufficient to invalidate the entire proceedings. But I refrain from doing so.** Now that the search has been conducted and it has been shown that the stock register was not maintained at the petitioner’s place of business, I do not want to quash the order of seizure.
 - TVL. RISING INTERNATIONAL CO. 2020 (43) G.S.T.L. 3 (Mad.)

Reason to Believe – Not on mere suspicion, gossip or rumour!

- “...There can be no manner of doubt that the words “reason to believe” suggest that the **belief** must be that **of an honest and reasonable person** based **upon reasonable grounds** and that the Income Tax Officer may act on direct or circumstantial evidence but **not on mere suspicion, gossip or rumour**. The Income Tax Officer would be acting without jurisdiction if the reason for his belief that the **conditions are satisfied does not exist or is not material or relevant** to the belief required by the section. The Court can always examine this aspect though the declaration or sufficiency of the reasons for the belief cannot be investigated by the Court.”
 - Sheo Nath Singh v. Appellate Assistant Commissioner of Income Tax, Calcutta, (1972) 1 SCR 175

WHAT IS ENOUGH?

Reason to Believe – Positive belief based on facts and figures!

- *The Legislature, we must agree, has not used the expression “**reason to believe**” or “satisfaction” or such other **positive terms as a pre-condition** on the part of the proper officer. The expression “reason to believe” which would have required the proper officer **to refer to facts and figures to show existence of positive belief** on the undervaluation or lower declaration of the transaction value. The expression “**reason to doubt**” as a sequitur would require a different threshold and examination. It cannot be equated with the requirements of positive reasons to believe, for the word ‘doubt’ **refers to un-certainty** and irresolution reflecting suspicion and apprehension. However, this doubt must be reasonable i.e. have a degree of objectivity and basis/foundation for the suspicion must be based on ‘certain reasons’.*
 - CENTURY METAL RECYCLING PVT. LTD. [2019 (367) E.L.T. 3 (SC)]

Some material must exist to trigger search!

- The **basic premise** of Section 105, and indeed search proceedings is the **reasonable belief** that **some objective material exists** on the official record **to trigger searches**. The person authorizing the search must express his satisfaction that the material is sufficient for him to conclude that search is necessary; further there should exist something to show what is such material. The **mere recording that the person concerned is satisfied**, without the supportive materials, therefore, **is insufficient** to trigger a lawful search.
 - *Magnum Steel Ltd.* [2023 (384) ELT 225 (SC)]

Some material is enough – Sufficiency not required!

- *That when a challenge was thrown, it was necessary to find out whether the officer had in fact formed the belief and whether there was material relevant or germane upon which he could have formed the belief. If there existed **some material** upon which such a belief could be formed, the **Court is not concerned with** the propriety of the belief or **sufficiency** of the material.*

- GOPALDAS UDHAVDAS AHUJA 2004 (176) E.L.T. 3 (S.C.)

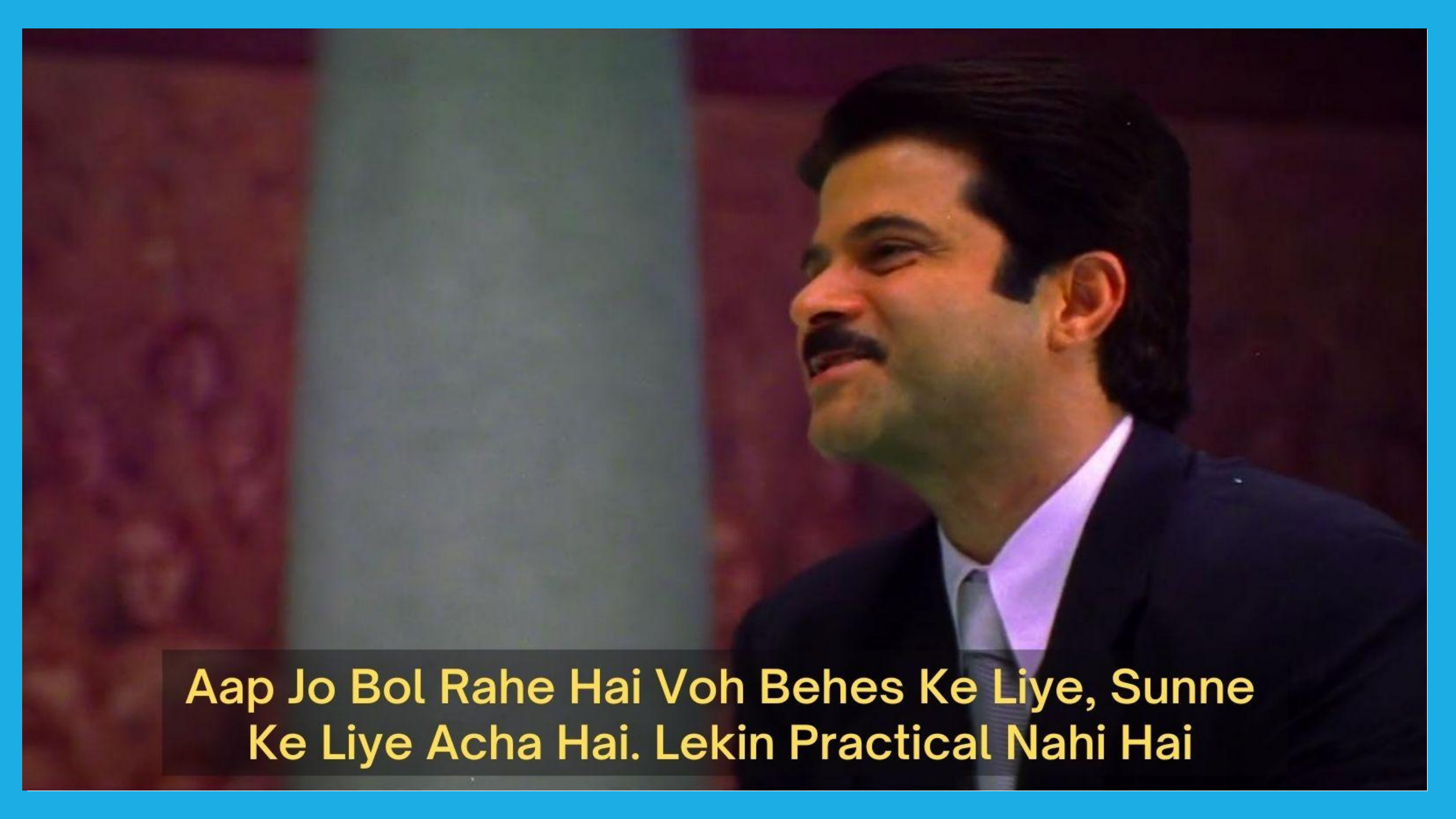
WHO CAN DECIDE ABOUT
'REASON TO BELIEVE'?

Court can examine 'reason to believe' has rational connection or not!

- *Our scrutiny is limited because of the well settled principles of law relating to judicial review of search action. While exercising writ jurisdiction, **we cannot adjudge** or test the adequacy and sufficiency of the grounds. **We can only** go into the question and **examine the formation of the belief** to satisfy if the conditions specified under the statutory provision invoked are met. The Courts can interfere and hold the exercise of power to be bad in law only if the grounds on which reason to believe is founded have **no rational connection** between the information or material recorded; or are non-existent; or are such on which no reasonable person can come to that belief... Applying the test of **reasonable man**, we cannot say that there is no application of mind while issuing search warrant.*
 - RCI INDUSTRIES AND TECHNOLOGIES LTD 2021 (46) G.S.T.L. 123 (Del.)

Reason to Believe – Court can find out whether recorded or not!

- *The terms used are 'reason to believe'. Whether the competent authority had formed the opinion on the basis of any acceptable material or not, as is clear as crystal, the High Court has not even remotely tried to see the reasons. **Reasons**, needless to say, can be recorded on the file and the **Court can scrutinize** the file **and find out** whether the authority has appropriately **recorded** the reasons for forming of an opinion that there are reasons to believe to conduct search and seizure.*
 - AGARWAL IRON INDUSTRIES 2014 (310) E.L.T. 226 (S.C.)

A man with dark hair and a mustache, wearing a dark suit, white shirt, and light blue tie, is shown in profile, looking upwards and to the left. He appears to be speaking. The background is a blurred indoor setting with a light-colored pillar and a patterned curtain.

**Aap Jo Bol Rahe Hai Voh Behes Ke Liye, Sunne
Ke Liye Acha Hai. Lekin Practical Nahi Hai**

IS RETROSPECTIVE
CANCELLATION A 'REASON
TO BELIEVE'?

Retrospective cancellation has a rational nexus with 'Reason to believe'!

- 18. The respondents have not referred to any specific reason for initiating the proceedings under section 67 of the CGST Act, in their counter affidavit, except to state that the **reasons to believe were duly recorded** on the file prior to conducting the search and the inspection. It was also stated that the show cause notice is yet to be issued as the investigation is not complete as yet.
- 19. The **only allegation** as stated in the counter affidavit is that the petitioner has availed of ITC in respect of purchases made from certain specified suppliers (five in number) during the relevant period claiming an aggregate ITC of Rs. 6,48,41,211/-. However, the **registration** of the said suppliers had been **cancelled from the date prior to the date of purchase**. Thus, **it does appear** that in this case, the inspection was authorized on the ground that the petitioner had **wrongfully availed of ITC** in respect of supplies from other entities.
- 20. It is apparent that the **cancellation** of registration of the suppliers with **retrospective effect does have a rational nexus** with reason to believe that ITC in respect of supplies from such suppliers may not be available. .. It is well settled that so long as there is a rational basis supplying the reasons to believe that any of the requisite grounds for conducting the inspection/search exist, no further enquiry is necessary. ...we are unable to accept that the authorization for conducting search or inspection under section 67 of the CGST Act is illegal for want of reasons to believe that the grounds for conducting the said search as set out in section 67(1)(a) of the CGST Act, exist
 - Lovelesh Singhal (2023) 13 Centax 303 (Del.)

IS 'NGTP' A 'REASON TO
BELIEVE'?

Non-existent supplier has a direct link forming the 'Reason to believe'!

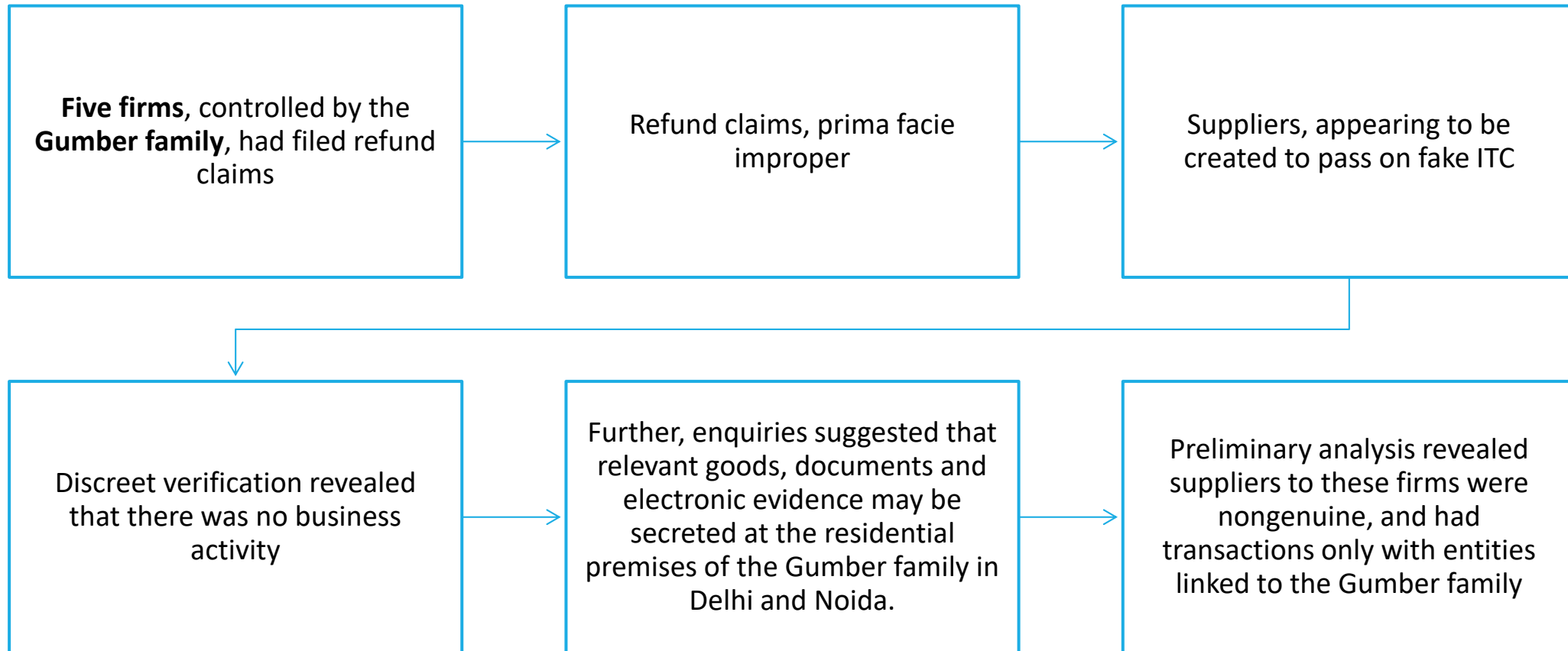
- 15. *In the present case, the information that the petitioner had purchased the goods from a **supplier**, which was **found to be non-existent** at his principal place of business, **has a direct link in forming the belief** that the petitioner wrongfully availed of the ITC.*
- 16. *In view of the above, we find no ground to declare any search or inspection conducted on November 12, 2022 as illegal or vitiated on the ground that there was no reason to believe that the petitioner had wrongfully availed the ITC.*
 - Santosh Kumar Gupta v. UOI [2023 SCC OnLine Del 7693 = 2024 (82) G.S.T.L. 39 (Del.)]



"Jal Lijiye"

EXAMPLE OF A 'REASON
TO BELIEVE'!

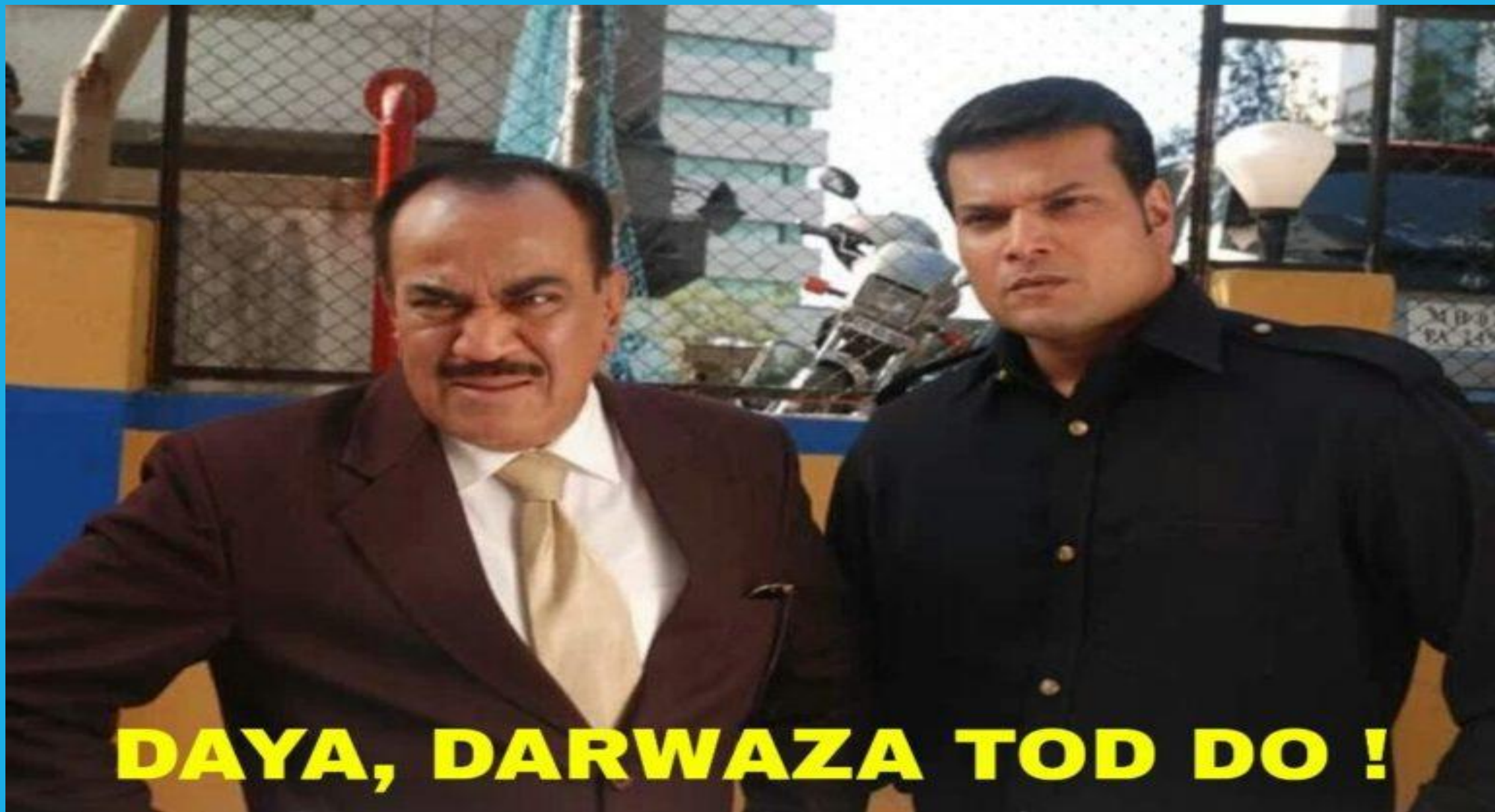
Example of “Reason to Believe”!



Example of “Reason to Believe”!

- Based on intelligence received by Commissioner, CGST Delhi East, vide email dated 21st July 2025, it was revealed that **five firms, controlled by the Gumber family**, had filed **refund claims** in the Laxmi Nagar Division, which appeared **prima facie improper** and consisting of a supply chain of suppliers, appearing to be **created to pass on fake ITC**. Subsequently, a **discreet verification** was conducted at the principal place of business of these firms, and it was revealed that **there was no business activity**, and these firms were merely created for availing fraudulent ITC. Further, **enquiries suggested** that relevant goods, documents and electronic **evidence may be secreted** at the residential premises of the Gumber family in Delhi and Noida. **Preliminary data analysis** also revealed that **suppliers to these firms were nongenuine**, and had **transactions only with entities linked** to the Gumber family. In these circumstances, there existed sufficient reasons to believe that search under Section 67(2) of the Act was warranted.
- GENESIS ENTERPRISES 2025 (102) G.S.T.L. 315 (Del.)

WHETHER BREAKING
OPEN LOCKS IS ALLOWED?



DAYA, DARWAZA TOD DO !

Section 67 (4)

*(4) The officer authorised **under sub-section (2)** shall have the power to **seal or break open** the door of any premises or to break open any **almirah, electronic devices**, box, receptacle in which any goods, accounts, registers or documents of the person are suspected to be concealed, **where access** to such premises, almirah, electronic devices, box or receptacle **is denied**.*

Breaking open locks is permitted!

- *As a part of this process, the officer who is authorized, would also have power to seize, or **break open the locks**, or any storage receptacles for accessing the accounts, registers or documents, if there is a suspicion of concealment, and if the access is denied.*
 - GENESIS ENTERPRISES 2025 (102) G.S.T.L. 315 (Del.)

Property cannot be sealed for long!

- ... the address of the property, which is a **rented one**, where the petitioner and her **family are staying** was given as address for the business of her son Arun Umesh at the time of obtaining registration.
- ...by directing the respondents to cause inspection of the property immediately, in presence of the petitioner and **de-seal the property**. This exercise shall be completed by the respondents positively on 12-7-2023. The petitioner shall co-operate with the respondents during inspection.
 - SHANTHI UMESH 2023 (78) G.S.T.L. 80 (Mad.)

Property cannot be sealed for long!

- ...Clause (4), referred to above, empowers the authorized officer to seal or break open the door of any premises **where access to such premise is denied**.
- **10.** if it is the case of the Department that the five dealers have stored goods or other articles which are liable to confiscation, then the authorities could have seized such goods and documents long time back. Once the goods and other articles are seized from the premises, then there could be **no good reason to keep the godown in a sealed condition**. In the case on hand, the writ applicant, being the owner of the godown is concerned with the seal which has been affixed and which continues as on date.
 - ANOPSINH KIRITSINH SARVAIYA 2020 (37) G.S.T.L. 171 (Guj.)

WHETHER CASH CAN BE SEIZED?

‘Things’ include ‘money’!

- *...the word “things” money has to be included and it cannot be excluded as prayed by the petitioner from Section 67(2). The present case is at the stage of search and seizure.*
- **KANISHKA MATTA 2020 (42) G.S.T.L. 52 (M.P.)**

Section 67 is not a recovery provision!

- **54.** Section 67 of the Act is **not a** machinery **provision for recovery** of tax; it is for ensuring compliance and to aid proceedings against evasion of tax. Section 79 of the Act provides for the machinery for recovery of tax. Section 83 of the Act provides for provisional attachment of any property belonging to a taxable person to safeguard the interests of the Revenue. Section 67 of the Act must be read schematically along with other provisions of the Act.
- ...Thus, even if it is assumed that the petitioner could not produce any evidence of purchase of the **silver bars** or account for the **cash** found in his possession, the same were not liable to be seized under sub-section (2) of Section 67 of the Act. The power of the proper officer to seize books or documents or things does **not extend to seizing valuable assets** for the reasons that they are unaccounted for or may be liable to confiscation under any other statute. Concededly, there is no material to indicate that the particular silver bars or cash were received by the petitioner in specie against any particular fake invoice.
- The purpose of the Act is not to proceed against unaccounted wealth. The provision of **Section 67** of the Act is also **not to seize assets** for recovering tax.
 - Deepak Khandelwal (2023) 9 Centax 244 (Del.) [SLP Dismissed – [2024] 21 Centax 463 (S.C.)]

DURING INVESTIGATION,
GST CAN BE DEPOSITED?

Deposit can be made during Investigation!

- *The above underlined portion specifically indicates that the **deposit could be made** either **on the taxpayer's own ascertainment** or as communicated by the proper officer under sub-rule (1A).*
 - SURESH KUMAR P.P. 2020 (41) G.S.T.L. 17 (Ker.) [Affirmed in 2021 (50) GSTL J73 (SC)]

AUDIT AND INVESTIGATION CAN CONTINUE?

Investigation and Audit can continue simultaneously!

- *Audit under Section 65 is a routine procedure to be carried out by the Commissioner ...which is independent of an investigation under Section 67. Section 67 is a more onerous procedure which can be initiated only on the satisfaction of an officer...*
- *Investigation under Section 67 is no routine procedure as is an audit under Section 65...*
- *We do not find any infirmity in the **audit and investigation** proceeding being **continued simultaneously**. But the Learned Standing Counsel informs us that in the wake of the investigation commenced, the audit would not be proceeded with.*
 - SURESH KUMAR P.P. 2020 (41) G.S.T.L. 17 (Ker.) [Affirmed in 2021 (50) GSTL J73 (SC)]



"Seh Lenge Thoda"

WHAT SECTION 70 STATES?

Statement of Director is admissible as evidence!

- 4. We have heard Learned Advocate for the appellant and also perused the documents on record. We find that the adjudicating authority, appellate authority and the Tribunal have concurrently come to the conclusion that the allegation of clandestine removal of imported goods, without payment of duty, had been established. The **Director** of the Company had **categorically stated in his two statements** that such goods were sold in the market to one Iqbalbhai. The second of these two statements was recorded nearly eight months after the raid. **Partial retraction** of this statement came much later. In such statement also, the **assessee admitted partial diversion** of the goods. The details and whereabouts of Iqbalbhai could not be provided by him. Both the Commissioner (Appeals) and the Tribunal were of the opinion that the **statements of the Director** recorded by the raiding party were in terms of Section 108 of the Customs Act, which was **admissible in evidence**. The entire issue is, thus, based on appreciation of the materials on record. No question in this respect arises.
- POOJA TEX PRINTS PVT. LTD. 2019 (365) E.L.T. 42 (Guj.) [Affirmed in 2019 (367) ELT A322 (SC)]

Retracted statement cannot be sole basis unless supported by independent corroboration!

- ...**statements** made by the appellant - A. Tajudeen and his wife T. Sahira Banu on **25-10-1989** and 26-10-1989... . Immediately after the appellant was released on bail by the Additional Chief Metropolitan Magistrate, Madras on 27-10-1989, **on the same day itself**, both the appellant - A. Tajudeen and his wife T. Sahira Banu addressed communications to the Director, Enforcement Directorate, New Delhi resiling from the above statements, by **clearly asserting that they were recorded under coercion** and undue influence, and **would not be binding** on them.
- ...Having given our thoughtful consideration to the aforesaid issue, we are of the view that the statements dated 25-10-1989 and 26-10-1989 can under **no circumstances constitute the sole basis** for recording the finding of guilt against the appellant. If findings could be returned by exclusively relying on such oral statements, such statements could easily be thrust upon the persons who were being proceeded against on account of their actions in conflict with the provisions of the 1973 Act. Such statements ought not to be readily believable, **unless there is independent corroboration** of certain material aspects of the said statements, through independent sources. The nature of the corroboration required, would depend on the facts of each case.
 - POOJA TEX PRINTS PVT. LTD. 2019 (365) E.L.T. 42 (Guj.) [Affirmed in 2019 (367) ELT A322 (SC)]

WHAT SECTION 71 STATES?

SECTION 71. Access to business premises

- (1) **Any officer** under this Act, **authorised** by the proper officer not below the rank of Joint Commissioner, **shall have access to any place of business of a registered person to inspect books** of account, documents, computers, computer programs, computer software whether installed in a computer or otherwise and such other things as he may require and which may be available at such place, for the purposes of carrying out any **audit, scrutiny, verification** and checks as may be necessary **to safeguard the interest of revenue.**

SECTION 71. Access to business premises

*(2) Every person in charge of place referred to in sub-section (1) shall, **on demand, make available** to the officer authorised under sub-section (1) or the audit party deputed by the proper officer or a cost accountant or chartered accountant nominated under section 66...*

(i) such records as prepared or maintained by the registered person and declared to the proper officer in such manner as may be prescribed;

(ii) trial balance or its equivalent;

...

***for the scrutiny** by the officer or audit party or the chartered accountant or cost accountant **within a period not exceeding fifteen working days** from the day when such demand is made, or such further period as may be allowed by the said officer or the audit party or the chartered accountant or cost accountant.*

COMPARISION!

Inspection vs Search!

Particulars	Inspection [Section 67 (1)]	Search [Section 67 (2)]	Inspection [Section 71]
Reason to believe	Yes (Suppressed)	Yes (Secreted)	No
Location	PoB or Any other place	Any place	PoB
Intensity	Medium	High	Low
Purpose	Typically, online data or interpretation issue	Typically, to ensure documents are not destroyed	Typically, audit/ verification
Mobile phone	Typically, calls allowed	May be seized	Allowed
Seizure	No	Yes	No
15 days time	No	No	Yes
Conversion	From 67 (1) → (2) possible	-	-

ARMOUR SECURITY

[2025 (33)
CENTAX 222 (SC)]

A man with dark hair and a beard, wearing a red sweater over a light-colored shirt, is shown in profile, looking upwards with a slight smile. The background is dark with several out-of-focus light sources, creating a bokeh effect. The text "Yeh Dukh Kahe Khatam Nahi Hote Be" is overlaid on the bottom right of the image.

Yeh Dukh Kahe Khatam Nahi Hote Be"

"PROCEEDINGS" MEANS ISSUANCE OF SCN!

Para 96 (vi)

- *The expression "initiation of any **proceedings**" occurring in Section 6(2)(b) refers to the formal **commencement of adjudicatory proceedings** by way of issuance of a show cause notice, and does not encompass the issuance of summons, or the conduct of any search, or seizure etc*

"SUMMON" IS NOT A PROCEEDING!

Para 97 (a)

- *We say, so because, mere **issuance of a summons** does **not** enable either the issuing authority or the recipient to ascertain that **proceedings** have been initiated.*

PARALLEL PROCEEDINGS NOT ALLOWED!

Para 96 (iii)

- ***Parallel proceedings** should **not be initiated** by other tax administration **when one** of the tax administrations has **already initiated** intelligence-based enforcement action.*

"SUBJECT MATTER" EXPLAINED!

Para 96 (vii)

- The expression "**subject matter**" refers to any **tax liability, deficiency, or obligation** arising from any particular contravention which the Department seeks to assess or recover

WHAT IS “SAME” SUBJECT MATTER?

Para 96 (x)

- *The twofold test for determining whether a subject matter is “**same**” entails, **first**, determining if an authority has already proceeded on an **identical liability of tax or alleged offence** by the assessee on the same facts, and **secondly, if the demand or relief sought is identical.***

WHAT IS NOT “SAME”!

Para 96 (ix)

- Where the proceedings concern **distinct infractions**, the same **would not constitute a “same subject matter”** even if the tax liability, deficiency, or obligation is same or similar, and the bar under Section 6(2)(b) would not be attracted.

ANY AUTHORITY CAN INITIATE INVESTIGATION!

Para 96 (iii)

- *Intelligence based **enforcement** action **can be initiated by any one** of the Central or the State tax administrations despite the taxpayer having been assigned to the other administration.*

SUMMONS – ASSESSEE IS OBLIGED TO COMPLY!

Para 97 (a)

- *Where a summons or a show cause notice is issued by either the Central or the State tax authority to an assessee, the assessee is, in the first instance, **obliged to comply** by appearing and furnishing the requisite response, as the case may be.*

AUTHORITIES TO DECIDE WHO SHOULD CONTINUE!

Para 97 (f)

- *...if the Central or the State tax authority, as the case may be finds that the matter being inquired into or investigated by it is already the subject of inquiry or investigation by another authority, **both authorities shall decide inter-se which of them shall continue** with the inquiry or investigation...*



Aata hai, jaata hai, phir waapas aajaata hai

Multiple visits!



“Main, merko sab aata hai, main expert hoon”

Never say :-)

Thank you!

CA Pritam Mahure and Associates

Happy to Discuss

For suggestions: Pritam.Mahure@Lawgical.in / Sahil.Tharani@Lawgical.in / +91 99206 44648 / 90988 90333

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Smile please 😊

