

CHAPTER VII
RECOVERY OF TAX, INTEREST AND PENALTIES

43. Recovery of tax.- (1) The amount of any tax, interest, penalty or other amount due under this Act shall be paid in the manner specified in section 36 of this Act and a notice of assessment served on the person for such an amount shall constitute a demand for payment of the amount stated in the assessment by the time stipulated in the notice of assessment.

(2) On an application made before the expiry of the due date under section 35 of this Act, the Commissioner may, in respect of any dealer or person and for reasons to be recorded in writing, extend the time for payment or allow payment by instalments, subject to such conditions as he may think fit to impose in the circumstances of the case.

(3) Any amount of a tax, interest or penalty, composition money or other amount due under this Act which remains unpaid, shall be recoverable as arrears of land revenue.

(4) Where security, other than in the form of surety bond, has been furnished under the Act, the Commissioner may, for reasons to be recorded in writing, recover any amount of tax, interest, penalty, composition money or other amount due or part thereof by ordering the forfeiture of the whole or any part of the security.

(5) Where any security tendered for the purposes of this Act is to be sold, it shall be sold in the manner stipulated in section 63 of this Act.

44. Application of the Delhi Land Reforms Act, 1954 for purposes of recovery.- For the purposes of recovery of any amount recoverable as arrears of land revenue under this Act, the provisions of the Delhi Land Reforms Act, 1954 (Delhi Act of 1954), as to the recovery of arrears of land revenue shall notwithstanding anything contained in that Act or in any other enactment, be deemed to be in force throughout Delhi and the provisions of the Revenue Recovery Act, 1890 (1 of 1890) shall have effect accordingly.

45. Continuation of certain recovery proceedings.- Where an assessment or notice of demand in respect of any tax, penalty or other amount payable under this Act (hereinafter in this section

referred to as “government dues”) is served upon any person and any objection or appeal is initiated by the person against the assessment or demand for such government dues then –

- (a) if the objection or appeal is disallowed in whole or in part, any recovery proceedings taken for the recovery of such government dues before the making of the objection or appeal, may, without the service of any fresh assessment or notice of demand, be continued from the stage at which such recovery proceedings stood immediately before the person made the objection or appeal; and
- (b) where such government dues are reduced in any objection or appeal –
 - (i) it shall not be necessary for the Commissioner to serve upon the person a fresh assessment or notice of demand; and
 - (i) the Commissioner shall give intimation of such reduction to him and to the person with whom recovery proceedings are pending.

46. Special mode of recovery.- (1) Notwithstanding anything contained in any law or contract to the contrary, the Commissioner may, at any time or from time to time, by notice in writing, a copy of which shall be forwarded to the person at his last known address, require, -

- (a) any person from whom any amount of money is due, or may become due, to the person (in this section called “the taxpayer”) liable to pay tax, interest or penalties under section 45 of this Act, or
- (b) any person who holds or may subsequently hold money for or on account of the taxpayer,

to pay to the Commissioner, either forthwith upon the money becoming due or being held or within the time specified in the first mentioned notice (but not before the money becomes due or is held as aforesaid) so much of the money as is sufficient to pay the amount due by the taxpayer in respect of the arrears of tax, interest and penalty under this Act, or the whole of the money when it is equal to or less than that amount.

Explanation.- For the purposes of this sub-section, the amount of money due to a taxpayer from, or money held for or on account of a taxpayer by any person, shall be calculated by the Commissioner after deducting therefrom such claims, if any, lawfully subsisting, as may have fallen due for payment by such taxpayer to such person.

- (2) The Commissioner may amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.
- (3) Any person making any payment in compliance with a notice under this section shall be

deemed to have made the payment under the authority of the taxpayer, and the receipt thereof by the Commissioner shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount specified in the receipt.

(4) Any person discharging any liability to the taxpayer after receipt of the notice referred to in this section, shall be personally liable to the Commissioner to the extent of the liability discharged or to the extent of the liability of the dealer for tax and penalty, whichever is less.

(5) Where a person to whom a notice under this section is sent, proves to the satisfaction of the Commissioner that the sum demanded or any part thereof is not due to the taxpayer or that he does not hold any money for or on account of the taxpayer, then, nothing contained in this section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, to the Commissioner.

(6) Any amount of money which the aforesaid person is required to pay to the Commissioner, or for which he is personally liable to the Commissioner under this section shall, if it remains unpaid, be recoverable as if arrears of land revenue.

(7) The Commissioner may apply to the court in whose custody there is money belonging to the taxpayer for payment to him of the entire amount of such money or if it is more than the tax, interest and penalty, if any, due, an amount sufficient to discharge such tax and the penalty.

47. Transfer of assets during pendency of proceedings void.- Where, during the pendency of any proceedings for the recovery of an amount owed by a person under this Act, that person creates a charge on, or parts with the possession by way of sale, mortgage, gift or exchange or any other mode of transfer whatsoever, any of his assets in favour of any other person, such charge or transfer shall be void against any claim by the Commissioner in respect of the amount which is the subject of proceedings, unless the other person –

- (a) acted *bona fide* and without notice of the recovery proceedings; and
- (b) has paid the fair market value for the assets.