

News

New Delhi, Apr 2 (PTI) Tax evasion of over ₹ 5 crore under the GST regime would be non-bailable offence with the police having authority to make an arrest without a warrant.

The Central GST (CGST) Act provides that if the offences relating to taxable goods and/or services where the amount of tax evaded or the amount of input tax credit wrongly availed or the amount of refund wrongly taken exceeds ₹ 5 crore, shall be cognizable and non-bailable.

In a [223-page FAQ on Goods and Services Tax \(GST\)](#), the CBEC said other offences under the act are non-cognizable and bailable.

The government has set a target date of July 1 for roll out of the GST, which will subsume central excise, service tax, VAT and other local levies.

As per the FAQ, cognizable offence means serious category of offences in respect of which a police officer has the authority to make an arrest without a warrant and to start an investigation with or without the permission of a court.

Non-cognizable offence means relatively less serious offences in respect of which a police officer does not have the authority to make an arrest without a warrant and an investigation cannot be initiated without a court order, it said.

Outlining the safeguards to be taken during arrest, the FAQ said if a person is arrested for a cognizable offence, he must be informed in writing of the grounds of arrest and he must be produced before a magistrate within 24 hours of his arrest.

If a person is arrested for a non-cognizable and bailable offence, the Deputy/ Assistant Commissioner of CGST/SGST can release him on bail and he will be subject to the same provisions as an officer in-charge of a police station under section 436 of the Code of Criminal Procedure, 1973.

The FAQ provides that, if a person does not appear before a CGST/SGST officer who has issued the summon, he is liable to a penalty of up to ₹ 25,000.

Also, the tax department have guidelines to ensure that summon provisions are not misused by field officers.

As per the guidelines, summons are to be issued as a "last resort where assessee are not co-operating and this should not be used for the top management.

"Also the language of the summons should not be harsh and legal which causes unnecessary mental stress and embarrassment to the receiver," it said.

Further, summons by the superintendents should be issued after obtaining prior written permission from an officer not below the rank of Assistant Commissioner with the reasons for issuance of summons to be recorded in writing.

"Senior management officials such as CEO, CFO, General Managers of a large company or a Public Sector Undertaking should not generally be issued summons at the first instance.

They should be summoned only when there are indications in the investigation of their involvement in the decision making process which led to loss of revenue," the guidelines said.

The Central GST (CGST) and State GST (SGST) Act have empowered the officers from Police, Railways, Customs, village officers, and any other government officers to assist CGST and SGST officers under the GST regime.