

GST Arrest and Prosecution (2026): Section 69 Removed, ?5 Crore Threshold and Court Discretion

Description

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Quick summary

- The GST Council has recommended removing the power of arrest under GST altogether, by omitting section 69 of the CGST Act. Once that is enacted, no person is to be arrested for an offence under the GST law.
- Prosecution survives, but the threshold rises from ?1 crore to ?5 crore, and it is launched by a complaint to the competent court, not by the department acting alone.
- Punishment becomes imprisonment or fine or both, instead of imprisonment and fine, and the minimum six months imprisonment under section 132(3) goes, so the court gets real discretion.
- Maximum imprisonment is rationalised: up to five years where the amount exceeds ?10 crore, and up to two years where it exceeds ?5 crore but not ?10 crore.
- Three offence descriptions are cut back, including the whole of clause (i), which the FAQ says was hard to quantify and open to subjective interpretation.

Of everything the 57th GST Council recommended, this is the change that alters the relationship between a business and the tax department most directly. The power to arrest a person for a GST offence is to be taken out of the law entirely.

The official FAQ of 09/10/2026 puts it plainly: after the proposed amendment, no person shall be arrested for an offence under the GST law. The press release of 08/10/2026 describes the mechanism, which is the omission of section 69 of the CGST Act, 2017.

This has not happened yet, and the distinction is not academic here. Section 69 remains on the statute book until Parliament and the State legislatures pass the amendment and it is brought into force. Anyone currently facing an investigation is governed by the law as it stands today, not by what the Council has recommended. Take advice on your actual position rather than on this page.

What is changing, in one view

Item	Position today	Recommended
Power of arrest	Section 69 of the CGST Act	Omitted entirely
Prosecution threshold	?1 crore	?5 crore
Punishment structure	Imprisonment **and** fine	Imprisonment **or** fine **or** both
Minimum imprisonment, section 132(3)	Six months	Removed
Maximum imprisonment, amount above ?10 crore	Not stated in the FAQ	Five years, or fine, or both
Maximum imprisonment, amount above ?5 crore up to ?10 crore	Not stated in the FAQ	Two years, or fine, or both
Clause (i) of section 132(1)	In force	Omitted
Clause (e) of section 132(1)	Covers evading tax and fraudulently obtaining refund	Confined to fraudulently obtaining refund
Clause (h) of section 132(1)	Includes “or in any other manner deals with”	Those words omitted
Clause (c) of section 132(1)	Wider	Redrafted to cover only fraudulent availment of credit without receipt of goods or services or without an invoice

Arrest goes, prosecution stays

It is worth being exact about what survives, because the headline invites over-reading.

- **No arrest.** The arrest provisions are removed. There is no power to take a person into custody for a GST offence once the amendment is in force.
- **Prosecution continues**, but only **before the competent court, on a complaint filed by the tax authorities**, and only where the amount involved **exceeds ?5 crore**.

So the department’s route to a criminal sanction runs through a court from the outset, rather than beginning with a detention. For a business under investigation, the practical change is that the threat which has shaped the conduct of GST investigations for years is no longer available.

One boundary to keep in mind. All of this concerns arrest and prosecution **under the GST law**. It says

nothing about powers that may exist under other statutes, and nothing here should be read as a general immunity. If an investigation touches other legislation, that is a separate question and a separate conversation.

Punishment: the court gets discretion back

Two changes work together here.

“And” becomes “or”. The punishment moves from “imprisonment and fine” to “imprisonment or fine or both”. The court may impose a fine alone.

The floor is removed. The requirement of a minimum six months imprisonment under section 132(3) is being removed, again to confer discretion on the court.

The ceiling is also rationalised:

Amount involved	Maximum punishment
Exceeds ?10 crore	Imprisonment up to five years, or fine, or both
Exceeds ?5 crore but does not exceed ?10 crore	Imprisonment up to two years, or fine, or both

The FAQ describes this as a rationalisation of the maximum term, and indicates that the ?5 crore to ?10 crore band comes down from three years to two. It does not restate the existing maxima in full, so the table above records only what the FAQ itself puts on the record.

Read together, a conviction no longer carries an automatic custodial sentence. That is what the word decriminalisation in the FAQ’s own title is doing.

The offences that shrink

Three descriptions in section 132(1) are cut back, and the stated reasoning is as useful as the change.

Clause (i) is omitted entirely. It related to the supply of services in contravention of the Act. The FAQ’s reason is candid: the offence was **difficult to quantify and liable to subjective interpretation**. That is an unusual admission in an official document, and it is the right one. An offence nobody can measure consistently is an offence that gets applied inconsistently.

Clause (e) loses “evades tax”. What remains is confined to **fraudulently obtaining a refund**. Evasion of tax is still dealt with elsewhere in the section and through the demand machinery; what goes is a broad overlapping description.

Clause (h) loses “or in any other manner deals with”. Only the specific acts listed in the clause remain. Catch-all wording of that kind is exactly what converts a targeted offence into a general one.

Clause (c) is redrafted to cover only the **fraudulent availment of input tax credit without receipt of goods or services, or without an invoice**. In other words, the fake invoice case, which is what the provision was aimed at, rather than any disputed credit claim.

That last one matters more than it looks. A great many credit disputes are genuine differences of view about eligibility. Narrowing clause (c) to credit taken without any underlying supply or invoice draws a line between a disagreement and a fraud.

What this does not change

- **The demand and recovery machinery is untouched by this item.** Sections 73, 74 and 74A continue to operate, and tax, interest and penalty remain payable. The Council dealt with that side separately, including a minimum threshold of ?10,000 below which no show cause notice is to issue, which we will cover on its own.
- **Investigation continues.** Nothing here removes the department's ability to investigate, summon, or demand.
- **Penalties continue.** Decriminalisation is about criminal consequences, not about whether a penalty can be levied.

What to do now

1. **Do not treat an ongoing matter as resolved.** Until the amendment is enacted and notified, the present law applies in full, section 69 included.
2. **Take the ?5 crore figure as a prosecution threshold, not a safe harbour.** Tax, interest and penalty are payable at any amount, and a demand below ?5 crore is still a demand.
3. **If a credit dispute has been framed against you as fraud**, the redrafting of clause (c) is worth raising with your advisers, because the distinction between a disputed claim and credit taken without any invoice or supply is being written into the section.
4. **Watch for the amendment, not the press coverage.** This change needs legislation in Parliament and in the States. The date it takes effect is the date that matters.

How CSM & Co LLP can help

We can advise on your position in an ongoing GST investigation under the law as it currently stands, assess whether a demand framed under the fraud limb is properly characterised in light of the proposed redrafting of clause (c), handle representations and replies to show cause notices, and advise on voluntary payment and the conclusion of proceedings where that is the sensible route. Please reach out to our team and we will be happy to assist.

Frequently asked questions

Can I still be arrested under GST?

Once the amendment is enacted, no. The Council recommended removing the arrest provisions by omitting section 69 of the CGST Act, and the official FAQ states that no person shall be arrested for an offence under the GST law. Until the amendment is passed and notified, section 69 remains in force.

Does this mean GST offences are no longer punishable?

No. Prosecution can still be launched before the competent court on a complaint by the tax authorities

where the amount involved exceeds ?5 crore. What goes is the power to arrest, not the offence.

What is the prosecution threshold now?

?5 crore, up from ?1 crore. Prosecution under section 132(1) is to be launched only where the evaded tax amount exceeds that figure.

Will a convicted person definitely go to prison?

Not necessarily. The punishment changes from “imprisonment and fine” to “imprisonment or fine or both”, and the minimum six months imprisonment under section 132(3) is removed, so the court may impose only a fine.

What is the maximum imprisonment after the change?

Up to five years where the amount involved exceeds ?10 crore, and up to two years where it exceeds ?5 crore but does not exceed ?10 crore, in each case with the option of a fine instead or as well.

Which offences are being narrowed?

Clause (i) of section 132(1) is omitted entirely. In clause (e) the words “evades tax” go, confining it to fraudulently obtaining a refund. In clause (h) the words “or in any other manner deals with” go, leaving only the specific acts listed. Clause (c) is redrafted to cover only fraudulent availment of input tax credit without receipt of goods or services or without an invoice.

Official sources

- Press Information Bureau: FAQs on rationalisation and decriminalisation of arrest and prosecution provisions in GST, 09/10/2026
- Press Information Bureau: Recommendations of the 57th Meeting of the GST Council, 08/10/2026
- Press Information Bureau: FAQs on reforms related to litigation management, 09/10/2026

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Related GST reading

- 57th GST Council Meeting (October 2026): Arrest Powers Removed, Faster Refunds and Wider ITC
- GST Litigation Management (2026): ?10,000 Notice Threshold, Penalty as a Charge and Reduced Penalties
- How to Cancel GST Registration (2026): Form GST REG-16, Auto Acceptance and Revocation

- GST Registration Application and Amendment (2026): Documents, REG-01, REG-14 and the Automatic Route

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