

Proper officer under GST may serve show cause notice (SCN) to a person due to any of the following reasons:

- Tax not paid/short paid;
- Tax erroneously refunded;
- Input tax credit wrongly availed or utilized

Along with SCN, he shall issue **a summary of SCN in Form DRC-01** having following details:

- Details of person to whom SCN is to be issued like GSTIN, address etc.
- Tax period, Financial year, Section reference and SCN reference no.
- Brief facts of the case;
- Grounds; and
- Taxes and other dues (Interest, penalty and others).

**Time limit to issue SCN/Summary of SCN(DRC-01):**

- In case of Bona-fide defaulter: 2 years + 9 months from due date of filing of Annual return of relevant FY
- In case of Mala-fide defaulter (i.e. cases of Fraud, Suspension etc.): 4 years + 6 months from due date of filing of Annual return of relevant FY

*Note: In cases where tax not paid but collected by recipient, SCN can be issued any time with no time limit.*

## Summary of Statement (DRC-02)

If proper officer under GST wants to issue SCN on the same grounds, as specified in earlier issued DRC-01, for additional periods than as specified, he may do so by serving a statement under DRC-02 for any of the following reasons:

- Tax not paid/short paid;
- Tax erroneously refunded;
- Input tax credit wrongly availed or utilized

Along with statement, he shall issue ***a summary of such statement in Form DRC-02*** having following details:

- Details of person to whom SCN is to be issued like GSTIN, address etc.
- Tax period, Financial year, Section reference and SCN reference no.
- Brief facts of the case;
- Grounds; and
- Taxes and other dues (Interest, penalty and others).

A person to whom notice has been issued in form DRC-01 or DRC-02 can make payment and intimate it to proper officer in form DRC-03 **within 30 days** from the date of issuance of such notice.

A person can also make payment before issuance of SCN on voluntary basis and intimate it to proper officer in the form DRC-03.

The following details are required in this form:

- GSTIN and name;
- Cause of payment (Voluntary, SCN, etc.);
- Section under which payment is made (73 or 74);
- Reference number, if SCN issued in DRC-01 or DRC-02;
- Financial year, tax period and ACT; and
- Payment details including interest, penalty and others.

### **Acknowledgment (DRC-04)**

Where a person has made **voluntary** payment of taxes, interest or other dues in **form DRC-03** before issuance of show cause notice and if the proper officer is satisfied with the intimation of payment , amount and the reasons stated for making payment, then the officer shall issue an acknowledgement in **form DRC-04**.

### **Conclusion of proceedings (DRC-05)**

Where a person has made payment of taxes, interest or other dues in **form DRC-03** within 30 days of issuance of show cause notice/statement in **form DRC-01** or **form DRC-02** and if the proper officer is satisfied with the intimation of payment of tax and other dues against such notice, then the officer shall issue an order in **form DRC-05** specifying about the conclusion of proceedings in respect of such notice.

## Reply to show cause notice (DRC-06)

The person to whom the show cause notice (SCN) has been issued in **form DRC-01** or **form DRC-02**, can make representation against such notice in **form DRC-06** to the proper officer.

The following details are contained in **form DRC-06**:

- GSTIN and name;
- SCN details;
- Reply to the SCN;
- Documents uploaded, if any and
- Option for personal hearing.

## Summary of order (DRC-07)

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Where a show cause notice in **form DRC-01** or a statement in **form DRC-02** has been issued by proper officer and the concerned person has:

- Not made the payment in **form DRC-03** and/or;
- Made short payment in **form DRC-03** and/or;
- Not given explanation/Satisfactory explanation in **form DRC-06** and/or;
- Not taken any action.

Then the proper officer shall issue an order in **form DRC-07** stating the amount of demand and due date for making the payment of taxes along with interest and penalty.

The following details are contained in **form DRC-07**:

- GSTIN and name;
- Order number, date and tax period;
- Issues involved;
- Description of goods/services;
- Details of demand.

Note: Form DRC-07 is issued in other circumstances as well. To know them, do read subsequent posts.

## Summary of order (DRC-07) (Cont'd)

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**Form DRC-07** can also be issued in the following circumstances when any person:

- Transports any goods or stores any goods while they are in transit in contravention of the applicable law; or
- Supplies or receives goods with an intent to evade tax; or
- Does not account for goods on which liability of tax arises; or
- Supplies goods liable to tax without taking registration; or
- Contravenes any provisions with an intent to evade tax; or
- Uses any conveyance for transportation of goods in contravention of law;

And Where no penalty is separately provided for contravention of any provisions of the law.

Time limit to issue order in **form DRC-07** are:

- In case of Bona-fide defaulter: 3 years from due date of filing of Annual return of relevant FY.
- In case of Mala-fide defaulter (i.e. cases of Fraud, Suspension etc.): 5 years from due date of filing of Annual return of relevant FY.

Note: In case the person pays tax, interest and penalty equivalent to 50% such tax within 30 days of communication of such order, all proceedings' in respect of said notice shall be deemed to be concluded. (In other words, 50% penalty waiver if paid within 30 days).

## Rectification of order (DRC-08)

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Where it comes to the notice of proper officer:

- on its own motion; or
- by any other officer; or
- by the affected person within 3 months from the date of issue of order

regarding some errors which are apparent on the face of any issued order, then the officer can make rectification of such order in **form DRC-08**.

The following details are covered in **form DRC-08**:

- Particulars of original order (Order name, date etc.)
- Reasons for rectification
- Details of demand, if any after rectification

Other points:

- The rectification in order has to be done within a period of 6 months from the date of issue of such order.

- This period of 6 months shall not apply where rectification is purely in nature of correction of clerical or arithmetical error.
- When such rectification affects the person adversely, principles of natural justice i.e. opportunity of being heard shall be followed.

### Order for recovery (DRC-09)

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Where any person to whom any order, with amount payable, had been issued fails to pay the liabilities within 3 months from the date of service of such order, the recovery proceedings shall be initiated. The time period can be less than 3 months in some special circumstances, if it is expedient in the interest of government.

The proper officer may require any specified officer to deduct the amount so payable from any money owing to such defaulter for recovery of dues in *form DRC-09*.

The following details are contained in *form DRC-09*:

- The details of specified officer
- Particulars of defaulter (GSTIN, Name, Demand ID, Recovery ID etc.)
- The details of arrear
- Remarks, if any

### Notice for auction of goods (DRC-10)

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Where any amount is due from any person, who fails to pay it within 3 months from the date of service of order, the same can be recovered by selling the goods belonging to such person. For this, the proper officer prepares an inventory and estimate the market value of such goods. Also, the goods are to be sold only through a process of auction including e-auction.

Before initiating an auction process, a notice is issued to taxpayer in *form DRC-10* indicating the goods to be sold and the purpose of sale.

The following details are contained in **form DRC-10**:

- The details of Demand order, period and date
- The recovery amount
- The auction date and time
- Schedule of goods and quantity

### Notice to successful bidder (DRC-11)

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When an auction (including e-auction) is conducted for recovery of amount from a person to

whom **form DRC-10** or **formDRC-17** has been issued, then a proper officer shall issue notice to the successful bidder in **form DRC-11** asking to make payment of the bid amount within a period of 15 days from the date such notice.

Note: Form DRC-17 shall be covered in subsequent post.

### Sale certificate (DRC-12)

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After the successful bidder makes payment of the bid amount within 15 days from the date of auction as mentioned in notice issued in **form DRC-11**, a certificate is issued in **form DRC-12** transferring the procession of goods to such person.

The following details are contained in **form DRC-12**:

- The demand ID , recovery ID and period
- Schedule of movable goods, immovable goods and/or shares
- Bidder name, location of auction, consideration, payment receipt date, among other details.

### Certificate of payment to a third person (DRC-14)

121

Where the person makes the payment of the amount specified in notice issued to him/her in **form DRC-13**, and such payment is credited to the Government. Then the proper officer issues a certificate in **form DRC-14**, indicating the details of the liability discharged.

### Application requesting execution of a decree (DRC-15)

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Where any amount is payable to the person who have defaulted, in the execution of a decree(order) of a civil court for:

- Payment of money; or
- Sale in enforcement of a mortgage or charge

Then, the proper officer may send a request in **form DRC-15** to the court for credit of proceeds from such decree against the amount recoverable from such person and on receipt of such request, the court in compliance with the provisions of the law, executes the attached decree and credits the net proceeds for settlement of the amount recoverable from the defaulter person.

For example: A decree (order) was passed for Rs. 1,00,000 in favour of the person who has

defaulted by civil court. Then the proper officer can send a request to the civil court, for execution of such decree and to pay the money against the amount recoverable from such person instead of making payment directly to him.

**Notice for attachment (DRC-16)**

**123**

Where any amount is payable by the person who has defaulted, the proper officer may prepare the list of all movable and immovable property, estimate their value as per prevailing market price and issue an order of attachment and a notice for sale in **form DRC-16**.

The proper officer may also attach the following assets belonging to the person who has defaulted and issue a written order in **form DRC-16**:

<b>Assets</b>	<b>Order issued to</b>	<b>Prohibition on</b>
Debt not secured by a negotiable instrument	The person who needs to pay money to the person who have defaulted	Person recovering the debt and the debtor from making thereof until receipt of further notice
Shares of a corporation	Registered address of the corporation	The person in whose name it may be standing from transferring or receiving dividend thereof
Other moveable property	Person in possession of such property	Giving it back to the person who have defaulted

**Notice for Auction (DRC-17)**

**124**

Where a notice is issued in **form DRC-16** for attachment of properties i.e. movable, or immovable property, then the same may be sold through auction including e-auction, for which a notice is issued by the proper officer in **form DRC-17** indicating the property to be sold and purpose of such sale.

The following details are contained in **form DRC-17**:

- The details of Demand order, Recovery ID, period and date
- The recovery amount
- The auction date and time
- Schedule of movable, immovable and shares and their quantity

Other related points:

- Where the assets to be sold is a negotiable instrument or a share in corporation, the proper officer may sell such instrument or share through a broker, instead of selling it through the auction including e-auction.
- The proper officer may specify the amount of pre-bid deposit amount to be deposited, for making the bidders eligible to participate in the auction.
- The last day of submission of bid or last day of auction (e-auction) should not be less than 15 days from the date of issuance of notice.

### Certificate Action for Recovery (DRC-18)

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Where any amount is payable by the person who has defaulted, then the proper officer may issue a certificate in **form DRC-18** for recovery of such amount and send it to the collector or any authorized officer of the district in which such person:

- Owns any property or
- Resides or
- Carries on his business.

On receipt of such certificate the specified officer shall begin the proceeding to recover the amount as if it was an arrear of land revenue.

### Application to Magistrate for Recovery as Fine (DRC-19)

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Where any amount is payable by the person who has defaulted, then the proper officer may file an application to the appropriate magistrate in **form DRC-19** for recovery of such amount from the concerned person, as if the amount to be recovered were a fine imposed under the Code of Criminal Procedure (CrPC).

The following details are contained **inform DRC-19**:

- The details of Magistrate
- Demand ID, Recovery ID and Date
- GSTIN, Name and Details of amount outstanding



- Details of Proper officer

### Application for Deferred Payment/ Payment in Instalments (DRC-20)

127

The taxpayer can request with appropriate reasons to the commissioner for extension of time for the payment of taxes or any amount due under the act **or** for allowing payment of such taxes in instalments in **form DRC-20**.

The following details contained in **form DRC-20**:

- Name of Taxpayer, GSTIN and period
- Extension of time or no. of instalments
- Demand ID and amount due
- Reasons for such request, upload of documents, if any

Other related points:

- The number of monthly instalments cannot exceed 24.
- The amount on which installment facility is sought cannot be less than Rs. 25,000.
- The application cannot be made for return related liabilities.

### Order of Acceptance/Rejection of Application (DRC-21)

128

Where an application has been received by the commissioner in **form DRC-20**, seeking extension of time for payment of taxes or any amount due or for allowing payment of such taxes in instalments, then the commissioner may issue an order in **form DRC-21** allowing the taxable person further time to make payment and/or to pay the amount in such monthly instalments as he may deem fit.

The following details are contained in **form DRC-21**:

- GSTIN, Name, Address
- Demand ID, Recovery ID, Period and ARN
- Time period or no. of instalments on acceptance of application
- Reasons in case of rejection of application

Other related points:

- The commissioner seeks report from jurisdictional officer about the financial ability of the taxable person to pay the amount.
- The request may be rejected if the concerned person has already defaulted on the payment of any amount under GST laws **or** the person was not allowed to make payment in instalments in the preceding financial year.

### Provisional Attachment (DRC-22)

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Where during the pendency of any proceeding on a person due to any of the following reasons:

- Assessment of non-filers of returns
- Assessment of unregistered persons
- Summary assessment in certain special cases
- Inspection, search and seizure
- Bona-fide or Mala-fide defaulter of tax

Then if the commissioner is of the opinion for protecting the interest of the government revenue, he may issue an order in **form DRC-22** to provisionally attach the property (movable and/or immovable) including bank accounts belonging to the taxable person. The provisional attachment is effective for one year from the date of issue of order in **form DRC-22**.

#### Restoration of Provisional Attachment (DRC-23)

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Where any order has been passed in **form DRC-22** to provisionally attach the property (movable and/or immovable) including bank accounts belonging to the taxable person, then the same can be restored by the commissioner by passing an order in **form DRC-23** on any of the following reasons:

- The property attached is of perishable nature, and the taxable person pays an amount equal to the market price of the property or the amount which may become payable on such property, whichever is lower.
- If the concerned person files for objection within seven days from the date of order issued in **form DRC-22**, to the effect that property was/is not liable to attachment.
- If the commissioner upon being satisfied that the property was/is no longer liable for attachment.

#### Intimation to Liquidator (DRC-24)

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When any company is being wound up under the orders of a court or tribunal or otherwise, the person appointed as a liquidator is required to give intimation of his appointment to the Commissioner under GST laws.

The Commissioner within three months of the receipt of such communication notifies the liquidator for the recovery of any amount representing tax, interest, penalty or any other

amount due in **form DRC-24** which are or may become payable by the said company.

### Continuation of Recovery Proceedings (DRC-25)

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Where Government dues (Tax, Penalty, Interest, or any amount payable) are **enhanced** in appeal, revision or any other proceeding, the taxable person shall be served with a demand notice only in respect of enhanced amount. The commissioner shall issue an order in **form DRC-25** for the recovery for enhanced amount along with existing demands, which stand continued from the stage as it was prior to disposal of appeal, revision or any other proceeding.

Where Government dues are **reduced** in appeal, revision or any other proceeding, an intimation of reduction shall be sent to taxable person. The commissioner shall issue an order in **form DRC-25** for the recovery of reduced liabilities which stands continued from the stage as it was prior to disposal of appeal, revision or any other proceeding.

### Summary of order creating demand under existing law (DRC-07A)

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Where any demand of tax, interest, penalty, fee or any other dues which becomes recoverable consequent to proceedings initiated under existing law, before, on or after the effective date of implementation of GST laws, unless recovered under the existing law, can be recovered under GST laws for which demand can be raised in **form DRC-07A**.

#### Other related points:

- Only for demands which are recoverable, order can be issued under the GST Laws.
- The demand order should mention the original demand under the existing law, the amount already paid and the balance amount recoverable under GST laws.
- The demand created shall be posted to Electronic Liability Register part II (other than return related liabilities).
- Existing law can be state level Value Added Tax, Central Excise Duty, Services tax, Entry tax or other acts which were subsumed under GST.

### Amendment/Modification of Summary of the order creating demand under existing laws (DRC-08A)

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Where any demand for tax, interest, penalty, fee or any other dues was raised in **form DRC-**

**07A** and same is subsequently rectified or modified or quashed, due to

- Appeal
- Review
- Revision
- Recovery is made under the existing laws

then an order of amendment or modification shall be issued in form **DRC-08A**.