

OFFENSES AND PENALTIES UNDER GST

An offence is a breach of a law or rule, i.e., an illegal act.

Similarly, an offence under GST is a breach of the provisions of GST Act and GST Rules.

Following are the broad categories under which an offence can be categorized:

1. Fake/wrong invoices

A. A taxable person supplies any goods/services without any invoice or issues a false invoice.
B. He issues any invoice or bill without supply of goods/services in violation of the provisions of GST
C. He issues invoices using the identification number of another bonafide taxable person

2. Fraud

A. He submits false information while registering under GST
B. He submits fake financial records/documents or files fake returns to evade tax
C. Does not provide information/gives false information during proceedings

3. Tax evasion

A. He collects any GST but does not submit it to the government within 3 months
B. Even if he collects any GST in contravention of provisions, he still has to deposit it to the government within 3 months. Failure to do so will be an offence under GST.
C. He obtains refund of any CGST/SGST by fraud.
D. He takes and/or utilizes input tax credit without actual receipt of goods and/or services
E. He deliberately suppresses his sales to evade tax

4. Supply/transport of goods

A. He transports goods without proper documents
B. Supplies/transport goods which he knows will be confiscated
C. Destroys/tampers goods which have been seized

5. Others

A. Not registered under GST although it is required by law
B. When TDS is not applied or deducts less amount where applicable.
C. When TCS is not made or collected less amount where applicable.
D. Being an Input Service Distributor, he takes or distributes input tax credit in violation of the rules
E. He obstructs the proper officer during his duty (for example, he hinders the officer during the audit by tax authorities)
F. Non maintain all the books that is required to maintain by law
G. In case of destroying any evidence

Following books of accounts is maintained

1. Inward and outward supply of goods or services or both
2. Stock of goods
3. Input tax credit availed

4. Output tax payable and paid
5. Goods and Services imported and exported
6. Supplies attracting payment of tax on reverse charge mechanism along with relevant documents such as invoices, credit notes, debit notes, refund vouchers, bill of supply etc.
7. Advances received, paid and adjustments thereof.

In case of any of the above offenses following persons will be held responsible:

For any offence committed by a company, both the officer in charge (such as director, manager, secretary) as well as the company will be held liable.

For LLPs, HUFs, trust, the partner/ karta /managing trustee will be held liable.

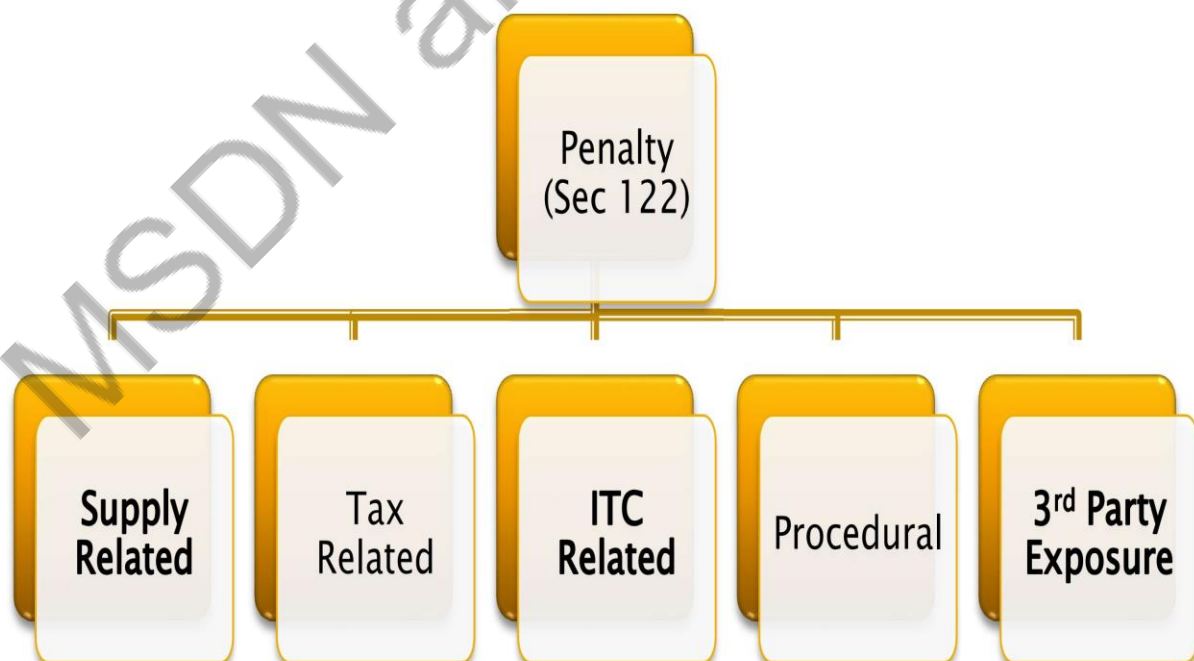
What does penalty mean?

The word “penalty” is not specifically defined in GST and so it takes the meaning from various judicial pronouncements and principles of jurisprudence.

A penalty is a punishment imposed by law for committing an offence or failing to do something that was the duty of a party to do.

A penalty can be both corporal or pecuniary, civil or criminal.

Both corporal (jail) and pecuniary (monetary) penalties are applicable under GST.



A) SUPPLY RELATED PENALTY UNDER GST :

Penalty – SUPPLY RELATED

Section Ref	Offence	Penalty
122(i)	supplies any goods or services or both without issue of any invoice or issues an incorrect or false invoice with regard to any such supply;	10,000 (CGST) Or Tax involved
122(ii)	issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act or the rules made thereunder;	Whichever is higher

B) TAX RELATED PENALTY UNDER GST :

Penalty – TAX RELATED

Section Ref	Offence	Penalty
122(iii)	collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due	10,000 (CGST) Or Tax involved
122(iv)	collects any tax in contravention of the provisions of this Act but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due	Whichever is higher
122(v)	Fails to deduct TDS or short deduction	
122(vi)	Fails to collect TCS or short collection	

C) **ITC RELATED PENALTY UNDER GST :**

Penalty – ITC RELATED

Section Ref	Offence	Penalty
122(vii)	takes or utilises input tax credit without actual receipt of goods or services or both either fully or partially, in contravention of the provisions of this Act or the rules made thereunder.	10,000 (CGST) Or
122(viii)	fraudulently obtains refund of tax under this Act;	Tax involved
122(ix)	Take or Distribute ITC in violation of Sec 20 (ISD)	Whichever is higher

D) **PROCEDURE RELATED PENALTY UNDER GST**

Penalty – PROCEDURE RELATED

Section Ref	Offence	Penalty
122(x)	Falsifies or substitute financial records , or produce false information , with an intent to evade tax	10,000 (CGST) Or
122(xi) & (xii)	Fails to take registration or give false information in registration particulars.	Tax involved
122(xiii)	Obstructs or prevent officer	Whichever is higher
122(xiv)	Transport goods without cover of documents	
122(xv)	Suppression of turnover leading to evasion of tax.	
122(xvi) & (xvii)	Fails to maintain or keep record , documents etc. or fails to furnish it to the officer.	

E) THIRD PARTY RELATED AND OTHER PENALTIES UNDER GST

Penalty – 3RD PARTY RELATED & Others

Section Ref	Offence	Penalty
122(xviii)	Supplies, transports or stores any goods which he has reason to believe are liable to confiscation under this Act.	10,000 (CGST)
122(xix)	Issues invoice using registration number (GSTIN) of another person.	Or Tax involved
122(xx)	Tampers or destroys evidences	Whichever is higher
122(xxi)	Disposes seized or detained goods	

MSDN and Associates