

Return or disposal of movable goods

86. (1) For the purpose of investigation, where any movable goods has been seized under this Part, a senior officer of goods and services tax may, at his discretion—

- (a) temporarily return the movable goods to the owner thereof or to the person from whose possession, custody or control it was seized, or to any person as the senior officer of goods and services tax may consider entitled thereto, subject to such terms and conditions as the senior officer of goods and services tax may impose, and, subject in any case, to sufficient security being furnished to the satisfaction of the senior officer of goods and services tax that the movable goods shall be surrendered to the senior officer of goods and services tax on demand being made by the senior officer of goods and services tax and that the said terms and conditions, if any, shall be complied with;
- (b) return the movable goods to the owner thereof or to the person from whose possession, custody or control it was seized, or to such person as the senior officer of goods and services tax may consider entitled thereto, with liberty for the person to whom the movable goods is so returned to dispose of the same, the return being subject to security being furnished to the satisfaction of the senior officer of goods and services tax in an amount not less than an amount which, in the opinion of the senior officer of goods and services tax, represents—
 - (i) the value of the movable goods, on the date on which the goods are so returned; and
 - (ii) the tax due and payable in respect thereof,for the payment of the amount secured to the Director General in the event of the court making an order for the forfeiture under section 117; or
- (c) sell or destroy the movable goods, as appropriate in the circumstances, where it is a living creature or where, in the opinion of the senior officer of goods and services tax, it is of a perishable or dangerous nature or likely to speedily deteriorate in quality or value, and where it is sold, he shall hold the proceeds of sale to abide the result of any prosecution or claim.

(2) Whenever any movable goods are returned or disposed under subsection (1), a document purporting to be a certificate in accordance with subsection 105(2) shall be issued by the senior officer of goods and services tax.

(Amd. s54 FA 2015 w.e.f. 1/1/2016)

(3) Any person who—

- (a) fails to surrender on demand to a senior officer of goods and services tax the movable goods temporarily returned to him under paragraph (1)(a); or

(b) fails to comply with or contravenes any of the terms or conditions imposed under paragraph (1)(a),

commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(4) The criminal liability of any person under subsection (3) shall be in addition to any other liability that the said person or any other person may incur under the terms and conditions relating to the return of the movable goods under paragraph (1)(a).

(5) The provisions of subsection (3) shall not apply to the person, if any, who is the guarantor or surety of the person to whom the goods is returned under paragraph (1)(a).

(6) The Minister may, either generally or in any particular case or class of cases, give such directions to the Director General as he may deem necessary or expedient with regard to the exercise of the powers conferred on the senior officer of goods and services tax under subsection (1).

(7) No person shall be entitled to maintain any action on account of any act done or any decision taken by or on behalf of the Minister or by or on behalf of a senior officer of goods and services tax under this section, and no court shall have any jurisdiction to entertain any such action.

(8) For the purposes of this section, "movable goods" includes any description of movable goods whatsoever seized under this Act.