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STUDY OF PAYMENT OF GST IN DIFFERENT SITUATION BY DIFFERENT PERSONS

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ABSTRACT

Real estate development projects combine long investment horizons, capital intensity, and a changing composition of participants, which makes managerial outcomes difficult to reproduce from one project to another. This article examines the standardization of project management across the full development cycle, from land acquisition and permitting to the transfer of completed buildings to clients. The study rests on a comparative analysis of international project management standards and peer-reviewed research on construction management, combined with a synthesis of managerial practice in large-scale residential development. The result is a framework that defines objects of standardization for each phase of the life cycle, links them to control mechanisms, and integrates them through cross-cutting instruments, among which are stage-gate control of phase transitions, an authority matrix, a unified document and data flow, and continuous monitoring of project risks and contract events. The framework treats standardization as a system of managerial filters that convert heterogeneous project situations into comparable decisions. The analysis shows that such a system raises the manageability of individual projects, makes their status transparent to investors and lenders, and turns successful managerial solutions into a reproducible asset of the development company. Directions for quantitative validation of the framework are outlined.

KEYWORDS: GST in India, Reverse Charge Mechanism, Business Transfer, Agent & Principal Relationship, Amalgamation/ Merger/ Liquidation of companies, Directors of companies, Partners of firm, Guardians/Trustees, Court of Wards, Special Provisions and other cases.

INTRODUCTION

GST is one nation one tax Act, applicable on whole India including Jammu and Kashmir. GST act overcomes the drawback of previous tax system. As per GST Act, tax is payable by the person who is registered or liable to registered under section 22 of GST Act but there are certain cases were taxable person unable to pay tax so tax amount will be collected from his beneficiary.

Section 9 “Charging Section” of the ACT specify that every taxable person liable to pay Goods and

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Services tax at the time of sale and purchase of the Goods and Services or both. A part of it, there is some provisions which transfer the lability to pay tax from supplier to the recipient i.e. Reverse charge Mechanism and cases where E-commerce operators liable to pay tax on Notified Goods and Services.

Before understanding the provisions for liability to pay in certain cases, need to understand some relevant definitions:-



Business: - According to Section 2(17)

a) Any trade, commerce, manufacturing, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit.
b) Any activity or transaction in connection with or incidental or ancillary to (a) above
c) Any activity or transaction in the nature of (a) above, whether or not there is volume, frequency, continuity or regularity of such transaction

Commissioner: - Section 2(24), officer of central tax includes the principal commissioner of central tax appointed under section 3 and Commissioner of integrated tax appointed under the Integrated Goods and Services Tax Act.

Principal: - Section 2(88), Principal means a person on whose behalf an agent carries on the business of supply or receipt of goods or services or both.

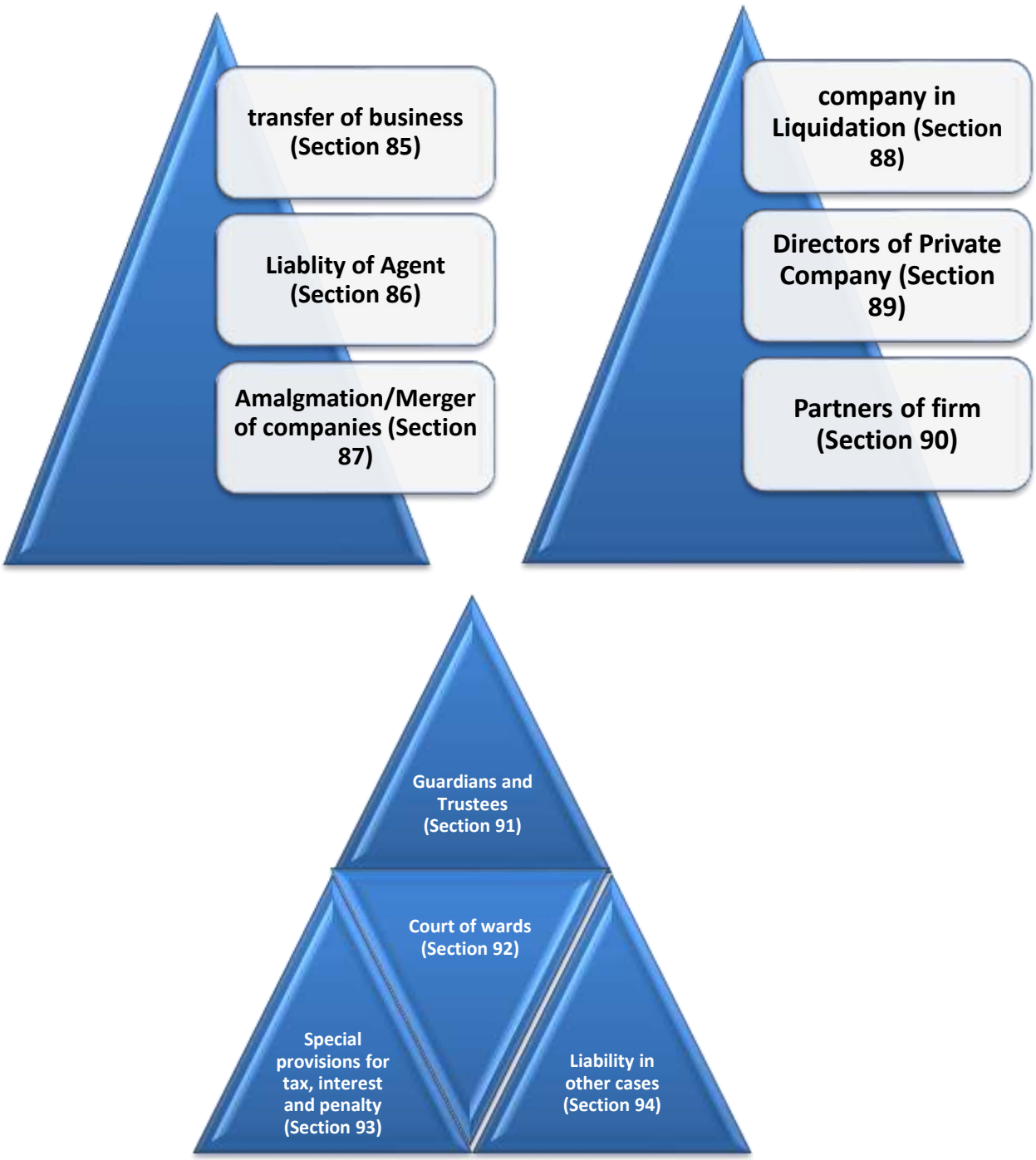
Agent: - Section 2(5), It means a person, including factory, broker, commission agent, arhatia, del-credere agent, an auctioneer or any other mercantile agent by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another.

Provisions related to payment of Tax Lability: -

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Liability to pay tax in case of transfer of business (Section-85): -

Where wholly or partly business transfer is made by way of

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- Sale
- Lease
- Gift
- License
- Hire till the date of transfer, transferor and transferee are individually and jointly liable to pay tax, penalty or interest but after transfer of that business transferee shall be liable to pay tax, penalty or interest.

Liability to pay tax in case of Agent and Principal (Section-86): -

When an agent supplies or receives taxable goods on behalf of his principal, in that case either one of them or both are liable to pay tax.

Liability to pay tax in case of an Amalgamation/Merger of companies (Section-87): -

When two or more companies comes together for single business or purpose by the order of court or tribunal is called Amalgamation/Merger. Till the date of court order individual company liable to pay tax and after Amalgamation/Merger, new company liable to pay tax, penalty or interest.

Liability to pay tax in case of company in Liquidation (Section-88): -

In case of liquidation, one person appointed by the court as Liquidator and that person must inform to the commissioner within 30 days of his appointment. Commissioner has power to call information which he fells relevant for his enquiry.

Liquidator has 3 months-time to arrange funds for payment of tax, interest and penalty.

If such tax, interest and penalty cannot be arrange by the liquidator within given time means company unable to pay tax, interest and penalty, every director individually and jointly liable to pay tax, interest and penalty.

Liability to pay tax in case of directors of Private Company (Section-89):-

1) Directors of private company to be jointly and severally liable to pay tax, interest or penalty only to the amount not recovered from that company. Every person who was director during such period liable to pay liability unless he proves that he was innocent and this act cannot be misfeasance, breach of duty or neglect due to his part.
2) No director is liable to pay tax, interest or penalty if that private company converted to public company

Liability to pay tax in case of Partners of firm (Section-90):-

1) The firm and each partner of the firm liable to paytax, interest or penaltyjointly and severally.
2) In case of retirement of partner, retired partner liable to paytax, interest or penalty due up-to the date of his retirement whether determined or not, unless he intimates the commissioner within one month form his retirement otherwise till the date of his intimation of retirement to the commissioner.

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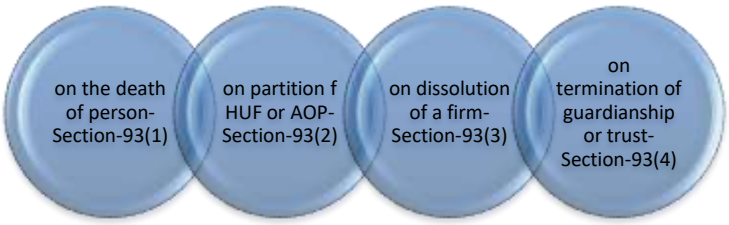
Liability to pay tax in case of Guardians, Trustees etc. (Section-91):-

In case where any business is carried by guardians, trustees and agents of incapacitated or any minor tax, interest or penalty will be recovered from guardians, trustees and agents as the case may be, in that manner as they are owner of the business or they are treated as minor is major and incapacitated is capacitated.

Liability to pay tax in case of court of wards (Section-92):-

If whole estate/property/business or part/portion of that of taxable person is under the control of Court of wards, Administrator General, Official Trustee or receiver/manager,the tax, interest or penalty will be recovered from Court of wards, Administrator General, Official Trustee or receiver/manager in that manner as they are owner of the business.

Special provisions regarding payment of tax in certain cases (Section-93):-



Section-93(1), on the death of a person:-

Business is continued after his death

- By his legal representative
- Any other person

Liable to pay tax, interest or penalty

Business is discontinued after his death his legal representative is liable to pay tax, interest or penalty to the extent of deceased person's estate and if business of deceased Person transfer to another person then successor of that business liable to pay tax, interest or penalty.

Section 93(2) on the Partition of HUF or AOP

If assesse is Hindu Undivided Family or Association of Person and the property of HUF and AOP is Joint/undivided then up-to the date of partition all the members are jointly or one of the member from the group is liable to pay tax, interest or penalty irrespective of the date of determination of tax, interest or penalty i.e. either before partition or after partition.

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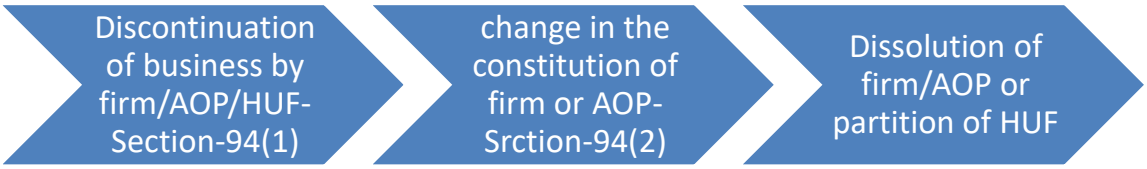
Section 93(3) on the dissolution of firm

If assesse is dissolved firm then up-to the date of dissolution all the partners are jointly or one of the partner of the firm is liable to pay tax, interest or penalty irrespective of the date of determination of tax, interest or penalty i.e. either before dissolution or after dissolution.

Section 93(4) on termination of guardianship or trust

When taxable person is guardian of a ward and business is carried by that guardian on behalf of the ward and a trustee carries business under a trust for beneficiary, then the ward or the beneficiary liable to pay tax, interest or penalty up-to the date of termination of guardianship and trust, whether determine or unpaid after termination of guardianship and trust.

Liability to pay tax in other cases (Section-94):-



This section implies that tax Obligations are not change whether of Business is carried or shutting down, Of AOP and HUF are jointly or severally All the partners of a firm or members Of AOP and HUF are jointly or severally Liable to pay tax, interest and penalty	This section implies that tax Obligations are not change whether constitution of firm or AOP all the partners of a firm or members Liable to pay tax, interest and penalty before reconstitution	In this case provisions Section 94(1) shall be applied

Note: - Limited Liability Partnership registered or formed under Limited Liability Partnership Act'2008, shall be considered as firm.

CONCLUSİON

Collection of maximum tax is the main aim of the Government but in certain cases Government has to fix the liability of persons other than the taxable person where either the effective control of a taxable person is affected by another person or benefits of its assets is received by one or more persons.

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In general full amount of tax paid by the taxable person but if the tax amount cannot recovered from such person then government has a power to recover the taxes from the beneficiaries of that estate.

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