



ASSESSMENT AND AUDIT UNDER GST

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Section 2(11) of the CGST Act 2017 defined the assessment as the determination of tax liability under this act and includes self-assessment, reassessment provisional assessment, summary assessment and best judgement assessment. On a broader sense, "assessment is all about the estimation of tax liability of a registered person i.e. amount of tax payable on value of goods or services or both supplied by him.

Self-Assessment under of the CGST Act/SGST Act 2017: Section of the 59 of the act every registered person shall self-assess the tax payable on supplied made during tax period and file the return of each tax period as per section 39 of the CGST Act.

Provisional Assessment under of the CGST Act/SGST Act 2017: Section 60 of the Act enumerates that the provisional assessment is carried out in case where a taxable person is unable to determine his value of supply or rate of taxes applicable there to the Proper officer may within 90 days from the receipt of application along with required document issue an order specifying the rate and value which tax has to pay on provisional basis. In terms of the section 60(2) a registered person are bound to execute the bond and furnish surety or security in the form of Bank Guarantee which shall not exceeding 25% of the amount covered under the bond.

The proper officer shall determine the tax liability on provisional basis within six months from the date of communication of the provisional assessment order after taking into consideration such information as may be required for finalising the assessment. Joint or additional commissioner may record in writing the reason to extend the date of final assessment order to further six months maximum. The commission may extend the date for further period of 4 years. Thus, a Provisional assessment can remain provisional for a period of maximum of 5 years.

The registered Person shall be liable to pay interest on so much of the amount of tax payable on provisional basis which remains unpaid on the date of payment of taxes under section 60(4) of the act. A registered person shall be entitled for refund if the amount of taxes paid on provisional basis exceeds the actual liability determined on finalisation of assessment.

Scrutiny of returns: Once the registered person furnishes the return the proper officer may scrutinize the returns and related particulars to verify its correctness. If there is any discrepancy, between the returns and available information, the same discrepancies will be communicated to the

registered person for giving explanation on it. In terms of the section 60(3), if the registered person fails to furnish any satisfactory explanation to the proper officer within 30 days from the date of communication of discrepancies, then the appropriate action will be taken against the registered person as per Section 65, 66, 67 and determine the dues or penalty if any as per Section 65, 66, 67 and determine the dues or penalty if any as per Section 73, 74.

Assessment of Non Filers of Returns: As per Section 62 of the act empowers the proper officer to make best judgement assessment. If the registered person fails to furnish the return under Section 39 or final return under section 45 even after submission of notice under Section 46. If the registered person fails to file the returns as per the defined sections and rules or where a taxable person fails to obtain the registration or Whose registration is cancelled and they are liable to tax, then the proper officer assess the tax liability to the best of his judgment and issues the order of best judgment assessment within a period of 5 years from the date of Annual Return of the financial year to which tax not paid relates. The registered person will be given 15 days' time for submission of their reply after issue of best judgement notice.

Assessment of Unregistered Person: As per Section 63, a taxable person is liable to be registered in accordance with the provision of the Section 22 of Section 24 but fails to obtain registration or whose registration has been cancelled on account of circumstances mentioned in Section 29(2) but who was liable to pay tax, the assessing officer may assess the tax liability to the best of his judgement for the relevant tax period and issue assessment order within five years from the date of furnishing annual return i.e. 31st December following the financial year to which the tax paid relates.

Assessment in Special Cases under GST (Section 64):

As per Section 64 (1), If the proper officer is having such evidences which proves that there is some discrepancies in the tax liability, then he may with the previous permission of the Joint Commissioner or Addl. Commissioner assess the tax liability in the interest of the revenue. Further, If the taxable person to whom the tax liability is imposed is not ascertainable, then the person in charge shall be liable to pay the assessed tax or any other dues.

Audit by Tax Authorities under GST (Section 65):

The GST regime continues to promote the scheme of self-assessment like erstwhile indirect tax laws and Audit of

records of tax payers is the basis for the proper functioning of self-assessment based tax system. As per section 2(13) of CGST Act, 2017. GST Audit means examination of records, returns and documents maintained and furnished by registered person to check the following:-

- a) Verify the correctness of turnover declared.
- b) Input tax credit availed and utilized.
- c) Exemptions and deductions claimed.
- d) Rate of tax applied in respect of supply of goods or services etc.

The following three types of GST audit are envisaged under the GST Law:-

1. GST Audit u/s 35(5) of Act, if turnover exceeds prescribed limit (i.e Rs. 2 Crore)
2. GST Audit by tax authorities u/s 65.
3. Special GST audit direction from department u/s 66.

1. GST Audit u/s 35(5)

Every registered person, whose turnover during the financial year exceeds the prescribed "GST audit turnover limit" i.e., 2 crore rupees, shall get the accounts audited by a Chartered Accountant (CA) or a Cost and Management Accountant (CMA). Registered person who is required to get his accounts audited in accordance with section 35(5) shall submit electronically the Annual Return as per section 44 along with a copy of the audited statement of accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year. He shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in Form GSTR-9C along with annual return. Here the term used is aggregate turnover and not turnover in state. Aggregate turnover is computed on all India basis having same PAN. Therefore, if a registered person is liable to get his accounts audited under section 35, then all the registration obtained under same PAN will also be liable to GST audit.

2. GST Audit by tax authorities u/s 65.

The Commissioner or any officer authorised by him, may undertake audit of any registered person for such period, at such frequency and in such manner as may be prescribed in a general or a specific order (Section 65 of CGST Act). The officers may conduct audit at the place of business of the registered person or in their office. The registered person shall be informed by way of a notice of not less than fifteen working days before the conduct of audit in Form GST ADT-01. As per Section 65(4), audit of registered person shall be completed within three months from the date of commencement of audit. Further, if the Commissioner is satisfied that audit of the registered person can't be completed within three months, he may extend the time period for a further period not exceeding six months after recording the reasons for doing so in writing. The proper officer will inform the final findings of his audit to the registered person in form ADT-02. The finding under GST audit may be used by proper officer to initiate action u/s 73 or 74.

3. Special GST audit direction from department u/s 66

During if at any stage of scrutiny, inquiry, investigation or any other proceedings, any officer not below the rank of Assistant Commissioner, is of the opinion that

- the value has not been correctly declared or
- the credit availed is not within the normal limits,

The Assessing Authority may, with the prior approval of the Commissioner, direct such registered person to get his records including books of account examined and audited by a Chartered Accountant or a cost accountant as may be nominated by the Commissioner. The officer will issue direction in Form GST ADT-03 to the registered person in this regard. The Chartered Accountant or Cost Accountant so nominated shall submit a report of such audit duly signed and certified by him to the said Assistant Commissioner, within the period of ninety days, which can be further extended by ninety days. As per Section 66(3) of the act the special Audit may be directed even if accounts and record of the registered persons are audited under any other law in force such such as The Company Act 2013 on the Income Tax Act 1961. The registered person shall be given an opportunity of being heard where any material gathered on the basis of special audit under this act is proposed to be used against him in any proceeding under the act. All expenses spent in connection with Special Audit including remuneration of Auditors to be determined and paid by commissioner as per Section 66(5) of the Act. All registered person shall be informed about the audit finding in Form GST ADT-04 after the audit is concluded. As per Section 66(6) of the Act, if any discrepancy in terms of tax not paid, tax short paid or input tax credit wrongly availed, the officer, may proceed to initiate action under section 73 and 74 of the act.