

**Disclaimer:** This PPT is designed to impart basic knowledge on Assessment in GST for training purpose. This PPT does not claim coverage of exhaustive provisions under CGST Act. Please refer to actual law provisions for use which is different from the intended purpose.

# Assessments in GST – PART I

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# Coverage

Assessments under GST – Theory in brief;

Self Assessment;

Provisional Assessment;

Scrutiny of Returns;

Assessment of Non-filers of Returns;

Assessment of Un-Registered Persons;

Summary Assessment in certain Special Cases;

Determination of Tax Proceedings initiated U/S 73 and U/S 74;

Proceedings initiated for Tax Collected but not Deposited with the Govt;

General Penalty Proceedings U/S 125;

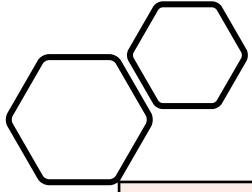
Filing Reply for proceedings initiated for Remanded Cases;

# Legal Provisions related to Assessments under GST

Description	Chapter	Section	Rule
Self Assessment	XII	59	--
Provisional Assessment	XII	60	98
Scrutiny of Returns	XII	61	99
Assessment of Non-filers of Returns	XII	62	100
Assessment of Un-registered Persons	XII	63	100
Summary Assessment in certain special cases	XII	64	100

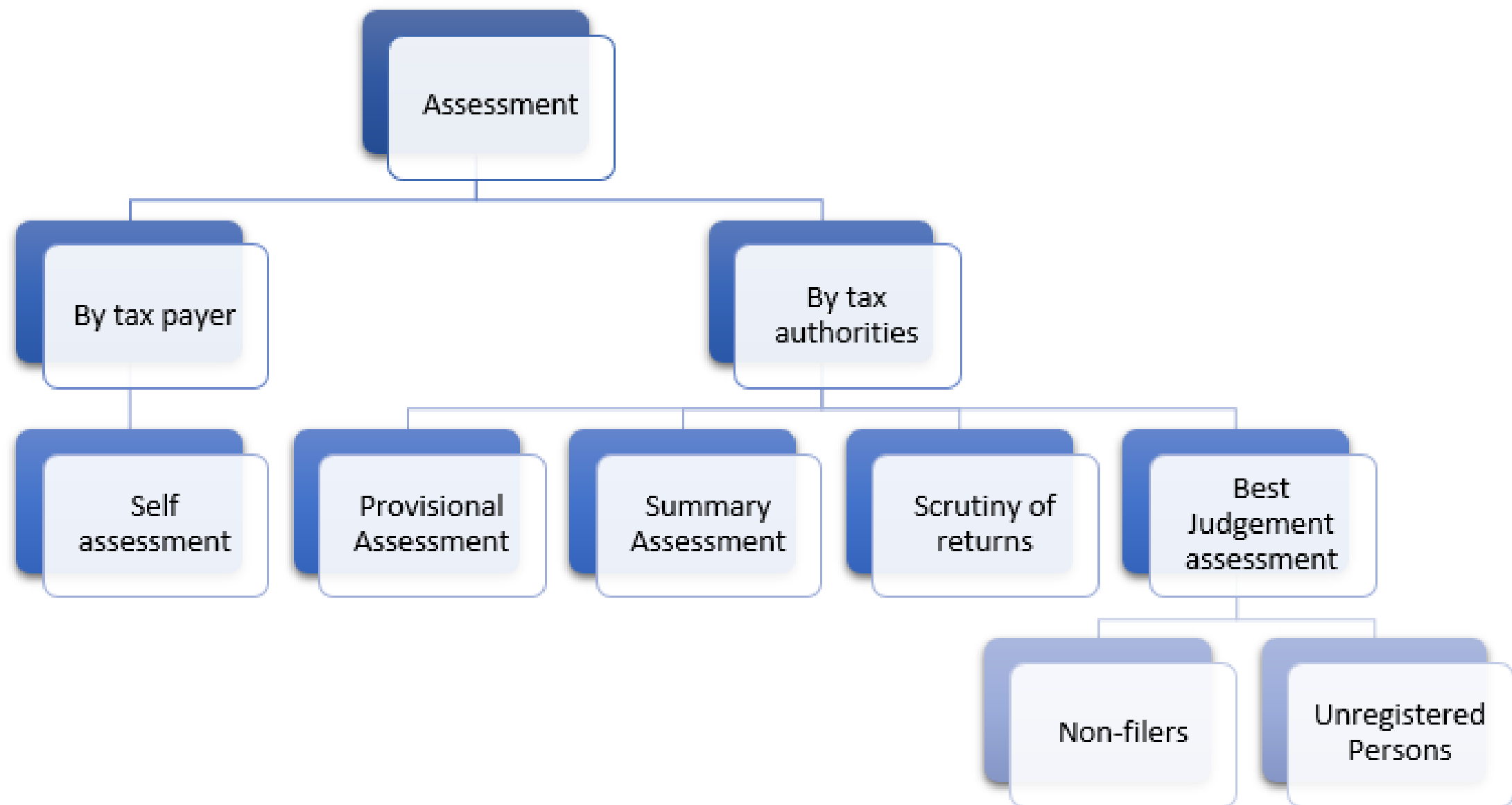
# Relevant Sections relating to Assessments

Section	Description
5	Powers of Officers under GST;
6	Authorization of Officers of State Tax or Union Territory tax as Proper Officer in certain circumstances;
22	Persons liable for registration;
24	Compulsory Registration in certain cases;
25	Procedure for registration;
29	Cancellation or suspension of Registration;
37	Furnishing details of outward supplies;
38	Furnishing details of inward supplies;
39	Furnishing of Returns;
40	First Return;
41	Claim of Input Tax Credit and Provisional acceptance thereof;
44	Annual Return;
45	Final Return;
46	Notice to Return Defaulters
49	Payment of tax, interest, penalty and other amounts;
49(8)	Payment of Tax - Order of Adjustment;
50	Interest on delayed payment of tax;



# Relevant Sections relating to Assessments

Section	Description
54	Refund of Tax;
59	Self-assessment;
65	Audit by tax authorities;
67	Power of Inspection, Search and Seizure;
71	Access to Business premises;
73	Demands and Recovery;
74	Determination of tax not paid or short paid or erroneously refunded or Input tax credit wrongly availed or utilized by reason of fraud or any willful misstatement or suppression of acts;
75(12)	General Provision relating to determination of tax;
78	Initiation of Recovery Proceedings;
79	Recovery of Tax;
80	Payment of Tax and other amount in instalment;
107	Appeals to Appellate Authority;
174	Repeal and Savings;



# Audit Vs. Assessment

**Section 2(11) – “Assessment”** means **determination of tax liability** under this Act and **includes** self-assessment, re-assessment, provisional assessment, summary assessment and best judgment assessment;

The term ‘**Assessment**’ is thus, defined in an **inclusive manner**. The expressions used in the definition related to various types of Assessments **are not defined** in the CGST Act.

**Chapter XII of the CGST Act** titled ‘**Assessment**’ contains the provisions relating to the various types of Assessments contemplated in the definition of ‘Assessment’.

**Section 2(13) - “Audit”** means the **examination of records, returns and other documents maintained or furnished by the registered person** under this Act, or the rules made thereunder or under any other law for the time being in force **to verify the correctness of turnover declared, taxes paid, refund claimed, and input tax credit availed**, and to **assess his compliance with the provisions** of this Act or the rules made thereunder



# Meaning of Assessment

**‘Assessment’**, in simple words, means the process of **determination of the amount of tax payable**;

**Levy, Assessment and Collection** are the three angles of the **taxation triangle**. ‘Assessment’ comes between the stages of levy and collection;

In *Bhopal Sugar Industries vs. State of MP – AIR 1979 SC 357*, the Supreme Court observed: **“‘Assess’ in a taxing statute means the computation of the income of assessee, the determination of tax payable by him and the procedure for collecting or recovering the tax.”**

In *Kalavati Devi vs. CIT – AIR 1968 SC 162*, the Apex Court observed: **“The word ‘assessment’ in its comprehensive sense as including the whole procedure for imposing liability upon the tax payer’**

# Relevant Definitions

**Section 2(11) – “Assessment”** means **determination of tax liability** under this Act and includes self-assessment, re-assessment, provisional assessment, summary assessment and best judgment assessment;

**Section 2(91) – “Proper Officer”** in relation to any function to be performed under this Act means **the Commissioner or the officer of the Central Tax** who is assigned that function by the Commissioner in the Board;

**Section 2(94) – “Registered Person”** means a **Person who is registered under Section 25** but does not include a Person having Unique Identity Number;

**Section 2(97) – “Return”** means **any return prescribed or otherwise** required to be furnished by or under this Act or the Rules made thereunder;

# Relevant Definitions



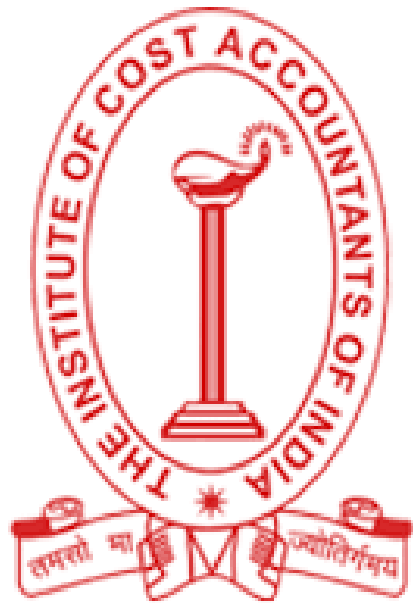
**Section 2(107) – “Taxable Person”** means a Person who is registered or liable to be registered under Section 22 or Section 24;



**Section 2(117) – “Valid Return”** means a return furnished under sub-section (1) of Section 39 on which self-assessment tax has been paid in full;



**Section 2(106) – “Tax Period”** means the period for which the return is required to be furnished;



## **Section 59 of GST Self assessment with introduction and Analysis**

# Self Assessment – Section 59 of CGST Act

*“Every **Registered Person** shall self-assess the tax payable under this Act and furnish a **return** for each tax period as specified under **Section 39**”;*

## Key facts:

**Self-assessment regime**, as was prevalent in the erstwhile Central Excise and Service Tax and VAT regimes, **has been continued under GST**;

Tax payers have been entrusted with the responsibility to mandatorily assess and discharge their own tax liability by furnishing of returns, **after considering the aspects such as taxability, classification, valuation, exemption, etc.**;

Any short payment or non-payment of tax, **whether or not intentional**, as a result of such ‘**Self Assessment**’ may consequently, **lead to litigation**.

The **importance of ‘self-assessment’**, therefore, cannot be **understated**.

# Stages of Self-Assessment

Registration of Tax Payer

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graph TD; A[Registration of Tax Payer] --> B[Determination of tax payable]; B --> C[Payment of tax]; C --> D[Filing of Returns];
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Determination of tax payable

Payment of tax

Filing of Returns

# Self-Assessment Returns

Section	Description	Rule	Form
39(1)	Self-Assessment by Regular Assessee and Casual Taxable Person;	61(1)	GSTR 3B
39(2)	Self-Assessment by Composition Dealer;	62	GSTR 4
39(5)	Self-Assessment by Non-Resident Taxable Person;	63	GSTR 5
39(1)	Self-Assessment of Online Information Database Access or Retrieval Services (OIDARS) provided by person located outside India to non-taxable person in India;	64	GSTR 5A
39(4)	Self-Assessment by Input Service Distributor (ISD);	65	GSTR 6
39(3)	Self-Assessment Tax Deducted At Source (TDS);	66(1)	GSTR 7
52(4)	Self-Assessment Tax Collected At Source (TCS);	67(1)	GSTR 8
39(1)	Self-Assessment for purpose of Refund by person having UIN;	82	GSTR 11
44	Annual Return;	80	GSTR9

# Verification of Self-Assessment


There is no Departmental Assessment in case of self-assessment;

Burden of proof of Self-Assessment lies on the taxpayer;

Though Self-Assessment does not involve any assessment on the part of Department, an erroneous Self-Assessment may attract mentioned provisions apart from provisions relating to **Chapter XII - Assessment**:

Section	Relating to
65	Audit by tax authorities;
66	Special Audit;
67	Power of inspection, search and seizure;
68	Inspection of goods in movement;
69	Power to arrest;
70	Power to summon persons to give evidence and produce documents;
71	Access to business premises;
72	Officers to assist Proper Officers;





# Levy covered under Self-Assessment

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## Self-determination of:

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Supply which are not specifically excluded under Schedule III attached to the CGST Act – Activities or transactions which shall be treated neither as a supply of goods nor a supply of services.

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Taxability of supply except five specified petroleum products, alcohol for human consumption.

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Classification – Goods or Services.

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Exemptions.

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Liability under Forward Charge or Reverse Charge.

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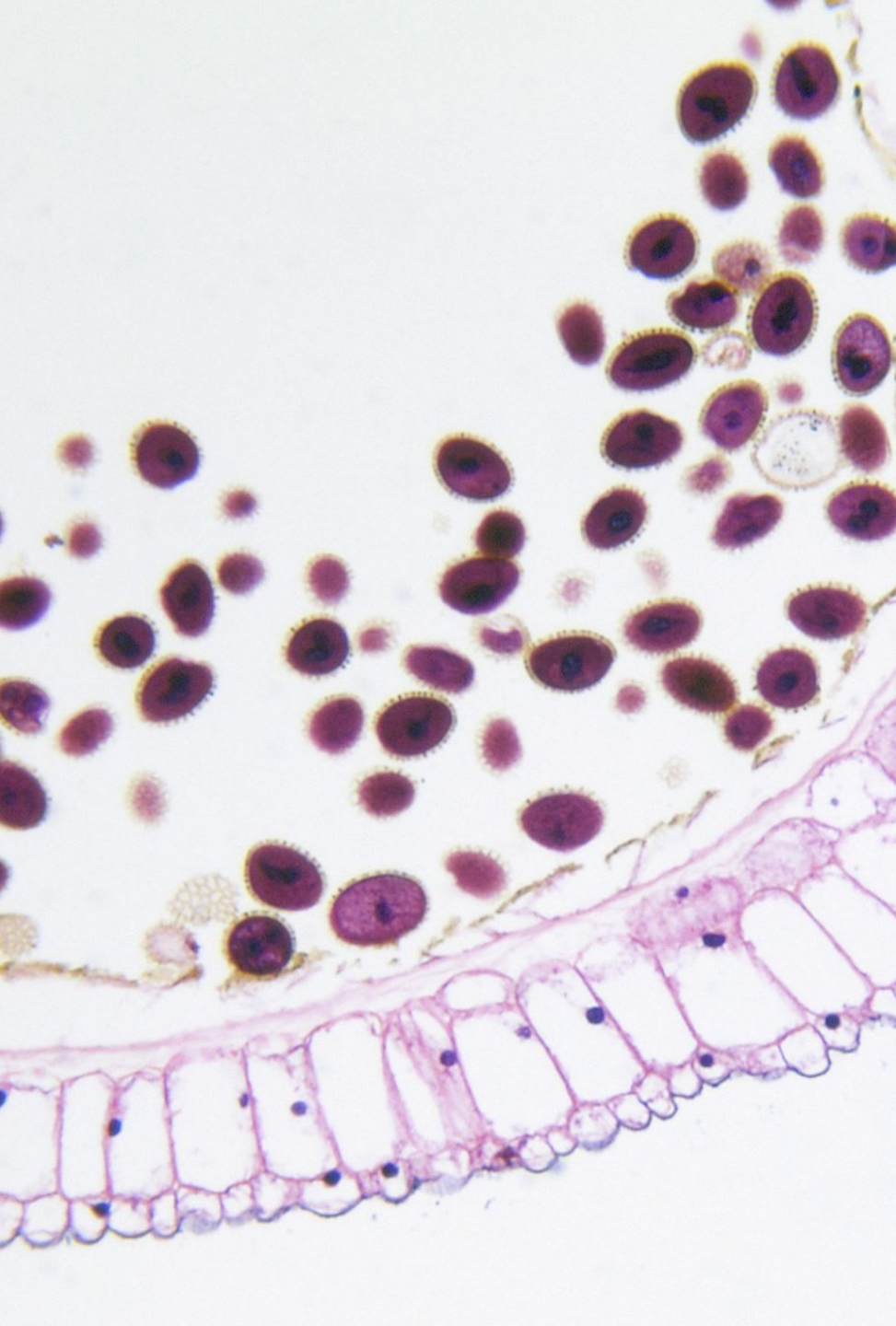
Valuation in consideration of inclusions and exclusions.

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Admissibility and availing of Input Tax Credit.

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Determination of Net Tax Liability after utilization of Input Tax Credit.



# Important provision under Section 39 of CGST Act

## Section 39 – Furnishing of Returns:

**Section 39(9):** *“Where any registered person after furnishing a return under sub-section (1) or sub-section (2) or sub-section (3) or subsection (4) or sub-section (5) **discovers any omission or incorrect particulars therein**, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, **he shall rectify such omission or incorrect particulars in the return to be furnished for the month or quarter during which such omission or incorrect particulars** in such form and manner as may be prescribed, subject to **payment of interest** under this Act:*

*Provided that no such rectification of any omission or incorrect particulars shall be allowed after the **thirtieth day of November following the end of the financial year** to which such details pertain, or the **actual date of furnishing of relevant annual return**, whichever is earlier.*

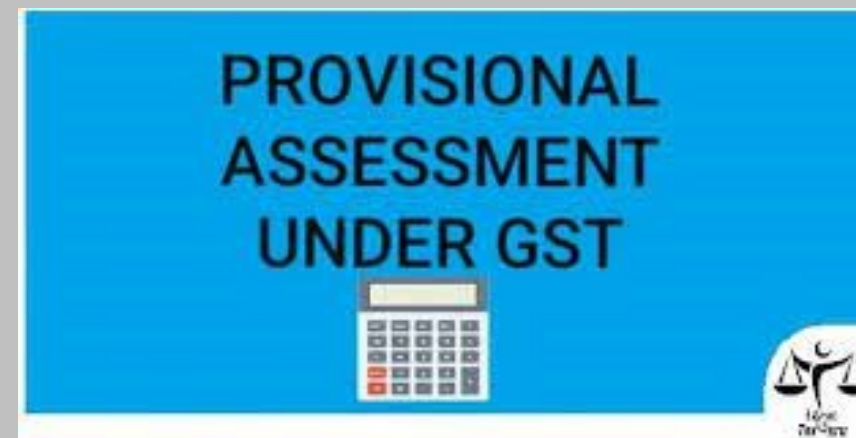
# Rectification of particulars furnished in a Return

The provisions of the law permit a registered person to rectify any incorrect particulars furnished in the returns.

In terms of section 39(9), if a registered person discovers any omission or incorrect particulars furnished in a return, he is required to rectify such omission or incorrect particulars in the return to be furnished for the tax period during which such omission or incorrect particulars are noticed (on payment of due interest), unless the same is as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, or such rectification is time barred (i.e., after 30<sup>th</sup> day of November following the end of financial year to which such details pertains, or the actual date of furnishing of relevant Annual Returns, whichever is earlier).

Para 4 of Circular No. 26/2017 dated 29.12.17, clarifies that in case of summary returns like Form GSTR-3B, where there are no separate tables for reflecting tax effects of amendments for past periods are available, the figures pertaining to the current month can be adjusted for past month amendments, so long as the amount is not negative.

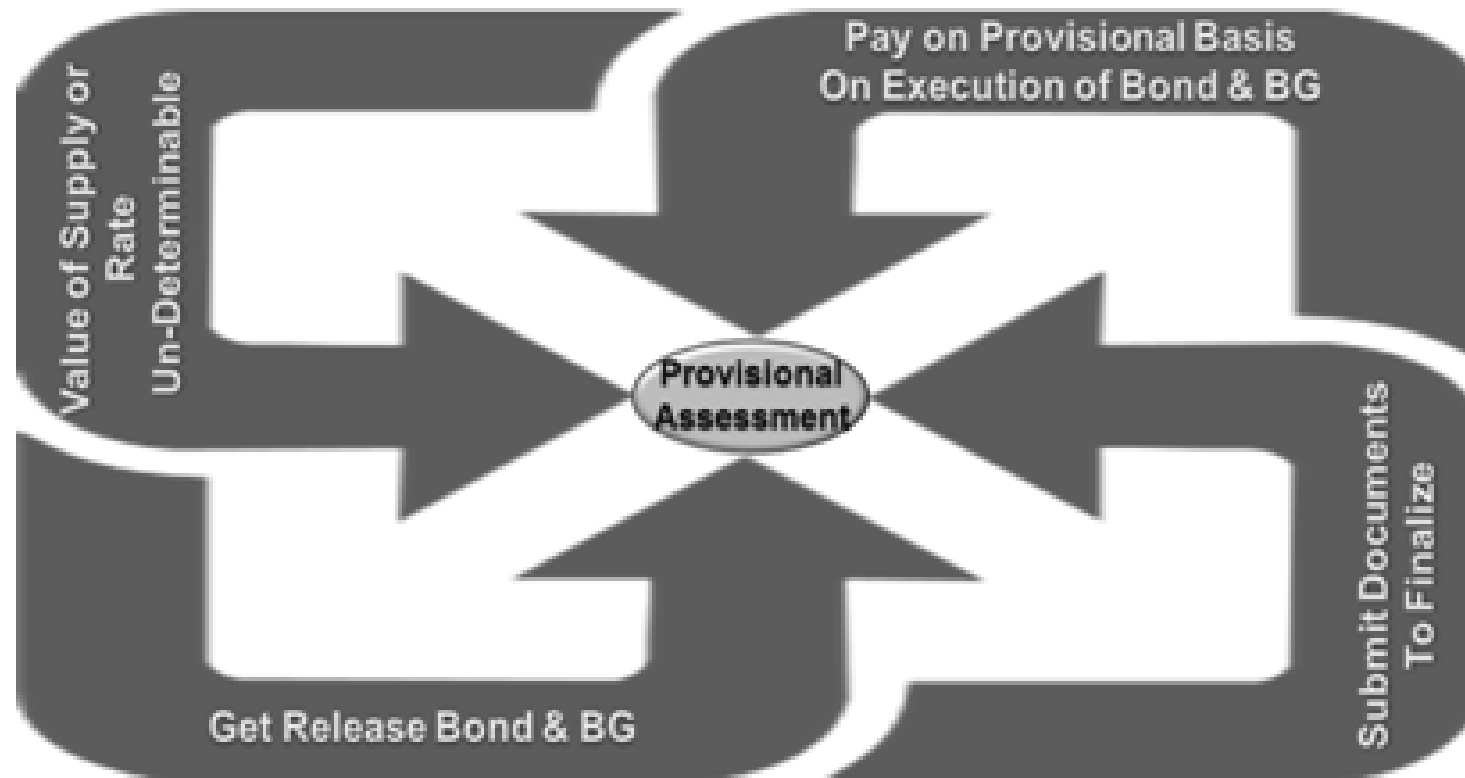
## Filing of Application for Provisional Assessment and Release of Security;



# Forms under Provisional Assessment U/S 60 and Rule 98

S.No.	Form	Description
1	GST ASMT-01	Application for provisional assessment under section 60;
2	GST ASMT-02	Notice for seeking additional Information / clarification/ documents for provisional assessment;
3	GST ASMT-03	Reply to the notice seeking additional information;
4	GST ASMT-04	Order of provisional assessment;
5	GST ASMT-05	Furnishing of security;
6	GST ASMT-06	Notice for seeking additional Information/ clarification/ documents for Final assessment;
7	GST ASMT-07	Final assessment order;
8	GST ASMT-08	Application for withdrawal of security;
9	GST ASMT-09	Order for release of security or rejecting the application;

# Provisional Assessment in GST





# Provisions Related to Provisional Assessment

**Section 2(11):** Definition of Assessment.



**Section 39:** Furnishing of Returns.

**Section 50:** Interest on delayed payment of tax.

**Section 54:** Refund of Tax.

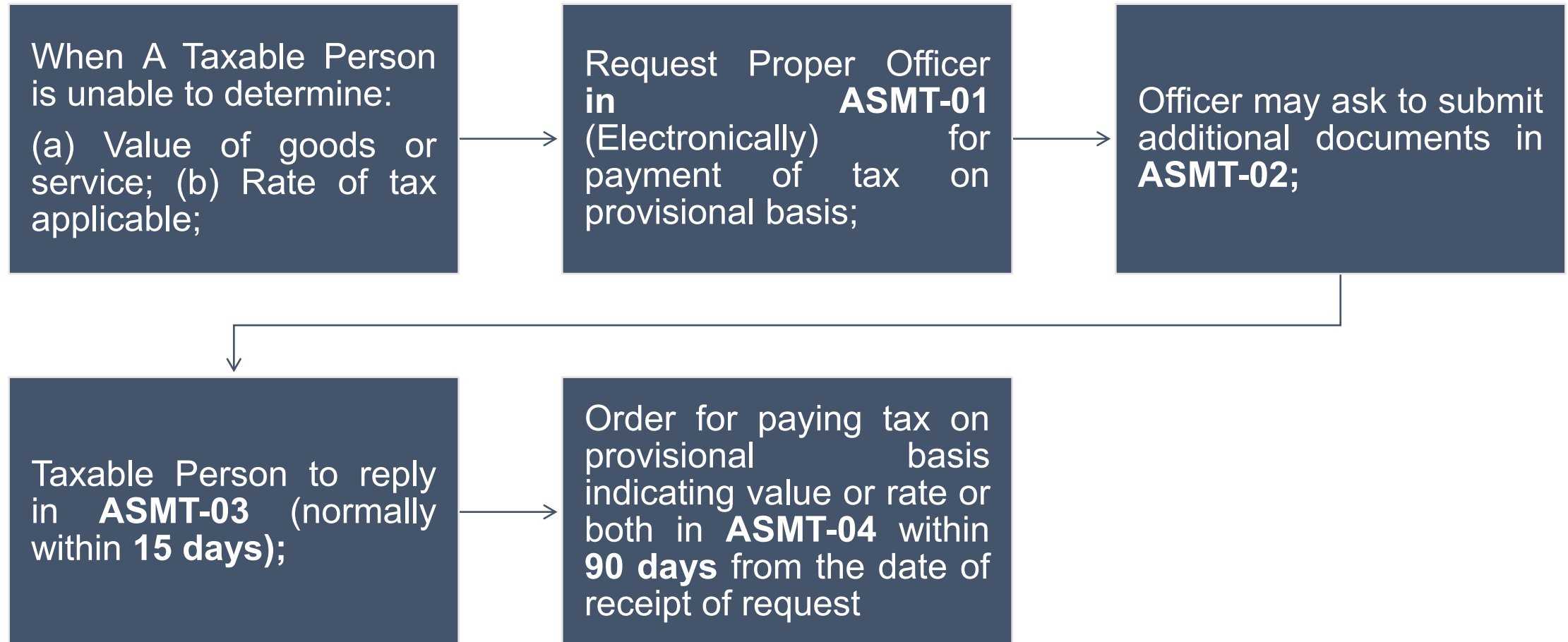
**Section 56:** Interest on delayed refunds.

# Provisional Assessment Vs. Advance Ruling

Topic	Provisional Assessment	Advance Ruling
Facility	Optional	Optional
Scope	Limited to Value and Rate of Goods and Services	Wider than Value and Rate of Goods and Services
Where Appropriate	Urgent requirement – like commencement of business or new transaction	One has to wait till order is passed;
Fees	Not prescribed	Mandatory payment with Application
Redressal mechanism	Normal Appellate Process (Appeal, Tribunal, HC, SC)	Appeal to AAAR, Writ in HC



# Procedure for Provisional Assessment U/S 60



# Procedure for Provisional Assessment U/S 60

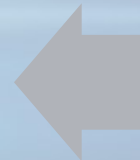
Order shall indicate amount of bond and security to be furnished **not exceeding 25% of amount** covered by bond for binding tax payer to pay differential amount of tax in case of any shortfall after final assessment;



Taxable person shall execute bond in form **ASMT-05** along with a security in the form of a Bank Guarantee;



Additional information for passing final order shall be asked in **ASMT-06**;



Final Assessment order to be passed within **6 months** from the date of communication of **ASMT-04**;

# Procedure for Provisional Assessment U/S 60

Final Order in **ASMT-07**;

Period of Final Order **can be extended** on sufficient cause being shown and reason in writing:

By JC and Additional DC – for further **6 months**;

By Commissioner – for further **4 years**;

Applicant to file **ASMT-08** for release of the security after passing of an Final Assessment Order;

Interest will be payable if tax determination is higher in final order from original due date to actual date of payment

# Procedure for Provisional Assessment U/S 60

Proper Officer shall release the security through Order in **ASMT-09** once tax, if any, payable has been paid **within 7 days**;

Refund can be filed under Section 54(8) and interest will be paid to taxable person as provided in Section 56;

# Release of Security given for Provisional Assessment

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After finalization of Provisional Assessment process with the issue of Final Assessment Order, the taxpayer can file an Application for release of Security.

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Tax Official will verify the request and check whether the purpose for which security was furnished has been accomplished.

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If the purpose is not accomplished, an intimation will be sent to the taxpayer that security cannot be released and Order for rejecting the Application will be issued.

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If purpose is accomplished, then Release Order will be issued after seeking Approval of the competent authority and Tax Official will handover the security to the taxpayer.

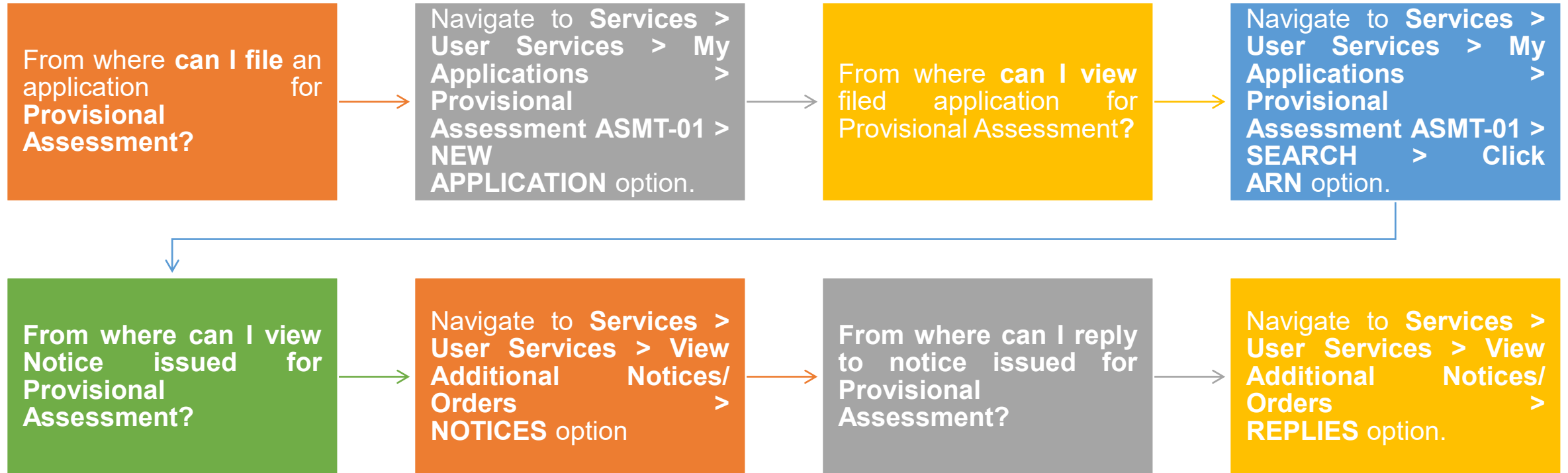
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**From where tax payer can apply for release of Security for Provisional Assessment?**

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Navigate to **Services > User Services > My Applications > Provisional Assessment ASMT-01 > SEARCH > SECURITY.**

# Procedure for Provisional Assessment U/S 60



# Analysis of Provisional Assessment

The facility of provisional assessment is available only in cases of **valuation and determination of rate of tax**.

The provisions of this section **cannot be extended** for any other purpose or subject matter.

**For example**, there may be uncertainty about the kind of tax (IGST or CGST-SGST) applicable, time of supply, supplies to be treated as “supply of goods” or “supply of services”, determination of mixed or composite supply is a rate dispute, admissibility of ITC, quantum of reversal of ITC, whether a particular action is supply or not.

In the aforesaid kind or classes of cases, **recourse is not available to provisional assessment**.



# Taxable Person Vs. Registered Person

**Section 2 (107) – “Taxable Person”** means a person who is registered or liable to be registered under section 22 or section 24;

**Section 2 (94) – “Registered Person”** means a person who is registered under section 25 but does not include a person having a Unique Identity Number;

**Section 60(1)** – “Subject to the provisions of sub-section (2), where the taxable person is unable to determine...”;

**Section 60(2)** – “The payment of tax on provisional basis may be allowed, if the taxable person executes a bond....”;

**Section 60(4)** – “The registered person shall be liable to pay interest on any tax payable on the supply of goods or services or both;

**Section 60(5)** - Where the registered person is entitled to a refund”



# Taxable Person Vs. Registered Person

**Rule 98 (1)** *“Every registered person requesting for payment of tax on a provisional basis in accordance with the provisions of subsection (1) of section 60....”;*

**Rule 98 (2)** *The proper officer may, on receipt of the application under sub-rule (1), issue a notice in **FORM GST ASMT-02** requiring the registered person to furnish additional information or documents.....;*

**Rule 98 (4)** *The registered person shall execute a bond in accordance with the provisions of subsection (2) of section 60 ...”;*

The meaning of “**Taxable Person**” and “**Registered Person**” is not identical.

Section 60(1) and Section 60(2) mentions “**Taxable Person**”; whereas Section 60(4), Section 60(5) and Rule 98 emphasize need for resorting to formalities for Provisional Assessment by “**Registered Person**”.

# Provisional Assessment – Section 60 of CGST Act

(1) *Subject to the provisions of sub-section (2), where the taxable person is unable to determine the value of goods or services or both or determine the rate of tax applicable there to, he may request the proper officer in writing giving reasons for payment of tax **on provisional basis** and the proper officer shall pass an order, within a **period not later than ninety days** from the date of receipt of such request, allowing payment of tax on provisional basis at such rate or on such value as may be specified by him.*

(2) *The payment of tax on provisional basis may be allowed, if **the taxable person executes a bond** in such form as may be prescribed, and with such **surety or security** as the proper officer may deem fit, binding the taxable person for payment of the difference between the amount of tax as may be **finally assessed** and the amount of tax **provisionally assessed**.*



# Provisional Assessment – Section 60 of CGST Act

*(3) The proper officer shall, **within a period not exceeding six months** from the date of the communication of the order issued under sub-section (1), pass **the final assessment order** after taking into account such information as may be required for finalizing the assessment:*

*Provided that the period specified in this sub-section may, on sufficient cause being shown and for reasons to be recorded in writing, **be extended by the Joint Commissioner or Additional Commissioner** for a further period **not exceeding six months** and by the **Commissioner** for such further period not exceeding four years.*

# Provisional Assessment – Section 60 of CGST Act

*(4) The registered person shall be liable to **pay interest on any tax payable** on the supply of goods or services or both under provisional assessment but not paid on the due date specified under sub-section (7) of section 39 or the rules made thereunder, at the rate specified under sub-section (1) of section 50 , from the first day after the due date of payment of tax in respect of the said supply of goods or services or both till the date of actual payment, whether such amount is paid before or **after the issuance of order for final assessment**.*

*(5) Where the registered person is entitled to a refund consequent to the order of final assessment under sub-section (3), subject to the provisions of sub-section (8) of section 54 , **interest shall be paid on such refund as provided in section 56** .*

# Provisional Assessment – Rule 98 of CGST Rules

- (1) Every registered person requesting for payment of tax **on a provisional basis** in accordance with the provisions of subsection (1) of section 60 shall furnish an application along with the documents in support of his request, **electronically in FORM GST ASMT-01** on the common portal, either directly or through a Facilitation Centre notified by the Commissioner.
- (2) The proper officer may, on receipt of the application under sub-rule (1), issue a notice in **FORM GST ASMT-02** requiring the registered person to furnish additional information or documents in support of his request and the applicant shall file a reply to the notice in **FORM GST ASMT - 03**, and may appear in person before the said officer if he so desires.
- (3) The proper officer shall issue an order in **FORM GST ASMT-04** allowing the payment of tax **on a provisional basis** indicating the value or the rate or both on the basis of which the assessment is to be allowed on a provisional basis and the amount for which the bond is to be executed and security to be furnished **not exceeding twenty-five per cent.** of the amount covered under the bond.
- (4) The registered person shall execute a bond in accordance with the provisions of subsection (2) of section 60 in **FORM GST ASMT-05** along with a security in the form of a bank guarantee for an amount as determined under sub-rule (3):

# Provisional Assessment – Rule 98 of CGST Rules

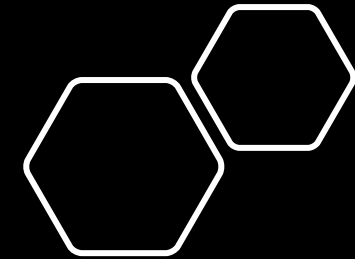
*Provided that a bond furnished to the proper officer under the State Goods and Services Tax Act or Integrated Goods and Services Tax Act **shall be deemed to be a bond** furnished under the provisions of the Act and the rules made thereunder.*

**Explanation** .-For the purposes of this rule, the expression "amount" shall include the amount of integrated tax, central tax, State tax or Union territory tax and cess payable in respect of the transaction.

(5) The proper officer shall issue a notice in **FORM GST ASMT-06** , calling for information and records required for finalization of assessment under sub-section (3) of section 60 and shall issue a final assessment order, specifying the amount payable by the registered person or the amount refundable, if any, in **FORM GST ASMT-07** .

(6) The applicant may file an application in **FORM GST ASMT-08** for the release of the security furnished under sub-rule (4) after issue of the order under sub-rule (5).

(7) The proper officer shall release the security furnished under sub-rule (4), after ensuring that the applicant has paid the amount specified in sub-rule (5) and issue an order in **FORM GST ASMT-09** within a period of seven working days from the date of the receipt of the application under sub-rule (6).



Q.1

                                 are the circumstances under which the Taxable Person may request to the Proper Officer for payment of tax on provision basis U/S 60 of CGST Act?

- A. the taxable person is unable to determine the value of goods or determine the rate of tax applicable thereto;
- B. the taxable person is unable to determine the value of goods or services or determine the rate of tax applicable thereto;
- C. the taxable person is unable to determine the value of goods or services or both or determine the rate of tax applicable thereto;
- D. the taxable person is unable to determine the value of goods or services;

**Answer:- C**



Q.2

**The Proper Officer shall pass an Order of Provisional Assessment U/S 60 of CGST Act within a period not later than \_\_\_\_\_ from the date of receipt of such request?**

- A. 30 days;
- B. 60 days;
- C. 90 days;
- D. 120 days;

**Answer:- C**

**As per provisions related to Provisional Assessment U/S 60 of CGST Act read with Rule 98 of CGST Rules, a taxpayer needs to submit security for an amount not exceeding \_\_\_\_\_ of \_\_\_\_\_?**

- A. 50%; Bond amount;
- B. 25%; Bond amount;
- C. 25%; amount of tax liability as determined by the Proper Officer;
- D. 30%; amount of tax liability as determined by the Proper Officer;

**Answer:- C**

Q.4

**The period (time limit) specified under Section 60(3) for finalization of Provisional Assessment by the Proper Officer may, on sufficient cause being shown and for reasons to be recorded in writing, be extended by the Commissioner for such further period not exceeding \_\_\_\_\_?**

- A. 6 months;
- B. 1 Year;
- C. 2 Years;
- D. 4 Years;

**Answer:- D**

**When the tax liability as per the final assessment is higher than the tax paid, at the time of filing of return under section 39 the registered person shall\_\_\_\_\_?**

- A. not be liable to interest, provided he proves that his actions were bona fide;
- B. be liable to pay interest from date of the final assessment till the date of actual payment;
- C. be liable to pay interest from due date till the date of actual payment;
- D. be liable to pay interest from due date till the date of the final assessment;

**Answer:- C**

**As per the provisions of the GST Act / Rules, \_\_\_\_\_ is the Person responsible to make assessment of taxes payable periodically at the time of filing of the GST Returns?**

- A. the Proper Officer of GST Department;
- B. the Registered Person himself;
- C. the Officer nominated by the jurisdictional Commissioner of CGST;
- D. the GST Portal computes the tax liability;

**Answer:- B**

**As per the provisions of the GST Act / Rules, the time limit for completion of final assessment by the Proper Officer is \_\_\_\_\_ from the date of communication of provisional assessment order assuming that no extension of time limit is given by the higher authorities?**

- A. 3 months;
- B. 6 months;
- C. 9 months;
- D. 4 years;

**Answer:- B**



**Thank You for Your Attention!!!**  
**Any Questions?????**

