



The Institute of Cost Accountants of India
(Statutory body under an Act of Parliament)
Tax Research Department

ADVANCED CERTIFICATE COURSE ON GST - 7th BATCH

Date: 28th Oct 2023

Assessment under GST

- By CA CMA Kedarnath

Assessment means **determination of tax liability** under GST Act

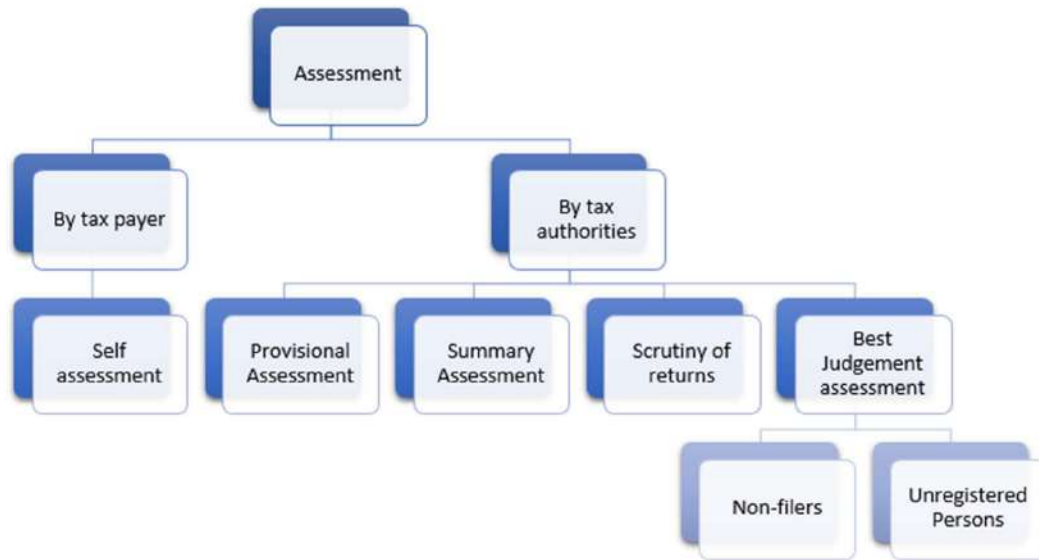
Types of Assessment under GST

- ✚ S.59 - Self-assessment
- ✚ S.60 - Provisional assessment
- ✚ S.61 - Scrutiny Assessment
- ✚ S.62 - Assessment of non-filers of Return
- ✚ S.63 - Assessment of unregistered persons
- ✚ S.64 - Summary assessment in Special Cases

Note:

- ✓ Only Self-assessment u/s 59 is done by the **taxpayer** himself.
- ✓ All the other assessments are done by the tax authorities.

Types of Assessment:



Section 59 – Self Assessment

- The taxable person is required to pay tax on the basis of self-assessment done by him.
- Every registered person shall **self-assess** the taxes payable under this act and furnish a return for each tax period as specified under section 39.
- Persons having **GST registration** file GST returns and pay GST every month based on self-assessment of GST liability.
- However, the Government at all times has the right to re-assess or perform an assessment by itself and determine if there is a short payment of GST.
- Hence, all GST return filings are based on self-assessment by the taxpayer.
- This means GST continues to promote self-assessment just like the Excise, VAT and Service Tax under current tax regime.

Examples:

- ✓ GSTR-1
- ✓ GSTR-3B
- ✓ CMP-08
- ✓ GSTR-4
- ✓ GSTR-9

Section 60 - Provisional Assessment

Theory:

An Assessee can request the officer for provisional assessment if he is unable to determine taxable value or tax rate.

Unable to determine value due to difficulty in –

- ✚ Calculating the transaction value as per S.15
- ✚ Understanding whether certain receipts should be included or not

Unable to determine rate of tax due to difficulty in –

- ✚ Classifying the Goods (HSN)/Services (SAC)
- ✚ Identifying whether any notification is applicable or not

Relevant Rules: Rule 98 of CGST Rules, 2017

Applicable Forms: ASMT-01 to ASMT-9:

ASMT-01: Application for Provisional Assessment under section 60 by Applicant

ASMT-02: Notice for Seeking Additional Information / Clarification / Documents for provisional assessment by proper officer

ASMT-03: Reply to the notice seeking additional information by Applicant

ASMT-04: Order of Provisional Assessment (with in 90 days from the date of application)

ASMT-05: Furnishing of Security by Applicant

ASMT-06: Notice for seeking additional information / clarification / documents for final assessment

ASMT-07: Final Assessment Order (within 6 Months from the date of communication of order of provisional payment) & (commissioner may extend 6 months like up to 4 years)

ASMT-08: Application for Withdrawal of Security by Applicant

ASMT-09: Order for release of security or rejecting the application

Provisions of Provisional Assessment

- ✓ Requests for provisional assessments will be given in writing
- ✓ The proper officer can allow paying tax on provisional basis at a rate or on a value specified by him.
- ✓ Order will be passed within 90 days from date of request.
- ✓ The taxable person has to issue a bond with a security promising to pay the difference between provisionally assessed tax and final assessed tax.
- ✓ Provisional assessments will be followed by final assessments. The proper officer can ask for information before final assessment.
- ✓ Final Assessment Order will be passed within **6 Months** from the date of communication of order of provisional payment & commissioner may extend 6 months like up to 4 years
- ✓ Interest on Additional Tax Payable @ 18%
- ✓ Interest on excess paid would be refunded @ 6%

Practical approach:

Procedure to File Application for Provisional Assessment

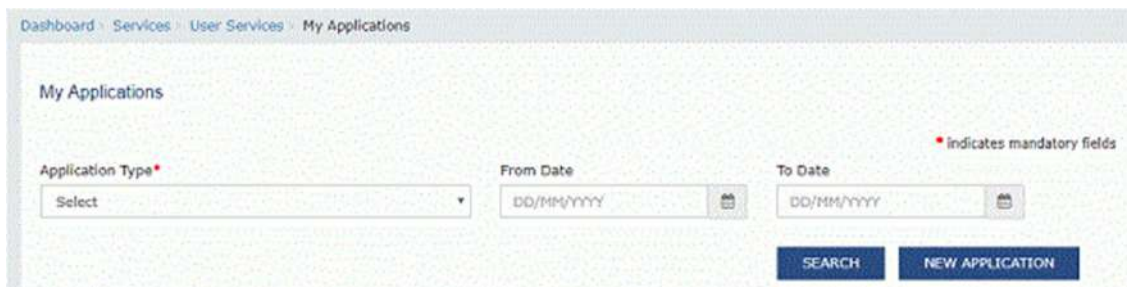
Navigate to **Services > User Services > My Applications > Provisional Assessment ASMT-01> NEW APPLICATION** option.

*To file an Application, perform following **steps**:*

1. Access the www.gst.gov.in URL. The GST Home page is displayed.
2. Login to the portal with valid credentials.
3. Dashboard page is displayed. Click **Services > User Services > My Applications** option.



4. The My Applications page is displayed.



5. Select "Provisional Assessment ASMT-01" in the Application Type field.



6. Click the NEW APPLICATION button.

7. Fill the details of Goods and Services, Tax rates & Reasons for seeking provisional assessment as desired by the tax payer

Description of Goods/Services

Goods

Services

Search HSN Chapter

Details of Commodity/Service for which tax rate/valuation is to be determined

HSN/SAC *	Name of Commodity/Service *	Tax Rate(%) *				Valuation (₹) *	Average monthly turnover of the Commodity/Service (₹) *	Action
		IGST	CGST	SGST/UTGST	CESS			

Reasons for seeking provisional assessment *

Reason

1000 characters remaining

8. Attach any documents as desired

9. Select preview and check the same before filing

10. File the application with EVC or DSC

11. Make a copy of ARN for future reference.

By

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Form GST ASMT-10, 11 & 12

Section 61 - Scrutiny of Returns

- Scrutiny of tax returns filed by the registered taxable persons
- The proper officer will scrutinize the GST returns and related particulars furnished by the registered person to verify the correctness of the return. This is called a **scrutiny assessment**.
- It is a non-compulsory pre-adjudication process
- The officer will ask for explanations on discrepancies noticed.

Under the following circumstances **Form GST ASMT-10** issued:

1. Short payment of Tax i.e., Diff between GSTR-1 Vs GSTR-3B
2. Excess ITC claimed in GSTR-3B Vs Auto Populated in GSTR-2A/2B
3. RCM not paid compared with Auto Populated in GSTR-2A/2B
4. Additional Turnover declared in GSTR-9 but Tax not paid through DRC-03
5. Tax Payer has declared excess Input Tax Credit in GSTR-3B returns and has rectified now in GSTR-9

Relevant Forms:

FORM GST ASMT - 10: Notice for intimating discrepancies in the return after scrutiny

FORM GST ASMT - 11: Reply to the notice issued under section 61 intimating discrepancies in the return

FORM GST ASMT - 12: Order of acceptance of reply against the notice issued under section 61

Relevant Rules: Rule 99 of CGST Rules, 2017

Notice for intimating discrepancies in the return after scrutiny Form GST ASMT-10

FORM GST ASMT - 10

[See rule 99(1)]

Reference No.:Date:

To _____

GSTIN:

Name :

Address :

Tax period - F.Y. -

Notice for intimating discrepancies in the return after scrutiny]

This is to inform that during scrutiny of the return for the tax period referred to above, the following discrepancies have been noticed:

<<text>>

You are hereby directed to explain the reasons for the aforesaid discrepancies by -----
- (date). If no explanation is received by the aforesaid date, it will be presumed that you have nothing to say in the matter and proceedings in accordance with law may be initiated against you without making any further reference to you in this regard.

Signature
Name
Designation

Form GST ASMT-10: **Practical Approach**

How to View: Navigate to **Services > User Services > View Additional Notices/Orders** option.

Notice for intimating discrepancies in the return after scrutiny Form GST ASMT-10

The screenshot shows the 'Goods and Services Tax' portal. The breadcrumb trail is 'Dashboard > Services > User Services > Additional Notices and Orders'. A table lists the following notice:

Type of Notice/Order	Description	Ref ID	Date of Issuance	Action
SCRUTINY OF RETURNS	Notice for Intimating discrepancies in return in Form GST ASMT-10	ZD360221004554X	13/02/2021	View

Below the table is a pagination control with buttons for 10, 25, 50, and 100 records.

Once we click on “View” option

The screenshot shows the 'View Notice' page. On the left is a sidebar with 'NOTICES' selected, and below it are 'REPLIES' and 'ORDERS'. The main table displays the following details:

Type	Reference Number	Issue Date	Due Date to Reply	Personal Hearing	Section Number	Attachment
NOTICE	ZD360221004554X	13/02/2021	20/02/2021	No	61	SR_NOTICE_ZD360221004554X

A horizontal scrollbar is visible at the bottom of the table.

Form GST ASMT-11: Theory

- ❖ Reply must be given by the applicant with in the given period by the officer

FORM GST ASMT - 11

[See rule 99(2)]

Reply to the notice issued under section 61 intimating discrepancies in the return

1. GSTIN			
2. Name			
3. Details of the notice		Reference No.	Date
4. Tax Period			
5. Reply to the discrepancies			
Sr. No.	Discrepancy	Reply	

6. Amount admitted and paid, if any -

Act	Tax	Interest	Others	Total

7. Verification-

I _____ hereby solemnly affirm and declare that the information given hereinabove is true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.

Signature of Authorised Signatory

Name

Designation / Status -----

Date -

Form GST ASMT-11: Practical

Replies >>> Add Reply >>> Attach documents (if Any)

NOTICES	ADD REPLY +
REPLIES	
ORDERS	

Type	Reply filed Against	Reply Date/Ph	Option for Personal Hearing	Attachments
NOTICE	ZD360221004554X	13/02/2021	N	Reply Letter_Signed.pdf SR_REPLY_ZD360221004554X_20210224115532.pdf

Status after furnishing the Reply in Form GST ASMT-11

Dashboard > Additional Notices and Orders > Case Details

ARN AD3602210050305	GSTIN/UIN/Temporary ID ██████████	Date Of Application/Case Creation 13/02/2021	Status Reply furnished, Pending for order by tax officer
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NOTICES	Type	Order Number	Order Date	Attachments
REPLIES	No Records Found			
ORDERS				

On the basis of the explanation received from the registered person, the officer can take following action:

- ✚ If the explanation provided is **satisfactory**, the officer will inform about the same to the registered person through **ASMT-12** and no further action will be taken in this regard.
- ✚ If the explanation provided is **not satisfactory** or the registered person **has failed to take corrective measures** after accepting the discrepancies, the proper officer will initiate appropriate action

- ❖ If No reply is given under ASMT-11 within 30 days of issue of ASMT-10 or not satisfactory explanation given further action will be initiated u/s 65 or 66 or 67 or 73 or 74 accordingly as follows;
- ❖ **S.65:** Audit by Tax Authorities
- ❖ **S.66:** Special Audit
- ❖ **S.67:** Power of Inspection and, search and seizure
- ❖ **S.73:** Determination of Tax not paid under “other than fraud cases”
- ❖ **S.74:** Determination of Tax not paid under fraud cases

Form GST ASMT-12:

Proper officer will pass an order accepting the reply against the notice issued u/s 61

FORM GST ASMT-12	
<i>[See rule 99(3)]</i>	
Reference No.:	Date:
To	
GSTIN	
Name	
Address	
Tax period -	F.Y. -
ARN -	Date -
Order of acceptance of reply against the notice issued under section 61	
<p>This has reference to your reply dated ----- in response to the notice issued vide reference no. ----- dated ---. Your reply has been found to be satisfactory and no further action is required to be taken in the matter.</p>	
Signature Name Designation	



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Filing reply for general penalty proceedings u/s 125 (Theory & Practical)

Theory:

- ✚ As per Section 125 of CGST Act, 2017 General Penalty would be imposed on a Taxable person
- ✚ If he **commits any offence** or **contravenes** any provisions of the CGST/ SGST Act or any rules made thereunder,
- ✚ And for which **no penalty** is separately provided for in the Act.

Ex: Non-Furnishing of GST Reconciliation statement i.e., GST Audit for the RFY, then the proper officer may levy general penalty u/s 125

- ✚ **Quantum:** Up to an amount of **Rs 25,000/-** under each act,
- ✚ General penalty can be imposed on **any person** – whether Registered or Unregistered
- ✚ **Procedure of the General Penalty Assessment Proceedings u/s 125**

Following is the procedure of the General Penalty Assessment Proceedings u/s 125:

1. Adjudicating or Assessing Authority (A/A) issues a “Show Cause Notice” in Form DRC-01 to the taxable person and, if personal hearing is required, also schedules a date/time and venue.
2. In case no reply is received from the taxable person, A/A issues a Reminder.
Maximum 3 reminders can be issued.

3. Taxable person can reply to the issued notice on the GST Portal and also **request for a personal hearing** in case A/A has not called for a personal hearing in the issued notice.
4. Additionally, if required, he/she can also file for **application of extension offline**. If A/A approves application of extension, A/A will issue an adjournment with the new date/time and venue of Personal hearing, if required. **Adjournment can be allowed maximum 3 times**.
5. If Personal hearing is not required, A/A, on the basis of taxable person's reply, issues GENERAL PENALTY or DROP PROCEEDING Order. If Personal hearing is required, A/A conducts the personal hearing and on that basis issues the Order. If taxable person does not reply, even after the issue of three reminders, A/A issues the Order as per his/her discretion.

Practical:

✚ After logging in to the GST portal, the taxable persons can navigate to **Services > User Services > View Additional Notices and Orders** option.

✚ **Below tabs are available:** Three clickable tabs –

- i. Notices,
- ii. Replies
- iii. Orders

Notices: To view issued Notices against you by Adjudicating or Assessing Authority (A/A)

Replies: To view or add your reply to the issued Notice

Orders: To download order issued against your case by Assessing Authority (A/A)

✚ **Time Limit to furnish Reply:** 15 days

✚ **Different stages of an intimation to tax payer:**

During General Penalty proceedings, a taxable person will receive an intimation via **SMS** or **Email** at the following stages:

- A. Issue of SCN
- B. Submission of each Reply filed by the taxable person
- C. Issue of each Adjournment Notice
- D. Issue of each Reminder
- E. Issue of Penalty Order or Drop Proceeding Order

Status of Notice during the penalty proceedings u/s 125

During the General Penalty Assessment/ Adjudication proceedings, the case may undergo following Status changes:

- **Pending for reply by taxable person:** When A/A issues a “Show Cause Notice” to the taxable person
- **Reply furnished, pending for Order by tax officer:** When taxable person replies to the Notice issued by A/A
- **Reminder No. 1 issued:** When A/A issues first Reminder to the taxable person in case the taxable person has not responded to the Show Cause Notice within the time specified therein
- **Reminder No. 2 issued:** When A/A issues second Reminder to the taxable person in case the taxable person has not responded to the Show Cause Notice within the time specified therein
- **Reminder No. 3 issued:** When A/A issues third Reminder to the taxable person in case the taxable person has not responded to the Show Cause Notice within the time specified therein
- **Reply not furnished, pending for order:** When taxable person does not reply to the issued Notice even after 3 reminders and the case is now pending order by A/A
- **Order for creation of demand issued:** When GENERAL PENALTY Order is issued by A/A to the taxable person
- **Order for dropping proceedings issued:** When DROP PROCEEDING Order is issued by A/A to the taxable person



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Taking actions during assessment proceedings u/s 63 against un-registered persons

S.63 Assessment of un-registered persons:

Relevant Forms:

Form GST ASMT-14: Show Cause Notice for assessment under section 63

Form GST ASMT-15: Assessment order under section 63

Relevant Rule: Rule 100 of CGST Rules, 2017

- Where a taxable person fails to obtain registration even though liable to do so
(Or)
- Whose registration has been cancelled under S.29(2) but who was liable to pay tax
- ✓ The proper officer may proceed to assess the tax liability of such taxable person to the Best of his judgement for the relevant Tax period
(And)
- ✓ Issue an assessment order within a period of 5 years from the date specified u/s 44 i.e., Annual Return on or before the 31st Dec following such end of FY.

Form GST ASMT-14: SCN for Assessment Order u/s 63

FORM GST ASMT - 14

[See rule 100(2)]

Reference No:

Date:

To _____

Name

Address

Tax Period --

F.Y. -----

Show Cause Notice for assessment under section 63

It has come to my notice that you/your company/firm, though liable to be registered under section ----- of the Act, have/has failed to obtain registration and failed to discharge the tax and other liabilities under the said Act as per the details given below:

Brief Facts –

Grounds –

Conclusion -

OR

It has come to my notice that your registration has been cancelled under sub-section (2) of section 29 with effect from ----- and that you are liable to pay tax for the above mentioned period.

Therefore, you are hereby directed to show cause as to why a tax liability along with interest not be created against you for conducting business without registration despite being liable for registration and why penalty should not be imposed for violation of the provisions of the Act or the rules made thereunder.

In this connection, you are directed to appear before the undersigned on ----- (date) at ----- (time)

Signature

Name

Designation

Form GST ASMT-15: Assessment Order u/s 63

[FORM GST ASMT - 15]

[See rule 100(2)]

Reference No.:

Date:

To

_____ (GSTIN/ID)

_____ Name

_____ (Address)

Tax Period :

F.Y. :

SCN reference no. :

Date :

Act/ Rules Provisions:

Assessment order under section 63

Preamble - << standard >>

The notice referred to above was issued to you to explain the reasons for continuing to conduct business as an un-registered person, despite being liable to be registered under the Act.

OR

The notice referred to above was issued to you to explain the reasons as to why you should not pay tax for the period as your registration has been cancelled under sub-section (2) of section 29 with effect from-----

Whereas, no reply was filed by you or your reply was duly considered during proceedings held on ----- date(s).

On the basis of information available with the department / record produced during proceedings, the amount assessed and payable by you is as under:

Introduction :

Submissions, if any :

Conclusion (to drop proceedings or to create demand) :

Amount assessed and payable :

(Amount in Rs.)

No.	Sr.	Tax Rate	Turnover	Tax Period		Act	POS (Place of Supply)	Tax	Interest	Penalty	Others	Total
				From	To							
1	2	3	4	5	6	7		8	9	10	11	12
Total												

Please note that interest has been calculated upto the date of passing the order. While making

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payment, interest for the period between the date of order and the date of payment shall also be worked out and paid along with the dues stated in the order.

You are hereby directed to make the payment by << date >> failing which proceedings shall be initiated against you to recover the outstanding dues.

Signature
Name
Designation
Jurisdiction
Address

Note –

1. Only applicable fields may be filled up.
2. Column nos. 2, 3, 4 and 5 of the above Table i.e. tax rate, turnover and tax period are not mandatory.
3. Place of Supply (POS) details shall be required only if demand is created under IGST Act.]¹⁴²

(&)

DRC-07: Summary of Tax liability payable thereof shall be uploaded electronically in FORM GST DRC-07

Issue of Order: The proper officer may proceed to determine the tax liability of such person to the best of his judgment considering all the relevant material he has gathered and pass the assessment order in form **ASMT-15 within 5 years** from the due date of furnishing annual return for the financial year for which tax not paid relates.