

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: 15th Oct 2023

Assessment under GST

- By CA CMA Kedarnath

Assessment means determination of tax liability under GST Act

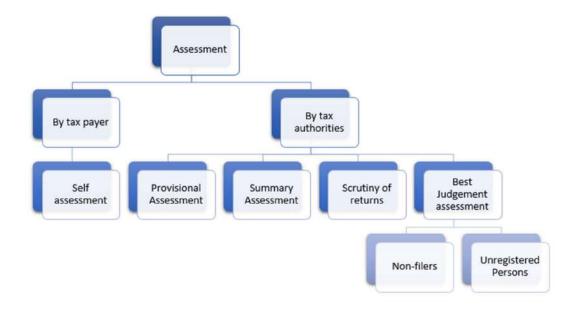
Types of Assessment under GST

- ♣ 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 <u>unable to</u> 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 <u>rate of tax</u> 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 <u>90 days</u> from the date of application)

ASMT-05: Furnishing of Security by Applicant

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

ASMT-07: Final Assessment Order (within <u>6 Months</u> 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 <u>6 Months</u> 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**

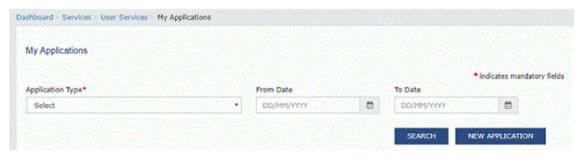
Navigate to Services > User Services > My Applications > Provisional Assessment ASMT-01> NEW APPLICATION option.

To file an Application, perform following steps:

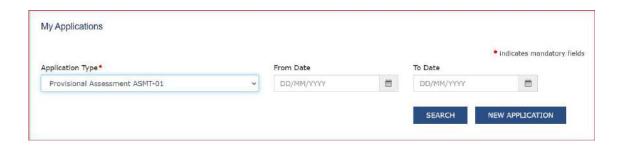
- 1. Access the www.gst.gov.in URL. The GST Home page is displayed.
- 2. Login to the portal with valid credentials.
- 3. Dashboard page is displayed. Click Services > User Services > My Applications option.



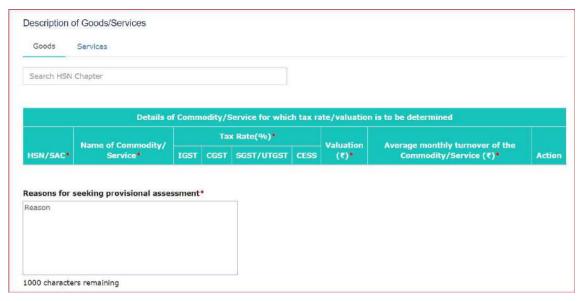
4. The My Applications page is displayed.



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



- 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

CA CMA Kedarnath

9985162155

Hyderabad



The Institute of Cost Accountants of India

(Statutory body under an Act of Parliament)

Tax Research Department

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)]

To_ GST	IN:	-
Nan		
Add	ress:	

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>>

> Signature Name Designation

Form GST ASMT-10: Practical Approach

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

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



Once we click on "View" option



Form GST ASMT-11: Theory

* Reply must be given by the applicant with in the given period by the officer

			10000	GST ASN se rule 99(2			
	Reply to	the notice is	sued under	section61	intimating d	iscrepancies in the reti	ırn
1. G	STIN						
2. Na	ime		25				
3. De	etails of the	notice	1	Reference N	lo.	Date	
4. Ta	x Period		**				
5. Re	ply to the d	iscrepancies	(Z				
Sr. 1	No.	Discre	epancy			Reply	
	-						
6. Aı	nount admi	tted and paid.	if any -	03			
6. Aı	nount admi	tted and paid,	if any -	st	Others	Total	1
6. Aı	9		92	st	Others	Total	
	9		92	st	Others	Total	
7. V є	Act erification-	Tax	Interes	1	ereby solemi	nly affirm and declare th	
7. Ve	Act Prification- aformation	Tax	Interes	l and correct	ereby solemi		
7. Ve I the ir	Act Act Information anothing has	Tax given hereinal	Interest	l and correct	ereby solemi	nly affirm and declare th	
7. Ve I the ir	Act Act Information anothing has	Tax	Interest	l and correct	ereby solemi	nly affirm and declare th	
7. Ve I the ir	Act Prification- Information anothing has ature of Aut	Tax given hereinal	Interest	l and correct	ereby solemi	nly affirm and declare th	
7. Ve I the in and r Signa	Act Prification- Information anothing has ature of Aut	Tax given hereinal been conceale horised Signa	Interest	l and correct	ereby solemi	nly affirm and declare th	

Form GST ASMT-11: Practical

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

ROATE POST	-	45			
ORDERS	Туре	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



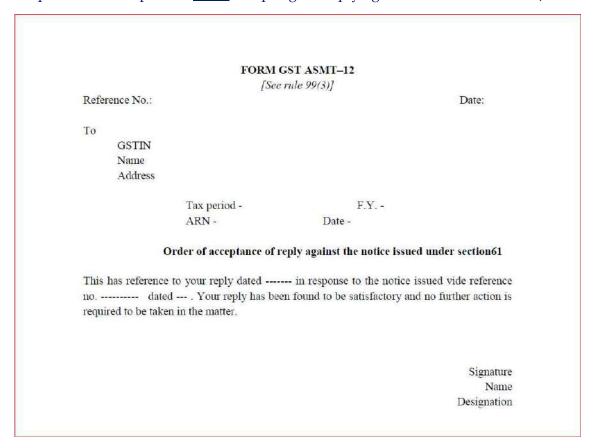
On the basis of the explanation received from the registered person, the officer can take following action:

- ♣ If the explanation provided is <u>satisfactory</u>, 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 <u>not satisfactory</u> 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 <u>order</u> accepting the reply against the notice issued u/s 61



CA CMA Kedarnath



(Statutory body under an Act of Parliament)

Tax Research Department

S.62 - Assessment of non-filers of Return

- ♣ Assessment Order u/s 62 & Issue of Form GST ASMT-13:
- ♣ It is the responsibility of Tax payer to file monthly returns irrespective of his Turnover including the Nil Return
- ♣ If the tax payer fails to furnish the monthly returns department will issue notice u/s 46 of CGST Act, 2017 intimating the tax payer to file the pending returns
- ♣ The notice would be issued under **Form GSTR-3A** to informing the tax payer to file return (say GSTR-3B return) accordingly (Refer Form GSTR-3A)



- ♣ When a registered person <u>fails to furnish</u> the required returns, even after service of notice **u/s 46** an assessment would be conducted by the GST Officer.
- ♣ In such cases, the GST officer would proceed to assess the tax liability of the taxpayer to the <u>best of his judgement.</u>

Relevant Forms:

Form GST ASMT-13: Assessment order under Section 62

Relevant Rule: Rule 100 of CGST Rules,2017

S.46: Notice to return defulters :

Where a registered person **fails** to furnish the return

➤ U/s 39 : Monthly Returns

➤ U/s 44 : Annual Return

➤ U/s 45 : Final Return

In case monthly returns are not filed for a continious period of 6 months



S.62 Assesment of "Non-Filerers" of Returns:

- Based on the past returns
- Information available with the Department
- ❖ Based on the BJA



Issue of Form GST ASMT - 13 (Theory)

[FORM GST ASMT - 13

	LIOILII	1 001 1101111 10
	[Sec	e rule 100(1)]
Reference No.:		Date:
To		
-	(GSTIN/ID)	
\$	_ Name	
\$i	_(Address)	
Tax Period:	F.Y. :	Return Type :
Notice Reference	No.:	Date :
	\$.	Harana and Andrews
	Act/ Rules Provisio	ns:
Preamble - << st	andard >>	order under Section 62)
		you under section 46 of the Act for failure to
S 80 10 10 10		From the records available with the department, i
has been noticed	that you have not furnish	ned the said return till date.
Therefore, on the	basis of information ava	ailable with the department, the amount assessed
and payable by y	ou is as under:	
Introduction :		
Submissions, if a	my :	
Discussions and	Findings :	
Conclusion :		

Amount assessed and payable (Details at Annexure):

(Amount in Rs.)

Sr. No.	Ta x	Turnove r	Tax perio	d	Ac t	POS (Place	Ta x	Interes t	Penalt y	Other s	Tota 1
	rate		Fro m	T o		of supply					
1	2	3	4	5	6	7	8	9	10	11	12
Tota 1			3.2								12

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

289

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 also informed that if you furnish the return within a period of 30 days from the date of service of this order, the order shall be deemed to have been withdrawn; otherwise, proceedings shall be initiated against you, after the aforesaid period, to recover the outstanding dues.

Signature Name Designation Jurisdiction Address

Note -

- 1. Only applicable fields may be filled up.
- Column nos. 2, 3, 4 and 5 of the above Table i.e. tax rate, turnover and tax period are not mandatory.
- Place of Supply (POS) details shall be required only if demand is created under IGST Act. 1¹⁴¹

Issue of Form GST ASMT - 13 (Practical Approach)

GST ASMT -13 [See rule 100 (1)]

Reference No.:GST/ASMT-13/2020-21

To

Date: 01.02.2021

Name: ICONS INTEX INDIA PVT LTD GSTIN: 36AACCI1514N1ZL

Tax Period: Apr'20 to Nov'20 F.Y: 2020-21 Return Type. GST

ASSESSMENT ORDER UNDER SECTION 62

The notice referred to above was issued to you under section 62 of the Act for failure to furnish the return for the said tax period. From the records available with the department, it has been noticed that you have not furnished the said return till date.

Therefore, on the basis of information available with the department, the estimated amount payable by you is as under:

Total			1123024	0	1123024	0	2246048
3	Apr 20 to Nov 20	SGST	1123024	0	1123024	0	2246048
2	Apr'20 to Nov'20	CGST	0	0	0	0	0
1	Apr'20 to Nov'20	IGST	0	0	0	0	0
SNo	Tax period	Act	Tax	Interest	Penalty	Others	Total
						Am	ount in R

You are also informed that if you furnish the return within a period of (7) days from the date of service of this order, the order shall be deemed to have been withdrawn with proper explanation; otherwise, proceedings shall be initiated against you after the aforesaid period to recover the outstanding dues.

You are also informed that if you furnish the return within a period of (7) days from the date of service of this order, the order shall be deemed to have been withdrawn with proper explanation, otherwise, proceedings shall be initiated against you after the aforesaid period to recover the outstanding dues.

Assistant Commissioner (ST)

(&)

<u>DRC-07:</u> Summary of Tax Payable issued / electronically uploaded by the tax officer in the portal

<u>Issue of Order</u>: 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 <u>ASMT-13 within 5 years</u> from the due date of furnishing annual return for the financial year for which tax not paid relates.

By

CA CMA Kedarnath

9985162155

Hyderabad



The Institute of Cost Accountants of India

(Statutory body under an Act of Parliament)

Tax Research Department

Taking actions during assessment proceedings u/s 63 against unregistered 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 <u>fails</u> 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 <u>may proceed to assess the tax liability</u> of such taxable person to the <u>Best of his judgement</u> 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

FOR	M GST ASMT - 14
	M GS1 ASM1 - 14 See rule 100(2)]
	200(2)3
Reference No:	Date:
То	
Name	
Address	
Tax Period	F.Y
Show Ca	use Notice for assessment under section 63
It has come to my notice that y	rou/your company/firm, though liable to be registered
under section of the Act, have/ha	s failed to obtain registration and failed to discharg
the tax and other liabilities under the sai	id Act as per the details given below:
Brief Facts -	
Grounds –	
Conclusion -	
OR	NO. 15 10 10 10 10 10 10 10 10 10 10 10 10 10
	sistration has been cancelled under sub-section (2) o
	hat you are liable to pay tax for the above mentione
period.	
Therefore, you are hereby direct	ted to show cause as to why a tax liability along wit
the state of the s	conducting business without registration despite bein
	should not be imposed for violation of the provision
of the Act or the rules made thereunder.	
In this connection, you are direc	ted to appear before the undersigned on (date
at (time)	
	Signature
	Name

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

	[FORM	I GST ASMT - 15	
	[Se	e rule 100(2)]	
Reference No.:			Date:
To			
	(GSTIN/ID)		
<u></u>	_Name		
5	(Address)		
Tax Period :		F.	Y. :
SCN reference no.		Date :	
	9		
	Act/ Rules Provisio	ns:	
	8		± p;
	Assessment	order under section 63	
Preamble - << sta		order ander section os	
	indard >>		
		you to explain the reason	as for continuing to
The notice referre	d to above was issued to	you to explain the reason	
The notice referred conduct business a	d to above was issued to	you to explain the reason on, despite being liable to	
The notice referred conduct business a Act.	d to above was issued to		
The notice referred conduct business a Act. OR	d to above was issued to as an un-registered perso		be registered under the
The notice referred conduct business a Act. OR The notice referred	d to above was issued to as an un-registered perso d to above was issued to	on, despite being liable to	be registered under the
The notice referred conduct business a Act. OR The notice referred not pay tax for the	d to above was issued to as an un-registered perso d to above was issued to	on, despite being liable to o you to explain the reason our registration has been o	be registered under the
The notice referred conduct business a Act. OR The notice referred not pay tax for the section (2) of section	d to above was issued to as an un-registered person d to above was issued to period	on, despite being liable to o you to explain the reason our registration has been o	be registered under the ns as to why you should cancelled under sub-
The notice referred conduct business a Act. OR The notice referred not pay tax for the section (2) of section Whereas, no reply	d to above was issued to as an un-registered person d to above was issued to period	on, despite being liable to o you to explain the reason our registration has been c	be registered under the ns as to why you should cancelled under sub-
The notice referred conduct business a Act. OR The notice referred not pay tax for the section (2) of section Whereas, no reply held on	d to above was issued to as an un-registered person d to above was issued to period	on, despite being liable to o you to explain the reason our registration has been c	be registered under the ns as to why you should cancelled under sub- red during proceedings
The notice referred conduct business a Act. OR The notice referred not pay tax for the section (2) of section Whereas, no reply held on	d to above was issued to as an un-registered person d to above was issued to period	on, despite being liable to you to explain the reason our registration has been o	be registered under the ns as to why you should cancelled under sub- red during proceedings
The notice referred conduct business a Act. OR The notice referred not pay tax for the section (2) of section Whereas, no reply held on	d to above was issued to as an un-registered person d to above was issued to period	on, despite being liable to o you to explain the reason our registration has been our reply was duly consider	be registered under the ns as to why you should cancelled under sub- red during proceedings
The notice referred conduct business a Act. OR The notice referred not pay tax for the section (2) of section Whereas, no reply held on	d to above was issued to as an un-registered person of the above was issued to be period	on, despite being liable to o you to explain the reason our registration has been our reply was duly consider	be registered under the ns as to why you should cancelled under sub- red during proceedings

Amount assessed and payable:

(Amount in Rs.)

	Sr. Tax Ra	te Turno	ver Tax Pe	rio	dAd	tPOS	Tax	Inter	estPenal	tyOthe	ers Total
No.			From	To)	(Place of Supply)					
1	2	3	4	5	6	7	8	9	10	11	12
Total	St.	-		ŀ	8)	4	- 11/2			+	+

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

292

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.
- Column nos. 2, 3, 4 and 5 of the above Table i.e. tax rate, turnover and tax period are not mandatory.
- Place of Supply (POS) details shall be required only if demand is created under IGST Act. 1¹⁴²

(&)

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

<u>Issue of Order</u>: 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 <u>ASMT-15 within 5 years</u> from the due date of furnishing annual return for the financial year for which tax not paid relates.



The Institute of Cost Accountants of India

(Statutory body under an Act of Parliament)

Tax Research Department

S.64 Summary Assessment in certain Special Cases

Relevant Forms:

Form GST ASMT-16: Assessment order under section 64 i.e., Summary Assessment

Form GST ASMT-17: Application by Applicant for withdrawal of assessment order issued u/s 64

Form GST ASMT-18: Acceptance or Rejection of application filed under section 64 (2)

Relevant Rule: Rule 100 of CGST Rules,2017

- ❖ A GST Officer can on **any evidence** showing a **tax liability** of a person <u>coming</u> to his notice
- Then he can proceed to assess the tax liability of such person to <u>protect the</u> interest of revenue and issue an assessment order,
- ❖ If he has sufficient grounds to believe that <u>any delay</u> in doing so may adversely affect the **interest of revenue**.
- ❖ In order to issue order u/s 64, the proper officer is required to obtain prior approval from additional commissioner or joint commissioner
- ❖ Such an assessment is called **summary assessment**. The summary assessment order shall be issued in form **GST ASMT-16**.

The taxable person <u>may file an application</u> in form **ASMT-17**, within **30** days from receipt of order (or) <u>commissioner may on his own motion</u> withdraw such order if he considers that such order is erroneous and follow the procedure laid down in section 73 to 74.

Form GST ASMT-16: Assessment Order u/s 64

				FO	RM C	ST ASM	T - 10	5			
					[See 1	ule 100(3)]				
Referei	nce No	B 33								Dat	e:
To											
-			IN/ID)								
-		Name									
3		(Add	ress)								
Tax Pe	riod :							F.Y.	.:		
		Act	t/ Rule	s Prov	isions	3 0			T.		
		<u>. </u>									
			As	sessina	entor	der unde	rsecti	on 64			
Preamh	ole - <<	standard >		ocoonii.	at of	act unut	. seed	04			
		my notice		1-80001	inted	for goods	are ly	ing in stoo	k at gode	wn	
		a vehicle					(CT)				
	7.00	nt for these									
		roceed to a						200	c delah o	i me go	ous.
THETEL	оте, гр	iocccu io a	33033.4	ac talk	duc or	such goo	/43 G.S	under.			
Introdu	ction :										
Discus	sion &	finding:									
		finding:									
Discus: Conclu		finding:									
Conclu	sion :	_	674.275.2	200001	50.00 ¥ 100						
Conclu	sion :	finding : sed and pa	yable (details	at An	nexure) :					·
Conclu Amoun	sion : nt asses	sed and pa								1000	t in Rs.)
Conclu Amoun	asion : nt asses	_	Tax P	eriod		POS	Tax	Interest	Penalty	1000	
Conclu Amoun	sion : nt asses	sed and pa		eriod		POS (Place o	Tax f	Interest		1000	
Conclu	asion : nt asses	sed and pa	Tax P	eriod		POS	Tax f	Interest		Others	
Conclu Amoun Sr. No.	asion : nt asses	sed and pa	Tax P	eriod To	Act	POS (Place o	Tax f		Penalty	Others	Total
Conclu Amoun Sr. No.	asion : nt asses	sed and pa	Tax P	eriod To	Act	POS (Place o	Tax f		Penalty	Others	Total
Conclu Amoun Sr. No.	Tax Rate	Turnover	Tax P From	To 5	Act 6	POS (Place o Supply) 7	Tax f	9	Penalty	Others 11	Total
Conclu Amoun Sr. No. 1 Total	Tax Rate	Turnover 3 at interest I	Tax P From 4	To 5	Act 6	POS (Place o Supply) 7	Tax f	9 f passing t	Penalty 10 he order.	Others 11 While 1	Total 12 making
Conclu Amoun Sr. No. 1 Total Please: paymer	Tax Rate	Turnover 3 at interest less for the	Tax P From 4	To 5 en calculation between	Act 6 ulated	POS (Place o Supply) 7 upto the date of o	Tax f 8	9 f passing t	Penalty 10 he order.	Others 11 While 1	Total 12 making
Conclu Amoun Sr. No. 1 Total Please: paymer	Tax Rate	Turnover 3 at interest I	Tax P From 4	To 5 en calculation between	Act 6 ulated	POS (Place o Supply) 7 upto the date of o	Tax f 8	9 f passing t	Penalty 10 he order.	Others 11 While 1	Total 12 making
Conclu Amoun Sr. No. 1 Total Please: paymen be work	Tax Rate 2 note th	Turnover 3 at interest I rest for the tand paid a	Tax P From 4 has bee period along w	To 5 en calculation between the control of the cont	Act 6 ulated en the e dues	POS (Place o Supply) 7 upto the o date of o stated in t	Tax f 8 date or	9 f passing t	Penalty 10 the order.	Others 11 While 1	Total 12 making
Conclu Amoun Sr. No. 1 Total Please: payment be work	Tax Rate 2 note the nt, interested out	Turnover 3 at interest lest for the tand paid a	Tax P From 4 has bee period dlong w	To 5 en calculation between the property of th	Act 6 ulated en the dues	POS (Place o Supply) 7 upto the o date of o stated in t	Tax f 8 date of the order at the order	9 f passing t	Penalty 10 the order.	Others 11 While 1	Total 12 making
Conclu Amoun Sr. No. 1 Total Please: payment be work	Tax Rate 2 note the nt, interested out	Turnover 3 at interest I rest for the tand paid a	Tax P From 4 has bee period dlong w	To 5 en calculation between the property of th	Act 6 ulated en the dues	POS (Place o Supply) 7 upto the o date of o stated in t	Tax f 8 date of the order at the order	9 f passing t nd the date der failing w	Penalty 10 the order. e of payments of p	Others 11 While 1	Total 12 making
Conclu Amoun Sr. No. 1 Total Please: payment be work	Tax Rate 2 note the nt, interested out	Turnover 3 at interest lest for the tand paid a	Tax P From 4 has bee period dlong w	To 5 en calculation between the property of th	Act 6 ulated en the dues	POS (Place o Supply) 7 upto the o date of o stated in t	Tax f 8 date of the order at the order	9 f passing t nd the dat der.	Penalty 10 he order. e of payn which pro-	Others 11 While 1	Total 12 making
Conclu Amoun Sr. No. 1 Total Please: payment be work	Tax Rate 2 note the nt, interested out	Turnover 3 at interest lest for the tand paid a	Tax P From 4 has bee period dlong w	To 5 en calculation between the property of th	Act 6 ulated en the dues	POS (Place o Supply) 7 upto the o date of o stated in t	Tax f 8 date of the order at the order	9 f passing t nd the dat der.	Penalty 10 the order. e of payments of p	Others 11 While 1	Total 12 making
Conclu Amoun Sr. No. 1 Total Please: payment be work	Tax Rate 2 note the nt, interested out	Turnover 3 at interest lest for the tand paid a	Tax P From 4 has bee period dlong w	To 5 en calculation between the property of th	Act 6 ulated en the dues	POS (Place o Supply) 7 upto the o date of o stated in t	Tax f 8 date of the order at the order	p p p p p p p p p p p p p p p p p p p	Penalty 10 he order. e of payn which pro-	Others 11 While 1 ient sha	Total 12 making

Form GST ASMT-17: Application for withdrawal of assessment order issued under section 64

	[See rule 100(4)]	
Application	ı for withdrawal of assessm	ent order issued under section 64
1. GSTIN/ID		
2. Name	-	
3. Details of the order	Reference No.	Date of issue of order
4. Tax Period, if any	- V	
5. Grounds for withdrawal	Î	
6. Verification-		
- 1111	hen	ehy salemnly affirm and declare that th
I		eby solemnly affirm and declare that th best of my knowledge and belief and
I	ove is true and correct to the	eby solemnly affirm and declare that th best of my knowledge and belief and
Iinformation given hereinab	ove is true and correct to the d therefrom.	
Iinformation given hereinab nothing has been concealed	ove is true and correct to the d therefrom.	
I	ove is true and correct to the d therefrom.	
Iinformation given hereinab nothing has been concealed Signature of Authorised Signature	ove is true and correct to the d therefrom.	

Form GST ASMT-18: Acceptance or Rejection of application filed under S.64 (2)

	FORM GST ASMT - 18	
	[See rule 100(5)]	
Reference No.:	Date	Š.
GSTIN/ID		
Name		
Address		
ARN -	Date -	
Acceptar	nce or Rejection of application filed under section 64	(2)
The realy furnished by you wide	annlication referred to above has been considered and	forme
to be in order and the assessmer OR	e application referred to above has been considered and it order no dated stands withdrawn. e application referred above has not been found to be in	
to be in order and the assessmer OR The reply furnished by you vide	nt order no dated stands withdrawn	
to be in order and the assessmer OR The reply furnished by you vide for the following reasons:	nt order no dated stands withdrawn e application referred above has not been found to be in	
to be in order and the assessmer OR The reply furnished by you vide for the following reasons:	at order no dated stands withdrawn. e application referred above has not been found to be in <	
to be in order and the assessmer OR The reply furnished by you vide for the following reasons:	at order no dated stands withdrawn. e application referred above has not been found to be in <	n order



The Institute of Cost Accountants of India

(Statutory body under an Act of Parliament)

Tax Research Department

Section 161 - Filing Application for Rectification of Order

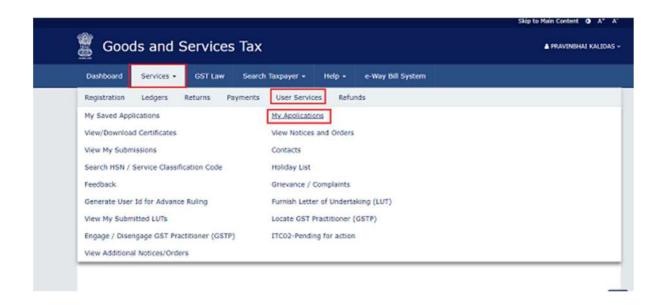
Theory:

- Rectification of errors, which is apparent on the face of record in such decision, order, notice or certificate, can be done by the authority, who has passed such decision/order/notice, etc.
- ♣ either on his/her <u>own motion</u> or whether such error is brought to its notice by tax official or by the <u>affected person</u>.
- Taxpayer must file the rectification application within a period of <u>6 months</u>, from the date of issue of such order.

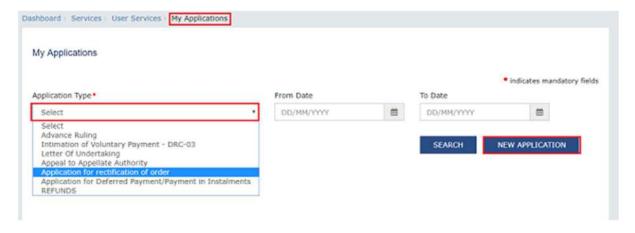
How to File an Application for Rectification of Order?

To file an Application for Rectification of Order, perform following steps:

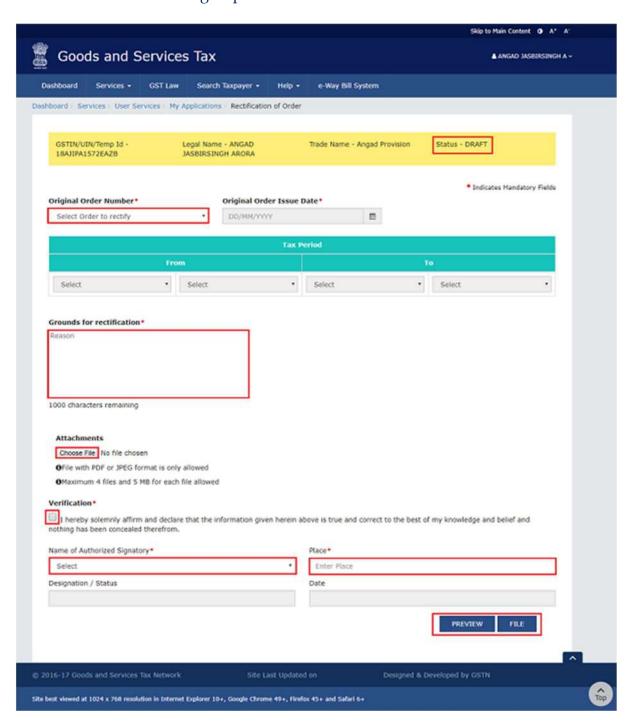
- 1. Access the www.gst.gov.in URL. The GST Home page is displayed.
- 2. Login to the portal with valid credentials.
- 3. Dashboard page is displayed. Click **Dashboard > Services > User Services > My Applications**



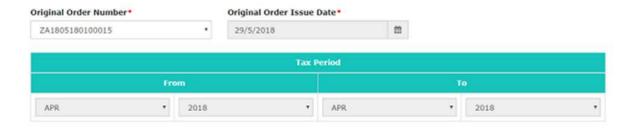
4. My Applications page is displayed. Select <u>"Application for rectification of order"</u> in the **Application Type** field. Then, click the **NEW APPLICATION** button.



5. New Application page is displayed. Enter details in the displayed fields as mentioned in the following steps.



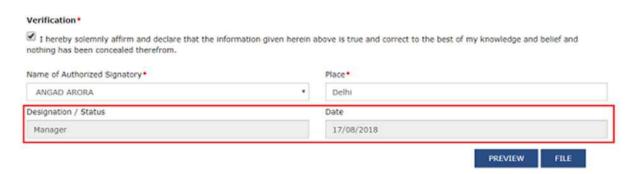
5a. In **Original Order Number** field, select the order number of the order that you wish to rectify. Based on your selection, **Original Order Issue Date** and **Tax Period** fields get auto-populated.



5b. In **Grounds for rectification** field, enter reason for filing this application.

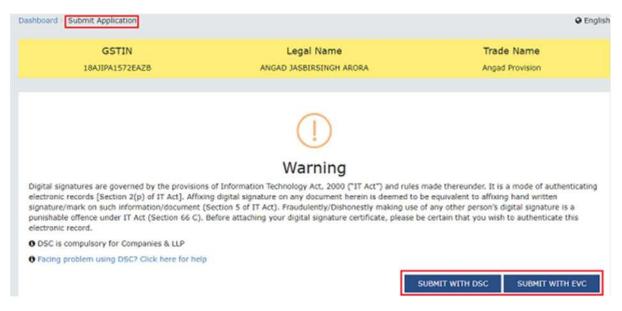
5c. Click **Choose File** to upload the document(s) related to this application, if any. This is not a mandatory field.

5d. Enter **Verification** details. Select the declaration check-box and select the name of the authorized signatory.

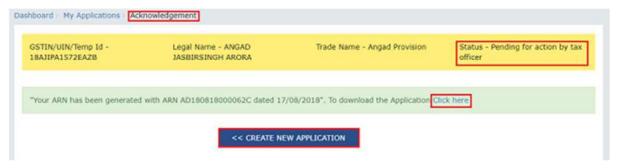


5e. Click **PREVIEW** to download and review your application. Once you are satisfied, click **FILE**.

6. Submit Application page is displayed. Click **ISSUE WITH DSC** or **ISSUE WITH EVC**.



7. Acknowledgement page is displayed with the generated ARN. You will also receive an SMS and email intimating you of the generated ARN and successful filing of the application. To download the filed application, click the **Click here** hyperlink or click **CREATE NEW APPLICATION** to go back to **My Applications** page.

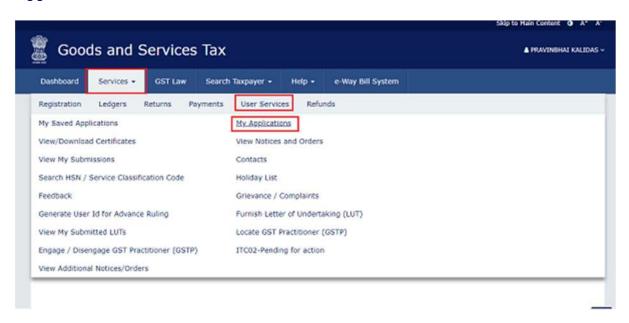


<u>Note:</u> Once the application is filed, Status of the application gets updated to "Pending for action by tax officer".

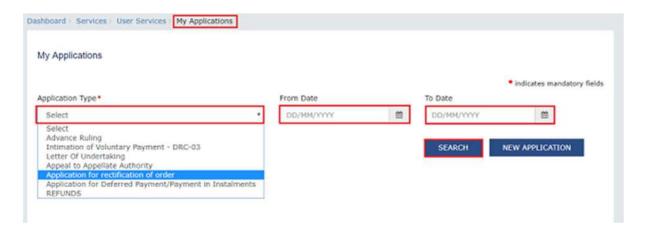
Search for your Applications for Rectification of Order and open its Case Details Screen

To search for your Applications for Rectification of Order and open its Case Details Screen, perform following steps:

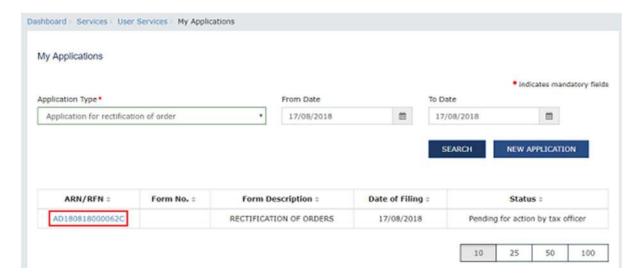
- 1. Access the www.gst.gov.in URL. The GST Home page is displayed.
- 2. Login to the portal with valid credentials.
- 3. Dashboard page is displayed. Click **Dashboard > Services > User Services > My Applications**



4. My Applications page is displayed. Select "Application for rectification of order" in the **Application Type** field, select submission period in the **From Date** field and **To Date** fields and then click **SEARCH**.



5. Based on your Search criteria, applications are displayed. Click the **ARN** hyperlink you want to open.





The Institute of Cost Accountants of India

(Statutory body under an Act of Parliament)

Tax Research Department

Filing Application for Restoration of Provisional Attachment

- ♣ Where the proceedings are <u>pending</u> under section 62 or 63 or 64 or 67 or 73/74 i.e., proceedings are yet to be concluded) and
- Commissioner/ Competent authority is of opinion that for the purpose of protecting the interest of Government revenue,
- It is necessary to provisionally attach the <u>property or bank account</u> belonging to such taxable person, then Commissioner/ Competent authority may pass an order of provisional attachment.
- Any person whose property is attached may, within 7 days of attachment order, file an application for restoration of provisional attachment to the effect that the property attached was or is not liable to attachment.
- ♣ Procedure to File Application for Restoration of Provisional Attachment

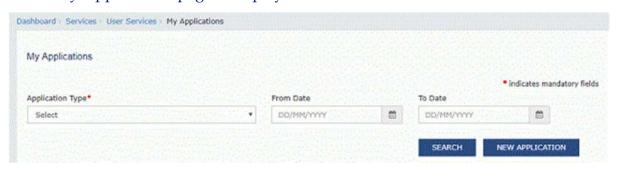
Navigate to Services > User Services > My Applications > Application for Restoration of Provisional Attachment > NEW APPLICATION option.

To file an Application for Restoration of Provisional Attachment, 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.

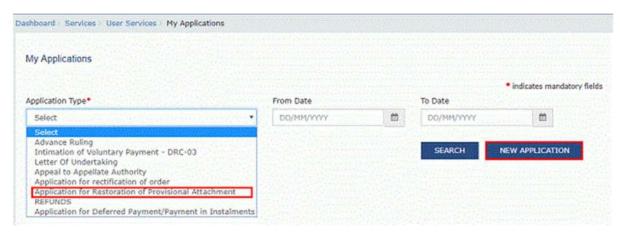


4. The My Applications page is displayed.



5. Select "Application for Restoration of Provisional Attachment" in the Application Type field.

6. Click the NEW APPLICATION button.

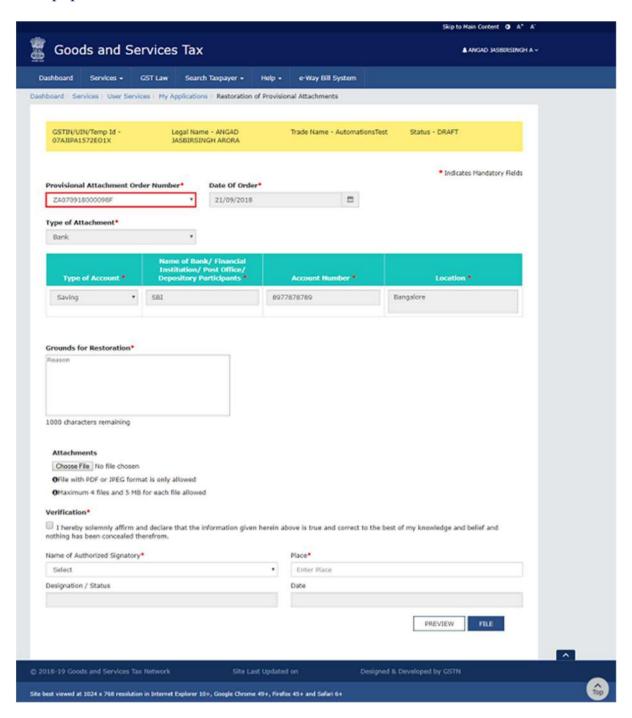


7. The Restoration of Provisional Attachments page displayed. is Goods and Services Tax ANGAD JASSERSINGH A + Dashboard Services - GST Law Search Taxpayer - Help - e-Way Bill System Dashboard Services User Services My Applications Restoration of Provisional Attachments GSTIN/UIN/Temp Id -07AXPA1572EO1X Legal Name - ANGAD JASBIRSINGH ARORA Trade Name - AutomationsTest Status - DRAFT * Indicates Handatory Fields Date Of Order* Provisional Attachment Order Number* Select Order to restore property • DD/HM/YYYY Type of Attachment* Select Account Number * Location * Grounds for Restoration* 1000 characters remaining Attachments Choose File No file chosen Of ile with PDF or JPEG format is only allowed OHaximum 4 files and 5 MB for each file allowed ☐ I hereby solemnly affirm and declare that the information given herein above is true and correct to the best of my knowledge and belief and nothing has been concealed therefrom. Name of Authorized Signatory* Select Enter Place Designation / Status

© 2018-19 Goods and Services Tax Network Site Last Updated on Designed & Developed by GSTN

Site best viewed at 1024 x 766 resolution in Internet Explorer 30+, Google Chrome 49+, Firefox 45+ and Safan 6+

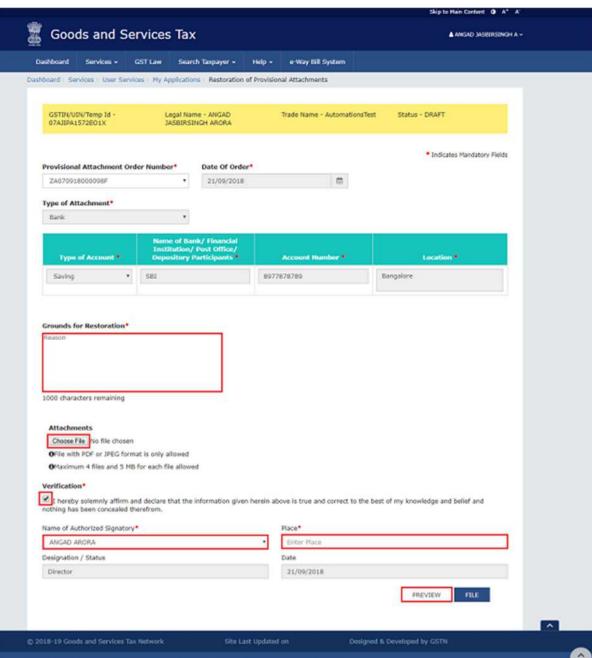
8. Select the Provisional Attachment Order Number from the drop-down list. Based on your selection, Date of Order, Type of Attachment and attachment details fields get auto-populated.



- 9. In Grounds for Restoration field, enter reason for filing this application for restoration of provisional attachment.
- 10. Click **Choose File** to upload the document(s) related to this application, if any. This is not a mandatory field.

Note: You can upload file with PDF or JPEG format with maximum 4 files of 5 MB for each file.

- 11. Select the Verification check-box.
- 12. Select the Name of the Authorized Signatory from the drop-down list.
- 13. Enter the name of the Place where you are filing this application.
- 14. Click PREVIEW to download and review your application.





15. The application is downloaded in PDF format.

Application for restoration of provisional attachment

GSTIN / Temp ID Name Details of provisional attachment order			07AJIPA1572E01X ANGAD JASBIRSINGH ARORA			
						Reference No.: ZA070918000098F
			4. De	tails of the pro	perty to be	restored
Sr. No.	Type of property (Bank/ Property)	Bank a/c no. / Property ID-Location of property			Name of Bank / Financial institution/ Post office/ Immovable property registering authority	
1.	Bank	8977878789			SBI	
5. Grounds for restoration				Documents	Documents attached for restoration	

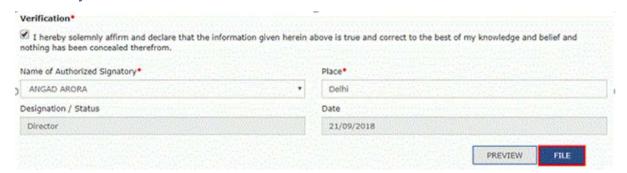
6. Verification:

 ANGAD JASBIRSINGH ARORA 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 Authorized Signatory

Name: ANGAD ARORA Place: Delhi Designation / Status; Director Date: 21/09/2018

16. Once you are satisfied, click the FILE button.



17. The Submit Application page is displayed. Click SUBMIT WITH DSC or SUBMIT WITH EVC.

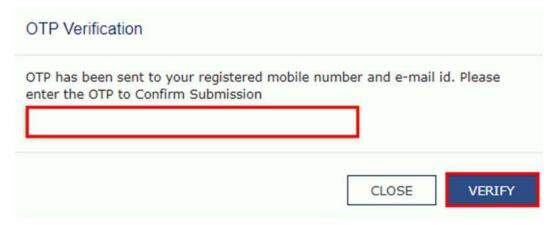


SUBMIT WITH DSC:

- a. Click the **PROCEED** button.
- b. Select the certificate and click the **SIGN** button.

SUBMIT WITH EVC:

a. Enter the OTP sent on email and mobile number of the Authorized Signatory registered at the **GST Portal** and click the **VERIFY** button.



18. The **Acknowledgement** page is displayed with the generated ARN. You will also receive an SMS and email on your registered mobile number & email id respectively, intimating you of the generated ARN and successful filing of the application.

To download the filed application, click the **Click here** hyperlink or click **CREATE NEW APPLICATION** to go back to **My Applications** page.



<u>Note:</u> Once the application is filed, Status of the application gets updated to "Pending for action by tax officer".



The Institute of Cost Accountants of India

(Statutory body under an Act of Parliament)

Tax Research Department

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
- ♣ 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,
- **♣** Procedure of the General Penalty Assessment Proceedings u/s 125

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

- 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

<u>Notices:</u> 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 <u>SMS</u> or <u>Email</u> 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



The Institute of Cost Accountants of India

(Statutory body under an Act of Parliament)

Tax Research Department

Filing reply in Form GST DRC-06 against determination of Tax

Proceedings initiated u/s 73 & 74

Theory:

- **Ψ** Under the GST regime, tax is paid on a **Self-assessment basis**
- **Ψ** If the self-assessment is <u>incorrect</u>, the Department can issue a Notice.
- ♣ A Notice can be issued for
 - ✓ Short payment/non-payment of taxes,
 - ✓ Claiming an erroneous refund,
 - ✓ Wrong availment of ITC, etc.

♣ Notices are issued under the 2 sections below:

- 1. <u>Section 73</u> Deals with tax not paid/short-paid or wrongly refunded, or input tax credit wrongly availed or utilised for <u>any reason other than fraud</u>, wilful misstatement or suppression of facts.
- 2. <u>Section 74</u> Deals with tax not paid/short-paid or wrongly refunded, or input tax credit wrongly availed or utilised <u>due to fraud</u>, wilful misstatement or suppression of facts.

♣ Flow of Activities in DRC

Form DRC-01 (Summary of Tax Liability)

Form DRC-02 (Details of Tax payable)

Form DRC-03 (Voluntary Payment of Tax-by-Tax Payer)

Form DRC-04 (Ack by Officer for Voluntary Payment)

Form DRC-05 (Order: Reply & Payment made within 30 days of issue of SCN)

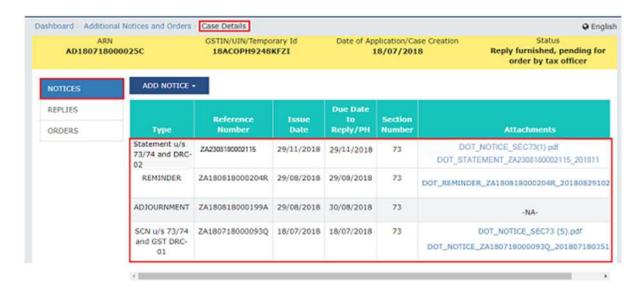
Form DRC-06 (reply to a SCN on the GST Portal)

Form DRC-07 (Assessment Order)

Practical:

♣ How to view a Notice on the GST Portal?

- **Step 1:** Log in to the GST Portal
- Step 2: Click on Services>User Services>View Additional Notices/Orders>Case Details.
- **Step 3:** Once the taxpayer clicks on View additional notices, he can see all the Notices / Orders issued by the Department. Click View to see the Case Details.



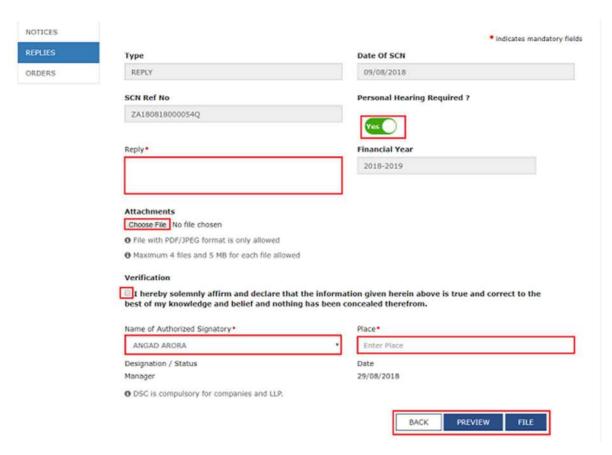
Step 4: Click the download link in the attachments option to view the Notice.

★ How to reply to a Notice on the GST Portal (DRC-06)?

- **Step 1:** Click on 'Replies' on the Case Details page.
- Step 2: Click on 'Add Reply' tab and select 'Reply'.
- **Step 3:** The status of the reply is 'Pending for reply by the taxpayer' in the below screenshot but, once the taxpayer adds the reply it will change.



Step 4: Reply page is displayed:



- **Step 5:** Click Preview to view the reply. If satisfied, click on 'File'.
- **Step 6:** 'Submit Application' page will be displayed. A taxpayer can choose to file with DSC or EVC.
- **Step 7:** Notices and Orders page will be displayed. Click on the link to download the filed reply and then click 'Ok'



Step 8: The Case Details page will be displayed but now the status of reply will change to 'Reply furnished, pending for order by tax official.'

♣ How to view an order issued by tax official?

- **Step 1:** Click on the 'Orders' tab in the case details page.
- **Step 2:** All the orders issued against the taxpayer will be displayed.



Step 3: Click on the link under the attachments section to view the order.

Filing reply in Form GST DRC-06 proceedings initiated for Tax Collected but not Deposited with Government

- (1) **Notwithstanding** anything to the contrary contained in **any order** or direction of any **Appellate Authority** or **Appellate Tribunal** or **court** or in any other provisions of **this Act** or the **rules** made thereunder or **any other law for the time being in force**, every person who has collected from any other person any amount as representing the tax under this Act, and has not paid the said amount to the Government, shall forthwith pay the said amount to the Government, irrespective of whether the supplies in respect of which such amount was collected are taxable or not.
- (2) Where any amount is required to be paid to the Government under sub-section (1), and which has not been so paid, the proper officer may serve on the person liable to pay such amount a notice requiring him to show cause as to why the said amount as specified in the notice, should not be paid by him to the Government and why a **penalty equivalent** to the amount specified in the notice should not be imposed on him under the provisions of this Act.
- (3) The proper officer shall, after considering the representation, if any, made by the person on whom the notice is served under sub-section (2), determine the amount due from such person and thereupon such person shall pay the amount so determined.
- (4) The person referred to in sub-section (1) shall in addition to paying the amount referred to in sub-section (1) or sub-section (3) also be <u>liable to pay interest</u> thereon at the rate specified under **section 50** from the date such amount was collected by him to the date such amount is paid by him to the Government.
- (5) An <u>opportunity of hearing shall be granted</u> where a request is received in writing from the person to whom the notice was issued to show cause.
- (6) The proper officer shall issue an <u>order</u> within one year from the date of issue of the notice.
- (7) Where the issuance of order is stayed by an order of the court or Appellate Tribunal, the period of such stay shall be excluded in computing the period of one year.
- (8) The proper officer, in his order, shall set out the relevant facts and the basis of his decision.

(9) The amount paid to the Government under sub-section (1) or sub-section (3) shall be

adjusted against the tax payable, if any, by the person in relation to the supplies referred to in

sub-section (1).

(10) Where any surplus is left after the adjustment under sub-section (9), the amount of such

surplus shall either be credited to the Fund or refunded to the person who has borne the

incidence of such amount.

(11) The person who has borne the incidence of the amount, may apply for the refund of the

same in accordance with the provisions of section 54.

Note: Reply to the notice shall be given in FORM GST DRC-06



The Institute of Cost Accountants of India

(Statutory body under an Act of Parliament)

Tax Research Department

Filing reply for proceedings initiated for Remanded Cases

- **Remanded Cases** are those cases that are initiated by the Adjudicating Authority (A/A) or Appellate authority, in compliance to the
- # "Remand Instructions" issued by the Appellate Tribunal/ High Court/ Supreme Court
- ♣ Once the case is remanded then it will come back to the jurisdiction office
- ♣ Then jurisdiction Assessing officer will get right to re-assess the assessment
- ♣ Based on that he will pass re-assessment order

By

CMA Kedarnath

9985162155

Kedarnath.potnuru@gmail.com