

# Adjudication (Theory and Practical Aspects)



**Rohit Kumar Singh**  
**ACA, ACMA, FCS, LLB, DISA (ICAI)**

A 3D bar chart with a city skyline background. The chart features a series of blue bars of varying heights, with a single, significantly taller red bar on the right side. The bars are set against a light gray background with a faint city skyline silhouette. The overall design is modern and professional.

# **Chapter – XII**

## **Assessment**

- Definition - 2(11) of CGST Act, 2017

- Sections –6 [59 to 64]

- Rules –3 [98 to 100]

- Forms –18 + 2

ASMT –1 to ASMT –18

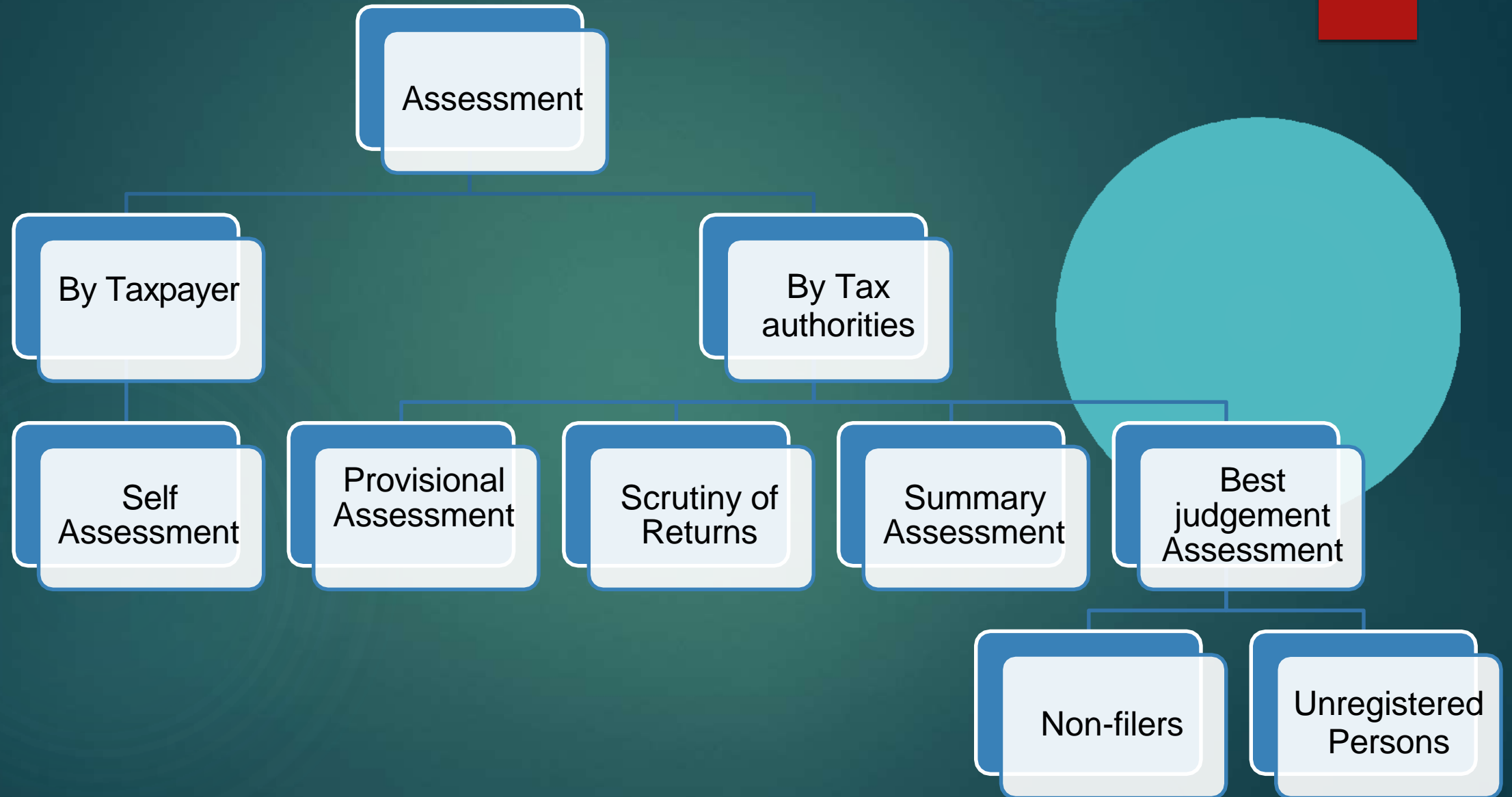
DRC –01 & DRC –07

# ASSESSMENT AND ITS TYPES

Section 2(11) of CGST Act, 2017 - “assessment” means *determination of tax liability under this Act* and includes *self-assessment, re-assessment, provisional assessment, summary assessment and best judgment assessment,*

Types:

- Self Assessment
- Re-assessment/ Scrutiny assessment
- Provisional Assessment
- Summary Assessment
- Best Judgement Assessment



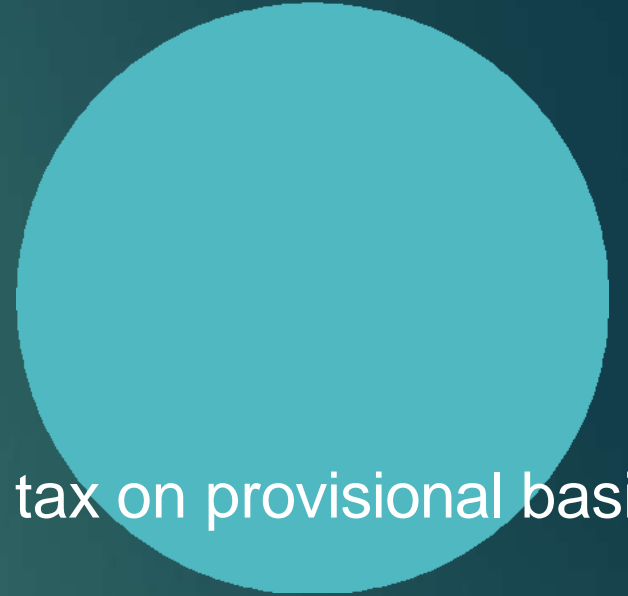
# SELF ASSESSMENT – SEC 59

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

- Section 39 - Furnishing of returns.
- GSTR-3B – Regular Return
- GSTR-4 – Composition Dealers
- GSTR-5 – NR Taxable Person
- GSTR-6 – ISD Return
- GSTR-7 – TDS Return

# PROVISIONAL ASSESSMENT – Sec 60

- Why & When?
  - where the taxable person is unable to determine
    - The value of goods or services or both
    - The rate at which tax is payable
- How?
  - Write to the Proper Officer giving reasons for payment of tax on provisional basis
- Time Line?
  - Proper officer shall pass an order within 90 days allowing payment of tax on provisional basis indicating the value and rate of tax



# PROVISIONAL ASSESSMENT – Sec 60

- Surety?

The taxable person executes a bond with surety or security to pay the differential between finally assessed tax and provisionally assessed tax.

- Final assessment ?

- within 6 months from date of provisional assessment order.
- Can be extended for a further period of 6 months by JC/AC
- Can be extended for such further period not exceeding 4 years by Commissioner.

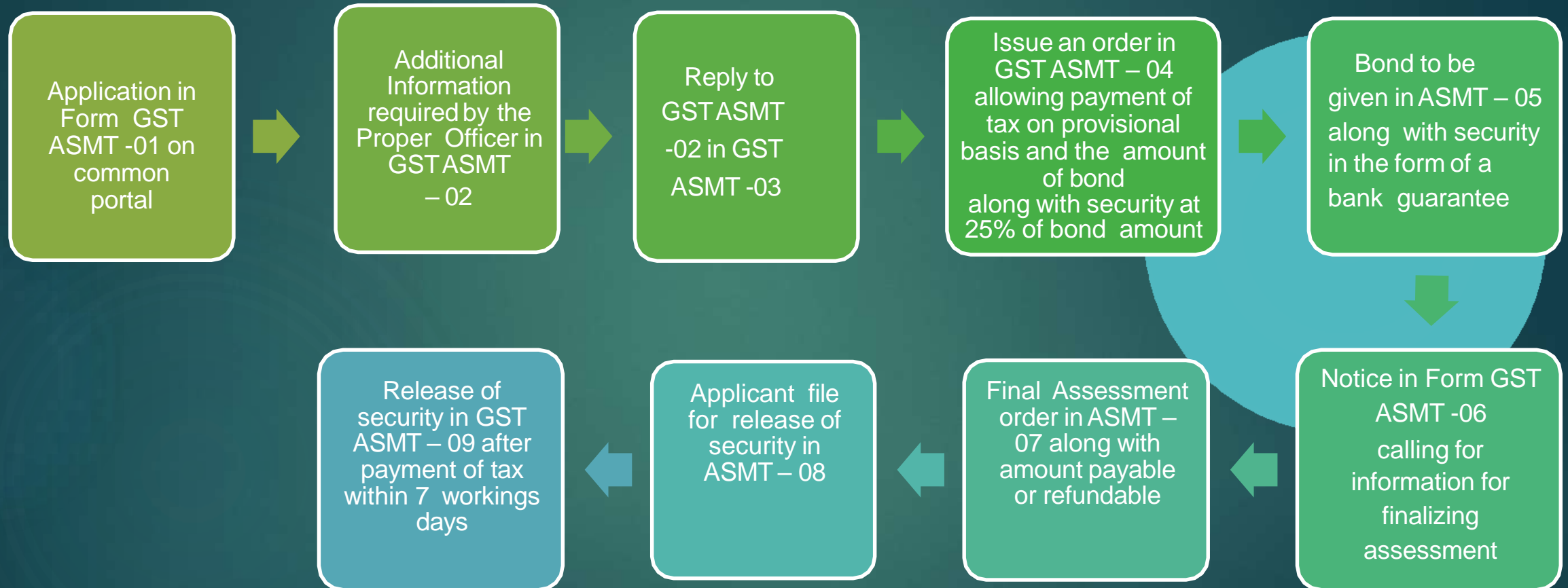
- Interest?

Tax to be paid along with interest at 18% and refund, if any can also be taken with interest.



# PROVISIONAL ASSESSMENT - Procedure

9



9

## Provisional Assessment – Interest on Differential Tax

Tax Determined  
in Final  
Assessment

>

Tax already  
paid  
provisionally

=

Differential Tax to  
be paid with  
interest @ not  
exceeding 18%

Tax Determined  
in Final  
Assessment

<

Tax already  
paid  
provisionally

=

Differential Tax to be  
claimed as refund  
with Interest @ not  
exceeding 6%

# PROVISIONAL ASSESSMENT - Forms

Forms	Particulars	Rule
<b>GST ASMT-01</b>	Application for Provisional Assessment under section 60	Rule 98(1)
<b>GST ASMT-02</b>	Notice for Seeking Additional Information / Clarification / Documents for provisional assessment	Rule 98(2)
<b>GST ASMT-03</b>	Reply to the notice seeking additional information	Rule 98(2)
<b>GST ASMT-04</b>	Order of Provisional Assessment	Rule 98(3)
<b>GST ASMT-05</b>	Furnishing of Security	Rule 98(3)
<b>GST ASMT-06</b>	Notice for seeking additional information / clarification / documents for final assessment	Rule 98(3)
<b>GST ASMT-07</b>	Final Assessment Order	Rule 98(3)
<b>GST ASMT-08</b>	Application for Withdrawal of Security	Rule 98(3)
<b>GST ASMT-09</b>	Order for release of security or rejecting the application	Rule 98(3)

**Form GST ASMT – 04**

*[See rule 98(3)]*

Reference No.: .....

Date

To

GSTIN -

Name -

Address -

Application Reference No. (ARN) .....

Dated .....

**Order of Provisional Assessment**

This has reference to your application mentioned above and reply dated-----, furnishing information/documents in support of your request for provisional assessment. Upon examination of your application and the reply, the provisional assessment is allowed as under:

<< text >>

The provisional assessment is allowed subject to furnishing of security amounting to Rs.-----  
----- (in words) in the form of ----- (mode) and bond in the prescribed format by ----  
----- (date).

Please note that if the bond and security are not furnished within the stipulated date, the provisional assessment order will be treated as null and void as if no such order has been issued.

Signature

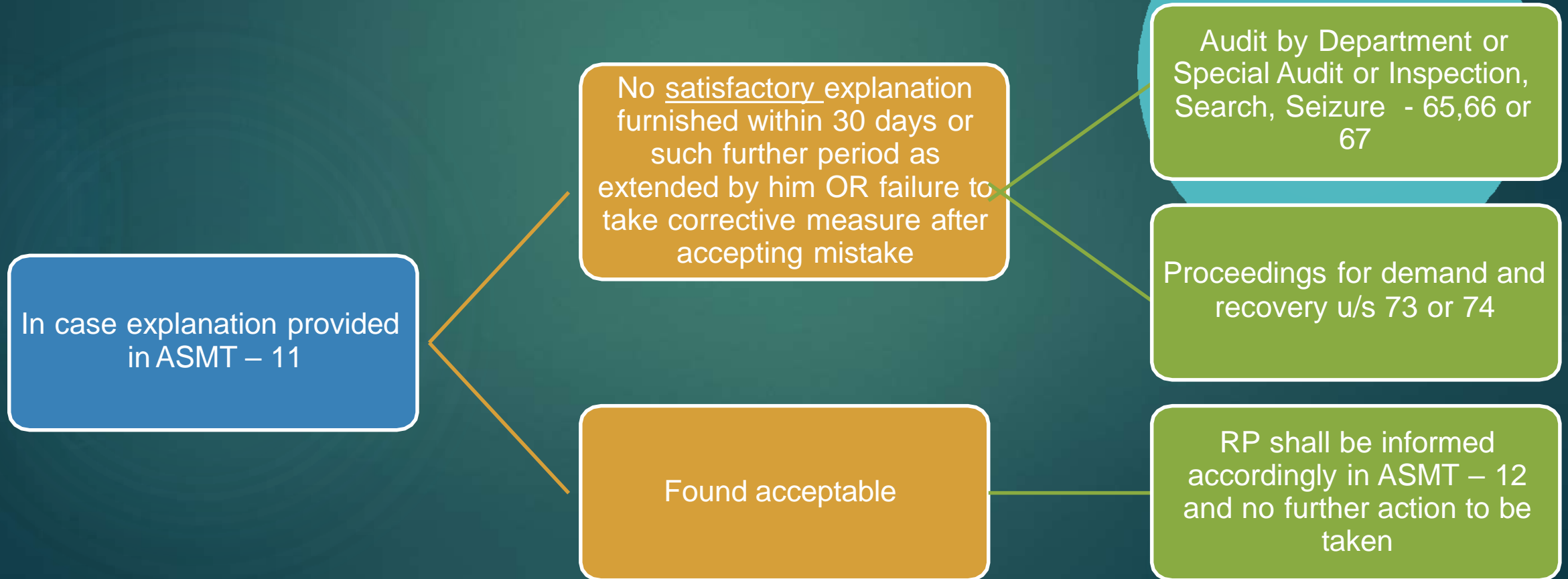
Name

Designation

# SCRUTINY OF RETURNS

## SECTION 61 r/w rule 99

- Proper Officer will scrutinize the return and related particulars furnished by the registered person to verify the correctness of the return and inform him of the discrepancies noticed in ASMT -10 , if any.



**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-12**

*[See rule 99(3)]*

Reference No.:

Date:

To

GSTIN  
Name  
Address

Tax period -  
ARN -

F.Y. -  
Date -

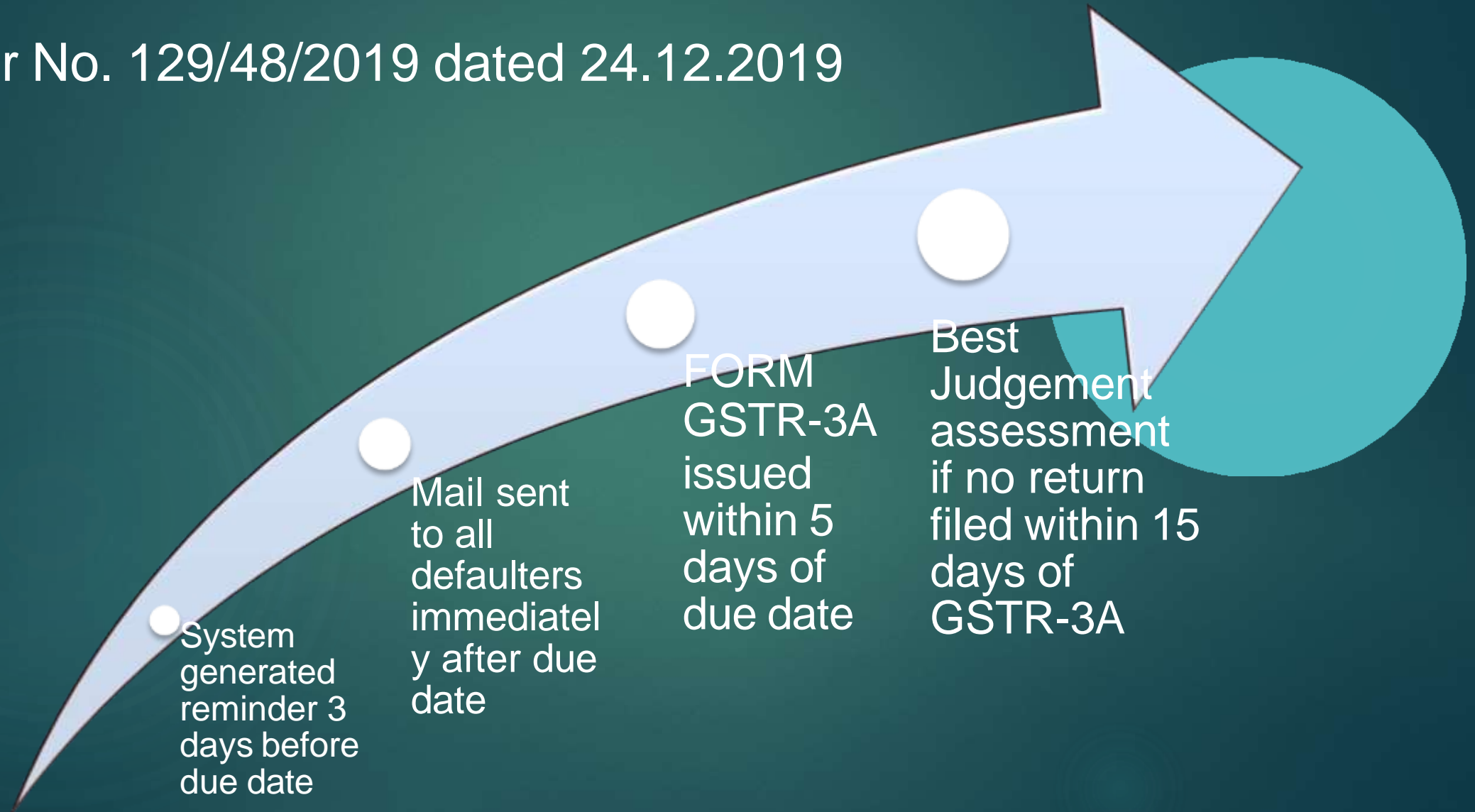
**Order of acceptance of reply against the notice issued under section 61**

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.

Signature  
Name  
Designation

## ASSESSMENT OF non-filers of returns SECTION 62 r/w rule 100

Circular No. 129/48/2019 dated 24.12.2019





## ASSESSMENT OF non-filers of returns

### SECTION 62 r/w rule 100

- ❖ Notwithstanding anything to the contrary contained in section 73 or section 74,
- ❖ where a registered person fails to furnish the return under section 39 or section 45,
- ❖ even after the service of a notice under section 46,
- ❖ the proper officer may proceed to assess the tax liability of the said person
- ❖ to the best of his judgment taking into account all the relevant material which is available or which he has gathered and
- ❖ issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates.

# ASSESSMENT OF non-filers of returns

## SECTION 62 r/w rule 100

- ❖ Where the registered person furnishes a valid return
  - ❖ within thirty days of the service of the assessment order under sub-section (1),
  - ❖ the said assessment order shall be deemed to have been withdrawn but
  - ❖ the liability for payment of interest under sub-section (1) of section 50 or for payment of late fee under section 47 shall continue.
- ❖ Penalty Applicable?
  - ❖ Section & Rules are Silent.
  - ❖ What the Form has to say about Section 122 ?
    - ❖ Non payment /Short Payment for more than 3 months?
    - ❖ Short Deducted or Collected / Deducted or collected but not paid

**Form GSTR – 3A**  
[See rule 68]

Reference No:

Date:

To

\_\_\_\_ GSTIN  
\_\_\_\_ Name  
\_\_\_\_ Address

**Notice to return defaulter u/s 46 for not filing return**

Tax Period -

Type of Return -

Being a registered taxpayer, you are required to furnish return for the supplies made or received and to discharge resultant tax liability for the aforesaid tax period by due date. It has been noticed that you have not filed the said return till date.

2. You are, therefore, requested to furnish the said return within 15 days failing which the <sup>1</sup>[tax liability may] be assessed u/s 62 of the Act, based on the relevant material available with this office. Please note that in addition to tax so assessed, you will also be liable to pay interest and penalty as per provisions of the Act.
3. Please note that no further communication will be issued for assessing the liability.
4. The notice shall be deemed to have been withdrawn in case the return referred above, is filed by you before issue of the assessment order.

<sup>2</sup>[5. This is a system generated notice and does not require signature.]

**Or**

**Notice to return defaulter u/s 46 for not filing final return upon cancellation of registration**

Cancellation order No. —

Date —

Application Reference Number, if any -

Date -

Consequent upon applying for surrender of registration or cancellation of your registration for the reasons specified in the order, you were required to submit a final return in form **GSTR-10** as required under section 45 of the Act.

2. It has been noticed that you have not filed the final return by the due date.
3. You are, therefore, requested to furnish the final return as specified under section 45 of the Act within 15 days failing which your tax liability for the aforesaid<sup>3</sup>[tax period may] be determined in accordance with the provisions of the Act based on the relevant material available with or gathered by this office. Please note that in addition to tax so assessed, you will also be liable to pay interest as per provisions of the Act.

# ASSESSMENT OF UNREGISTERED PERSONS

## – Section 63 r/w Rule 100

- Where
  - A **taxable person fails to obtain registration** even though liable to do so OR
  - Whose registration has been cancelled u/s 29(2) but liable to pay tax
- **Opportunity of being heard to be given** - The proper officer shall issue a notice in GST ASMT –14 and summary thereof in DRC-01 and allow 15 days time
- The proper officer may proceed to assess the tax liability to the best of his judgement for the relevant periods and issue an assessment order in GST ASMT – 15 and summary order in DRC-07 within a period of five years from the date specified under Section 44 for furnishing of annual return for the FY to which tax not paid relates

**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 ----- <sup>1</sup>[vide Order Reference No. -----, dated -----] 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 <sup>2</sup>[\*\*\*] 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  
<sup>1</sup>[Address]



# SUMMARY ASSESSMENT

## SECTION 64 and RULE 100

- Pre –requisites –
  - **Evidence** showing tax liability of a person
  - Previous permission of AC/ JC
  - Sufficient grounds to believe that any delay in doingso may adversely affect the interest of revenue
- Issue an assessment order in GST ASMT –16 and a summary thereof in DRC-07
- Within 30 days of issue of order, the taxable person [GST ASMT -17] may make an application for withdrawal of the above order,
- the AC/JC feels that such order is erroneous pass an order of withdrawal in GST ASMT -18. If they feel the order is correct, they can reject the application with the same form ASMT-18.
- Then follow procedure as per Section 73 or 74

### Assessment order under section 64

Preamble - << standard >>

It has come to my notice that un-accounted for goods are lying in stock at godown-----  
---- (address) or in a vehicle stationed at ----- (address & vehicle detail) and you were  
not able to, account for these goods or produce any document showing the detail of the  
goods.

Therefore, I proceed to assess the tax due on such goods as under:

Introduction :

Discussion & finding :

Conclusion :

Amount assessed and payable (details at Annexure) :

(Amount in Rs.)

<sup>2</sup> [Sr. No.	Tax Rate	Turnover	Tax Period		Act	POS (Place of Supply)	Tax	Interest	Penalty	Fee	Others	Total
			From	To								
1	2	3	4	5	6	7	8	9	10	11	12	13
Total												1.

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

Thank you

Thanks for your Patience and Time

