

**ASSESSMENT UNDER THE CENTRAL  
GOODS & SERVICES TAX ACT, 2017  
READ WITH RELEVANT STATE LAWS**

- Adjudication (Theory and Practical Aspects)

- **Chapter–XII**

- **Assessment**

- Definition-2(11)of the CGST Act,2017
- No of direct relevant Provisions – 6 [ Section 59to Section 64]
- No of Rules – 3 [Rule 98 to Rule 100]
  
- No of Forms through notice and order 18 plus 2
- ASMT – 1 to ASMT – 18
- DRC – 01 & DRC – 07

## **Section 2(11) of the 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 of Assessment includes Re-assessment**

Self Assessment Section 59

Provisional Assessment Section 60

Summary Assessment Section 64

Best Judgement Assessment Section 62 and Section 63

Scrutiny assessment Section 61

Re-assessment

From the desk of the Taxpayer ---- Self Assessment  
----- Provisional Assessment

From the desk of the Department ----- Summary Assessment  
----- Re-assessment  
----- Scrutiny assessment  
----- Best Judgement Assessment  
--- Non Fillers ---UR

- **SELF ASSESSMENT –SECTION 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

- GSTR-3B – Regular Return
- GSTR-4 – Composition Dealers
- GSTR-5 – NR Taxable Person
- GSTR-6 – ISD Return
- GSTR-7 – TDS Return

- **PROVISIONAL ASSESSMENT –SECTION 60**

- Where the taxable person is unable to determine
- The value of goods or services or both
- The rate at which tax is payable
  
- Specify to the Proper Officer specifying the reasons for payment of tax on provisional basis
- Time Limit
- •Proper officer shall pass an order within 90 days allowing payment of tax on provisional basis indicating the value and rate of tax

- **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 the Commissioner.

- **Interest-**

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

- **Procedure of Provisional Assessment**

- Application in Form GST ASMT-01 on common portal
- Additional Information required by the Proper Officer in ASMT–02
- Reply to ASMT-02 in ASMT-03
- Issuance of order in ASMT–04
- Allowing payment of tax on provisional basis and the amount of bond
- Along with security at 25% of bond amount
- Bond to be given in ASMT–05 along with security in the form of a bank guarantee

- Notice in Form GST ASMT-06 calling for information for finalising assessment
- Final Assessment order in ASMT–07 along with amount payable or refundable
- Applicant file for release of security in ASMT–08
- Release of security in GST ASMT–09 after payment of tax within 7 workings days
- Interest is required to be paid on the balance tax along with interest

**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

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

- **SCRUTINY OF RETURNS SECTION 61 read with 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.
- explanation provided in **ASMT-11**
- If it realised that Non satisfactory explanation furnished within 30 days or such further period as extended by the L'd A.O. OR failure to take corrective measure after accepting mistake
- Audit by the Department or Special Auditor Inspection, Search, Seizure -65, 66 or 67
- proceedings for demand and recovery of overdues charged U/s 73 and 74
- Registered Person shall be informed accordingly in **ASMT-12** and no further action to be taken **DROP ORDER TOBE ISSUED BY THE A.O.**

**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

- FORM GST ASMT - 10 Notice for intimating discrepancies in the return after scrutiny Rule 99
- FORM GST ASMT - 11 Reply to the notice issued under section 61 intimating discrepancies in the return Rule 99
- FORM GST ASMT - 12 Order of acceptance of reply against the notice issued under section 61 Rule 99
- FORM GST ASMT - 13 Assessment order under section 62 Rule 100
- FORM GST ASMT - 14 Show Cause Notice for assessment U/s 63 Rule 100
- FORM GST ASMT - 15 Assessment order under section 63 Rule 100
- FORM GST ASMT - 16 Assessment order under section 64 Rule 100
- FORM GST ASMT - 17 Application for withdrawal of assessment order issued under section 64 Rule 100
- FORM GST ASMT - 18 Acceptance or Rejection of application filed U/s 64 (2) Rule 100

# • TIME LIMIT FOR THE ASSESSMENT

## • Section 73

• F.Y.	• Due date or extended due date of filing GSTR-9	• Notice can be issued at least three months prior to the assessment	• Order can be issued within three years from the date of filing GSTR-9
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• 2017-18	05.02.2020	05.11.2022	05.02.2023
• 2018-19	31.12.2020	31.01.2024	30.04.2024
• 2020-21	28.02.2022	30.11.2024	28.02.2025
• 2021-22	31.12.2022	30.09.2025	31.12.2025
• 2022-23	31.12.2023	30.09.2026	31.12.2026
• 2023-24	31.12.2024	30.09.2027	31.12.2027

# • TIME LIMIT FOR THE ASSESSMENT

## • Section 74

- F.Y.                      Due date or                      Notice can be issued                      Order can be issued
- extended due                      at least six months                      **within five years** from
- date of filing GSTR-9                      prior to the assessment                      the date of filing GSTR-9

- 2017-18                      05.02.2020                      05.08.2024                      05.02.2025
- 2018-19                      31.12.2020                      30.06.2025                      31.12.2025
- 2020-21                      28.02.2022                      28.08.2026                      28.02.2027
- 2021-22                      31.12.2022                      30.06.2027                      31.12.2027
- 2022-23                      31.12.2023                      30.06.2028                      31.12.2028
- 2023-24                      31.12.2024                      30.06.2029                      31.12.2029

- **ASSESSMENT OF Non-filers of Returns**
- **SECTION 62 read with Rule 100**
  
- CircularNo.129/48/2019 dated 24.12.2019
- System generated reminder 3 days before the due date
- Mail sent to all defaulters immediately after due date
- FORM GSTR-3A issued within 5 days of due date
- Best Judgment assessment if no return filed within 15 days of GSTR-3A

- 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.

- 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.
- Now question Comes whether Penalty is Applicable?
- Section & Rules are not specified
- 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>3</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>4</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 read with Rule 100**
- **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 GSTASMT – 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 judgment for the relevant periods and issue an assessment order in GSTASMT – 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 F.Y. to which tax not paid relates

### 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.)

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.

- **SUMMARY ASSESSMENT SECTION 64 read with RULE 100**
- Reason to believe before conducting the Summary assessment
- **Evidence** showing tax liability of a person
  - Previous permission of AC/JC
  - Sufficient grounds to believe that any delay in doing so may adversely affect the interest of revenue
- Issue an assessment order in ASMT – 16 and a summary thereof in DRC-07
  
- Within 30 days of issue of order the taxable person 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 Procedure as per Section 73 or 74 will follow

- Situational Parameter
- How and when reference can be drawn up
- Stressing on the grounds
- ABC analysis of the Grounds
- Arrest the weak point of the Respondent prior to the stages of the arguments
- Arrest the weak point of the Respondent at the on going stages of the arguments
- Conclusion

The arguer want to make this process as comprehensive and smooth as possible. However, this guidance cannot cover every situation. Given the complexity of the process, it is inevitable that your finished Submissions will need to be reviewed to make sure that they read properly. You may need to amend the wording to avoid repetition, ensure everything is clear and nothing has been missed out at all. You may also want to smooth out the formatting. It's absolutely tailor made and depending upon the situation and the degree of persistence thereof.

However as it's jurisdictionally covered under the Civil Procedure Code 1908. The pre existence of the said Code must persists.

# Q & A SESSION

THANK YOU