

# Ease of Handling Litigation in GST

***“All views expressed are subjective and personal”***

# *How does Litigation start?*

- Different interpretation
- Incorrect opinion
- Mismatch in returns
- Judgement of SC
- Circulars of CBIC
- Amendment in Act - Retrospective

# *Stages of Litigation*

- Adjudication
- 1<sup>st</sup> appeal
- 2<sup>nd</sup> appeal – The last fact finding authority
- HC – Only of question of law
- SC – Only question of law

# ***Know your tax administration***

- Anti-Evasion
- Audit
- Technical and Refunds
- IT & Systems
- DGGSTI
- DRI
- Adjudication
- Appeals

# ***Know your jurisdiction***

- At Center: Range & Division
- At State: Charge/Range & Circle
- Commissionerate
- PO assigned under each section

# *Litigation Management*

- Know your facts in-depth
- Quantify your demand
- Sections invoked and jurisdiction
- Technical vs Merit based argument
- Understand the 'other' view
- Readiness to counter

# *Litigation Management - Contd*

- Highlight important paras of the relied upon case laws
- Deliberate ignorance of argument
- Know the art of advancing the argument
- Sequence your submissions
- Paging of the submissions in the synopsis
- Listen to the authority counter question

# *Litigation Management - Contd*

- Be very specific in the relief sought
- While drafting your submissions, be very wise in the use of words. Respect the order/SCN issued. Creates a negative impact if arguments oral/written is only criticizing the order/SCN
- One submission made 10 times – you have nothing else to offer.
- Never kiss a goodbye to your rights
- Avoid taking client with you during PH, any repulsive action might be a hammer on your toe.



# *Litigation Management - Contd*

- Accept assignment of management of litigation only if you know the law. A careless drafting of a simple letter, could lead to hefty 'reason to believe' circumstances
- Be equipped with case laws database
- If convenient listen to moot court sessions or the live streaming of the court sessions to understand the art of putting the argument forward.

# *Litigation Management - Contd*

- Avoid being a constitutional champ, lets keep that task for legal professionals
- The fear of litigation only means lack of education/ knowledge
- Excessive use of non-technical approach to deal with litigation
- Cost benefit analysis is a must
- Respond to all the communications received

# *Drafting of opinions*

- Understand the facts of the case for which the client is seeking an 'expert' opinion
- Read the judgement relied upon in entirety.
- Put forward all the different possibilities and conclude with the possibility which you think is most appropriate
- Quality > Volume of pages

# ***Thank You***

***A presentation by Saim Aziz***

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