



## NEWS LETTER

2023 March

Issue 3

### INSIDE

- Indirect Tax-Goods and Service Tax Valuation in case of second-hand goods
- Winding up of the Companies
- Notices Under GST & Recent Gst Updates

### FROM THE CHAIRMAN'S DESK

Dear Members,

I am delighted and humbled for being elected as the Chairman of this prestigious branch for the term 2023-2024. It is certainly an honour to have the opportunity to serve the CA fraternity as the 53rd Chairman of the Coimbatore Branch of Southern India Regional Council of the Institute of Chartered Accountants of India. I am grateful to the Members of the Managing Committee for bestowing upon me this position which has been served by stalwarts who have laid a great foundation with utmost sincerity and dedication. I am confident that with the support of my colleagues in the Committee and the members of our Branch I will be able to discharge my duties as the Chairman of the Branch.



My best wishes and Congratulations to CA. Aniket Sunil Talati and CA. Ranjeet Kumar Agarwal for being elected as the President and Vice President of ICAI for the term 2023-2024. Having seen their remarkable contribution to the Profession, I am sure that the newly elected torchbearers of ICAI would take ICAI to greater heights and bring in more laurels to the Profession and ICAI. My best wishes and hearty Congratulations to CA. Panna Raj S. & CA. A.V. Arun for being elected as the Chairman and Secretary of SIRC for the term 2023-2024.

I wish to Congratulate my immediate predecessor CA. N.V. Palanisamy for his phenomenal contribution to the Branch in various capacities and especially as the Chairman of the Branch for the term 2022-2023. I am glad to share with you that our Branch has won the BEST Branch award at the Southern India level for the year 2022. I am also pleased to inform you that the Coimbatore Branch of SICASA been selected as the BEST BRANCH (second place) at all India level for the year 2022. I Congratulate the immediate past SICASA Chairman CA. Survajith S Krishnan and his team for this remarkable achievement.

During the month of February, we organized CPE Seminars on Union Budget 2023 and GST. I thank the faculty Members CA. Pradip Kapasi, CA. Ganesh Prabhu and CA. K. Praveen Kumar for sparing their time to address our Members. With the past Chairman of our Branch CA. N.N. Shanmuga Vadivel, Committee Members of our Branch visited Mr. Kranthi Kumar Pati, IRS, a Chartered Accountant who has been appointed as the Coimbatore District Collector.

For the month of March 2023 various Seminars, Study Circle Meetings, Certificate Course are planned, the details are published in the newsletter, please take note of the same and please participate in all the programs. Kindly note, for the term 2023-2024 a nominal amount of Rs.7,500/- (incl. GST) has been fixed as the Annual Seminar Series fee. Kindly register and please extend your support and cooperation to the Branch.

With committed perseverance let us continue to serve the Profession and Nation in a great manner.

With Best Regards,  
**CA. D. Nagakumar**  
Chairman

## Members at the Helm of Affairs 2023-2024

### ICAI



**CA. Aniket Sunil Talati**  
President



**CA. Ranjeet Kumar Agarwal**  
Vice President

### SIRC OF ICAI



**CA. Panna Raj S.**  
Chairman



**CA. Geetha A.B.**  
Vice Chairperson



**CA. Arun A.V.**  
Secretary



**CA. Mandava Sunil Kumar**  
Treasurer



**CA. Chengal Reddy Ramireddygari**  
Chairman, SICASA

### COIMBATORE BRANCH OF SIRC OF ICAI



**CA. D. Nagakumar**  
Chairman



**CA. P. Vishnu Adithan**  
Vice Chairman



**CA. Rahul Chandrasekaran**  
Secretary



**CA. Survajit S. Krishnan**  
Treasurer



**CA. R. Sathish**  
SICASA Chairman



**CA. Thangavel M.**  
Member



**CA. N.V. Palanisamy**  
Imm. Past Chairman



**CA. S. Rajesh**  
Ex-officio Member



## INDIRECT TAX-GOODS AND SERVICE TAX VALUATION IN CASE OF SECOND-HAND GOODS

**CA. Sarvesh V.K.**

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### 1. Provision

As Per Rule 32(5) of GST Rules,2017 where a taxable supply is provided by a person dealing in buying and selling of second-hand goods i.e. used goods as such or after such minor processing which does not change the nature of the goods and where no input tax credit has been availed on the purchase of such goods, the value of supply shall be the difference between the selling price and the purchase price and where the value of such supply is negative, it shall be ignored

### 2. Analysis of Provisions

As per aforesaid Provision, Conditions for opting Margin Scheme

- 1.Goods should be second hand goods
- 2.Goods should be sold without any Major processing
- 3.No Input tax Credit should be availed while purchasing the goods

If all above conditions are satisfied, we can opt for Margin Scheme (Value of Supply would be the Profit) or else Normal Scheme.

If goods are sold without a Margin, No GST Needs to be paid

### 3. Let's discuss the above Provisions using the following example;

X Private Limited Purchasing the Car from Mr. A for Rs.3,00,000 and Sales the Car to Mr. B for Rs. 4,00,000



In case Mr. A (Supplier of car to X Pvt ltd) is Unregistered Person

He will never charge GST as he is unregistered, therefore there will be no Input tax Credit. Hence, Margin Scheme



In case Mr. A (Supplier of car to X Pvt Ltd) is Registered Person

We have two Option (Margin Scheme and Normal Scheme), we should choose the best option which is beneficial to us.

#### X Pvt Ltd Point of View

Particulars	Margin Scheme	Normal Scheme
<b>Cost of Purchase</b>		
Car	Rs.3,00,000	Rs.3,00,000
GST	Rs.84,000*	- #
<b>Total</b>	<b>Rs.3,84,000</b>	<b>Rs.3,00,000</b>
<b>Sale Price</b>		
Car	Rs.4,00,000	Rs.4,00,000
<b>Profit to X Pvt Ltd</b>	<b>Rs.16,000</b>	<b>Rs.1,00,000</b>

\*If X Pvt Ltd opts for margin scheme, the input at the time of purchase cannot be availed. Hence, it becomes the cost of purchase to X Pvt Ltd

# If X Pvt Ltd opts for Normal scheme, the input at the time of purchase can be availed. Hence, it will not be included in the cost of purchase of X Pvt Ltd

#### Mr. B Point of View (Buyer of Car from X Pvt Ltd)

Particulars	Margin Scheme	Normal Scheme
<b>Cost of Purchase</b>		
Car	Rs.4,00,000	Rs.4,00,000
GST	Rs.4,480	Rs.1,12,000
	(16,000*28%)	(4,00,000*28%)
<b>Total</b>	<b>Rs.4,04,480</b>	<b>Rs.5,12,000</b>

#### Conclusion:

If the Market is Price sensitive, it is better to opt for Margin scheme If the Market is not a Price sensitive, it is better to opt for Normal scheme as profit is high.



## WINDING UP OF THE COMPANIES

**CA. V. Rajaram**

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In simple words, the process of removing the company's name from the register of companies is called as Winding up of the companies. This article gives a brief look at the provisions and procedures laid under the Act.

The company can be wound up either by ROC or by voluntary application by company itself.

### **Removal of name by ROC:**

Section 248 to 252 vests the ROC with the given powers for the removal of company's name from the register of companies, in case Registrar has a legit cause to believe that;

- The company has failed to undertake its business activities within one year of its incorporation;
- The company is not serving any business operation for two years, immediately past Financial Years and it has not filed any application for securing the status of the dormant company.

If such is the case, the ROC has the right to discard the company's name from the register of companies by sharing notification to the company and all the directors concerned. The notification from the Registrar would reflect the ROC's intent to discard the company's name from the register of companies and direct the company to share representations and copies of the applicable documentation within 30 days from the notification date

### **Voluntary Application by the company**

This process for removing an entity name can also be done by filing STK 2 form by the company. To file this form, the company must be free from all liabilities and execute a special resolution with the permission of 75 per cent of members in terms of paid-up share capital.

If the company falls under a special Act, consent of the regulatory body constituted under such an Act must be secured and attested with the application.

After filing STK 2 form, the ROC shall confirm whether the company has made sufficient provision to realise all the outstanding amounts and from the payment of its obligations and liabilities within a reasonable time. If necessary, the ROC can also demand undertaking from the director concerned or other officials administering the company's management. After addressing the said conditions, the Registrar would issue a notice publically regarding the intended closure of the entity. After the expiration of the time cited in the public notice, the Registrar can strike off the entity name from the register of companies. Further, the ROC shall public notice relating to the strike-off of the company's name in the Official Gazette. On publication of such a notice, a company is held to be dissolved.

### **Requisites for filing STK 2 Form**

All types of entities like OPC, public limited company, private limited company can apply for



company's closure via this form. The following are the standard documents that should be annexed with the STK 2 form.

1. Indemnity bond (appropriate stamp value) notarised by company's director in STK 3 form;
2. A statement of accounts reflecting the company's assets and liabilities made up to a day, not surpassing 30 days before the application date and certified by a practising Chartered Accountant.
3. An affidavit (appropriate stamp value) in form STK 4 furnished by each director concerned
4. A copy relating to special resolution approved by every director or 75 % of the members regarding paid-up share capital as on the application date.
5. Proofs regarding Closure of Bank Accounts of the company
6. A statement concerning pending litigations, if any, involving the company.
7. Any other attachments (Proof of Identity, Proof of address, Board resolution approving closure etc.,)

The form must be approved by Practising Chartered Accountant or Company Secretary or Cost Accountant. The form must be accompanied by the fees of Rs. 10,000/-

#### **Effect of removing name from Register of companies:**

If STK-2 is filed and accepted by the ROC, the company would be dissolved under section 248 of the Companies Act, 2013. Further, the business would cease to operate as a company and the Certificate of Incorporation issued to it shall be deemed to have been cancelled from such date - except for the purpose of realising the amount due to the company and for the payment or discharge of the liabilities or obligations of the company.

Also, if a company is closed using Form STK-2, the liability of all director, manager or other officer who was exercising any power of management, and of every member of the company would continue and can be enforced as if the company had not been dissolved.

#### **Restrictions for Filing Voluntary Application to Strike off by the Company:**

If a company satisfies any of the following condition, form STK-2 cannot be filed:

- The company changed its name or shifted its registered office from one State to another before three months of filing of Form STK-2;
- The company disposed property or rights held by it, before three months of filing of Form STK-2. This provision is not applicable for trade wherein disposal of property for gain is in the normal course of trading or carrying on of business;
- The company engaged in any other activity except the one which is provided in the MOA or expedient before three months of filing of Form STK-2.
- The company has made an application to the Tribunal for the sanctioning of a compromise or arrangement and the matter has not been finally concluded;
- The company is being wound up under Companies Act or under the Insolvency and Bankruptcy Code, 2016.



## NOTICES UNDER GST & RECENT GST UPDATES

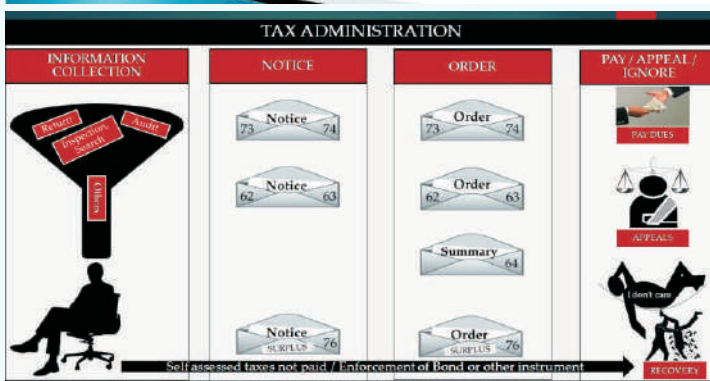
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**AGENDA**

- ❑ What is a Notice [Used 107 places in Act & 78 places in Rules]
- ❑ Types of Notices usually discussed
- ❑ Types of Notices rarely discussed:
  - ❑ Form MOV-07
  - ❑ Form GST REG-03
  - ❑ Provisional Assessment
  - ❑ Best Judgement
- ❑ Few Important principles



### WHAT IS A NOTICE

- ❑ General Meaning: The fact of observing, Becoming aware of
- ❑ Legal Terminology: Information usually in writing. First trigger point of assessment or adjudication. Basis on which department builds its case.
- ❑ Expectations:
  - ❖ The recipient is expected to submit his reply.
  - ❖ He may deny the allegations if any,
  - ❖ He may ask further time
  - ❖ May appear in person / Authorized Representative

### WHAT IS A NOTICE

- ❑ No definition of Notice or Show Cause Notice.
- ❑ Notices can be issued by authorized officers, under the authority laid down under jurisdictional powers
- ❑ Certain forms are prescribed to standardize the procedure. The replies also in most of the cases are in standardized forms

### TYPES OF NOTICES

S.No	Section	Particulars
1	46	Notice to Return Defaulters
2	60	Provisional Assessment
3	61	Scrutiny of Returns
4	62	BJA - RP
5	63	BJA - URP
6	64	Summary Assessment
7	73	Determination of tax not paid / short paid - Bonafide Cases
8	74	Determination of tax not paid / short paid - Malafide Cases
9	76	Amount collected as tax but not paid to Government
10	129	Interception of Vehicle
11	25, 28-30	Registration

### IMPORTANCE OF REGISTRATION

- ❑ Output Tax Payable by Taxable Person, ITC can be availed by Registered Person
- ❑ Time Bound Process - Effective Date of Registration u/r 10
- ❑ ITC contained in stock u/s 18 + Revised Tax Invoice u/s 31

Event	Date
Makes Intra-State Supply of Goods	01.01.2023
Liable for Registration	31.01.2023
Case A	Applies for Registration: 15.01.2023 Receives Registration: 28.01.2023

Queries
Output Tax Payable from ?
Revised Tax Invoice ?
ITC on Stock ?

### IMPORTANCE OF REGISTRATION

Event	Date
Makes Inter-State Supply of Goods	01.01.2023
Liable for Registration	31.01.2023
Case A	Applies for Registration: 15.01.2023 Receives Registration: 28.01.2023
Case B	Applies for Registration: 02.02.2023 Receives Registration: 10.02.2023

Queries
Output Tax Payable from ?
Revised Tax Invoice ?
Debit Note ?
ITC on Stock ?

### NEW REGISTRATION - S. 25(10) & R. 9(2)

(10) The registration or the Unique Identity Number shall be granted or rejected after due verification in such manner and within such period as may be prescribed.

(2) Where the application submitted under rule 8 is found to be deficient, either in terms of any information or any document required to be furnished under the said rule, or where the proper officer requires any clarification with regard to any information provided in the application or documents furnished thereon, he may issue a notice to the applicant electronically in FORM GST REG-03 within a period of [seven] working days from the date of submission of the application and the applicant shall furnish such clarification, information or documents electronically, in FORM GST REG-04, within a period of seven working days from the date of the receipt of such notice.



### NEW REGISTRATION – REG-01 – List of Docs Required

- Photographs
- Constitution of Business
- Proof of Place of Business
  - Own: **Any document** for ownership like PT Receipt or EB Bill
  - Rented: **Valid Rental Agreement + Any document** for ownership
  - Others: Consent Letter + **Any document** for ownership
- Bank Account Related Proof
- Authorization Form

### CANCELLATION & REVOCATION

- Revocation is a statutory right and no reasons are required to be given
- Courts are allowing revocation beyond time period –

**SUGUNA CUTPIECE CENTER 2022 (2) TMI 933 - MADRAS HIGH COURT**

*"no useful purpose will be served by keeping these petitioners out of the bounds of GST regime under the respective GST enactments other than to allow further leakage of the revenue and to isolate these petitioners from the main stream contrary to the objects of the respective GST enactments."*

### NOTICE IN FORM GST REG-03

- Limitation on Scope:
  - Cannot act as an investigative officer i.e. financial background, Benami transactions, Goods proposed to be dealt are prone to investigation
  - Insisting on PT Receipt or EB or Both
  - Shared Premises
- Vinod Kumar v. CST (WP 1553/2021) – Denial of Registration affects right to livelihood and is violative of Article 21 of Constitution.**

### CANCELLATION & REVOCATION

- Late fees not payable when registration was erroneously cancelled
- MODICUM ENTERPRISE (OPC) PVT. LTD. - (2023) 2 Centax 267 (Cal.) [22-12-2022] – Calcutta High Court**

- Can the late fee even otherwise be collected ?

Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful-misstatement or suppression of facts.

73. (1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder.

### NOTICE IN FORM GST REG-03

- Within Scope:
  - Required documents not uploaded, Photo not clear
  - Choosing Category of Composition Scheme – Cir. 27/01/2018
  - Applying fresh without revoking previous one – Cir. 95/14/2019
    - Filing Returns with tax, interest & late fees
    - Payment of stock held - GSTR-10 – **Can ITC of this be taken ?**

### E-WAY BILL NOTICES

- Can Notice under section 129 be issued even if there is no intention to evade tax

Detention, seizure and release of goods and conveyances in transit

129. (1) Notwithstanding anything contained in this Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure, shall be released,—

<sup>2</sup>(a) on payment of penalty equal to two hundred per cent. of the tax payable on such goods and,

### SUSPENSION OF REGISTRATION

- Does it require Notice ?

**SUSPENSION: IF CANCELLATION INITIATED BY PO [Suo Motto]**

Case	SCN / Intimation	Suspension [No SCN required]
Gen.	SCN for cancellation <b>[R-21A(2)]</b>	<b>Optional:</b> W.E.F date decided by PO till CCP
Spl**	Intimation of differences & SCN for cancellation <b>[R-21A(2A)]</b>	<b>Mandatory:</b> W.E.F intimation of differences till Completion of CP [CCP]

\*\*On Comparison of returns filed u/s 39 with GSTR-1 / GSTR-2A [OR] Other Analysis shows significant differences or anomalies leading to cancellation of GSTIN

### E-WAY BILL NOTICES

- Should the E-Way Bill contain the Tax Amount & Rate of Tax ?

PART-A	
A.1	GSTIN of Supplier
A.2	Place of Dispatch
A.3	GSTIN of Recipient
A.4	Place of Delivery
A.5	Document Number
A.6	Document Date
A.7	Value of Goods
A.8	HSN Code
A.9	Reason for Transportation





### E-WAY BILL NOTICES

- Should the E-Way Bill contain the Tax Amount & Rate of Tax ?
  - M.S. STEEL AND PIPES : 2020 (8) TMI 481 - KERALA HIGH COURT*
- Vehicle Number not updated in Part B:
  - L.G. Electronics Pvt. Ltd. 2020 (40) G.S.T.L. 484 (Commr. Appl. - GST - Raj.)*
  - NEMI CHAND 2020 (40) G.S.T.L. 353 (Commr. Appl. - GST - Raj.)*
  - IACST & E-CUM-PROPER OFFICER, CEN. ENFORCEMENT ZONE, UNA 2020 (34) G.S.T.L. 283 (Appellate Authority - H.P.)*
  - K.B. ENTERPRISES 2020 (34) G.S.T.L. 240 (Appellate Authority - H.P.)*
- Invoice very old

### 10/2019 amended by 10.01.2019

- Address is different than where the goods are actually being delivered & they are in **different PIN Code**
  - If Registered POB: Rs 5000, for repeated offences Rs 25,000
  - If Unregistered POB & ARN available: **No Penalty**
  - If Unreg. POB & Agreement ageing less than 15d: **Rs 5000**
  - Other Cases: **Rs 25,000/-, for repeated offences: S. 129**

### E-WAY BILL NOTICES

- Address of the recipient mentioned incorrectly
  - Same Deutzfahr India P. Ltd. vs. State of Telangana - 2020 (43) G.S.T.L. 673 (Telangana)[23-09-2020]*
- IGST mentioned instead of CGST/SGST
  - Umniya Enterprise vs. Asstt. State Tax Officer, SGST Deptt., Palakkad - 2020 (35) G.S.T.L. 78 (Ker.)[31-01-2020]*
- Detention on account of Classification of Goods
  - PODARANFOODS INDIA PRIVATE LIMITED - 2021 (1) TMI 552 - KERALA HIGH COURT*
- Detention on account of Valuation of Goods
  - Alfa Group - 2020 (34) G.S.T.L. 142 (Ker.)[18-11-2019]*

### 10/2019 amended by 10.01.2019

- Builder delivering goods to site which is not registered POB
  - If ARN available: **No Penalty**
  - If Unreg. POB & Agreement ageing less than 15d: **Rs 5000**
  - Other Cases: **Rs 25,000/-, for repeated offence: S. 129**
- One Invoice is enough for Bill to Ship to
- If GSTIN of the ultimate recipient is not mentioned – Penalty of Rs 5,000
- Goods stored in Transporter Godown:
  - If registered as a POB or ARN available: **No Penalty**
  - Others: **Penalty u/s 129**

### E-WAY BILL NOTICES

- Clerical Error –
  - Digits of Vehicle Number
  - Values erroneously typed
  - Distance erroneously mentioned
  - Tax Amount mentioned in Delivery Challan
  - Many More...
- Circular 64/38/2018 & State Circular 10/2019 amended on 10/01/2023

### 10/2019 amended by 10.01.2019

- Goods delivered at work site for erection etc; Goods sent for outdoor display; Goods sent to construction site and the destination is not registered POB:
  - If ARN available: **No Penalty**
  - Other Cases: **Rs 25,000/-, for repeated offence: S. 129**

### 10/2019 amended by 10.01.2019

- Address is different than where the goods are actually being delivered & they are in same PIN Code
  - If Registered POB: Rs 5000, for repeated offences Rs 25,000
  - If Unregistered POB & ARN available: **No Penalty**
  - If Unreg. POB & Agreement ageing less than 15d: **Rs 5000**
  - Other Cases: **Rs 25,000/-, for repeated offence: S. 129**

### 10/2019 amended by 10.01.2019

- Goods sent to trade fair for participating in an exhibition:
- Finished goods moved by Principal after completion of Job Work from premises of unregistered Job Worker to a recipient for sale:
  - ❖ If ARN available: **No Penalty**
  - ❖ Other Cases: **S. 129**
- Work order relating to laying of road or pipelines for Govt entities / authorities
  - ❖ If work order produced for proof: **No Penalty**



### E-WAY BILL NOTICES

#### □ Approach the High Court ?

- ❖ If the officer has exceeded his powers: It would entertain. Ex: Goods detained for classification or valuation dispute, principles of natural justice not followed.
- ❖ If the officer has acted within his powers: It would relegate. Ex: Goods detained for a procedural lapse

1. PODARAN FOODS INDIA PRIVATE LIMITED VERSUS STATE OF KERALA,
2. K.P.Sugandh Ltd. vs. State of Chhattisgarh

### PROVISIONAL ASSESSMENT

- Not a substitute for Advance Ruling
- Scope of Notice would be limited to whether material available on hand or not. If interpretation issue can reject the request by giving a SCN
- Ex: Rice Bran & Restaurant selling prepared & packed items

### BEST JUDGEMENT u/s 62 & 63

- Why a provision is required when already S. 73/74 exist ?
- S. 62/63 only for tax demand
- Orders u/s 62 are withdrawable orders. Strict timelines to be followed.
- DRC-07 issued, Returns filed beyond 30 days – Position ?
- Rule 142(6) – DRC-07 is a notice of recovery for the purposes of Sec. 79

### NOTICE UNDER SECTION 73

- Observation in scrutiny, Audit or Inquiry → Demand in DRC1A Part A → Demand Disputed in Part B → SCN + DRC1
- Issued for Tax not paid, short paid, erroneously refunded, ITC wrongly availed or utilized
- Tax not defined. Would include output tax as well as RCM tax
- Section 73 cannot demand interest or penalty alone without underlying demand of tax.

### NOTICE UNDER SECTION 73

- Tax not defined. Would include output tax as well as RCM tax
- Section 73 cannot demand interest or penalty alone without underlying demand of tax.

73. (1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder.

### NOTICE UNDER SECTION 73

- Notices must contain the allegations, evidences in support of the allegations, must carry all information necessary to inform the taxable person of the charges made.
- Notice demanding tax citing 2A v. 3B mismatch is a defective notice. The difference may be a suspicion for non-compliance but not a cause of action. Cause of action would be S. 16(2)(aa) or S. 16(2)(c) depending on what the officer has chosen.

### NOTICE UNDER SECTION 73

- Relief u/s 73(5) would still be available even if the defect is pointed out by the revenue officials unless it is pointed out u/s 67 with all pre-requisites relating to evasion of tax
- DRC-01A – Doesn't have any official closure unlike ASMT-12 or an Order in case of SCN.
- Not to give detailed reply in DRC-01A, defences to be revealed only during SCN stage – Best help that a tax payer can do to himself – Aim to be of Shortest Route to get a favorable decision.

### NOTICE UNDER SECTION 73

- Period of Limitation – Gap between Notice and Order is practically 4 months considering DRC-01A to be issued
- DRC-01 is mandatory along with SCN
- SCN is must along with DRC-01 – Juhi Industries, Jharkhand HC
- SCN+DRC-01, SOD + DRC-02
- Mode of Service has to ensure that the notice should reach the tax payer. Notice uploaded on portal or sent to mail is not sufficient service.
- Can interest be demanded for erroneous refund ?

### NOTICES FOR REFUND

#### □ Interest on erroneous refunds – Sec 50 ?

50. (1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council.

### BURDEN OF PROOF – Evidence Act

- Principles of Evidence Act would apply – *Chuharmal Mohanani – 1988 SC 1384*
- S. 58: Undisputed facts do not require proof
- S. 101: Person making assertion bears the burden to prove the truth of it
- S. 102: When new material is introduced onus of proof shifts to the introducer
- S. 24 to 32: Statements on oath containing any admission or confession raise a presumption in favour of revenue, when it relates to facts but not when it relates to interpretation of facts.

# SEMINAR ON UNION BUDGET 2023



## CPE MEETING



## Branch Members Meet Collector



## Virtual Seminar



## Budget Meeting @ Sree Saraswathi Thyagaraja College, Pollachi



# CAREER COUNSELLING PROGRAMME

