

DEMAND & RECOVERY

Sec 11A(Recovery of ED) -- Recovery Mechanism under CEA, 1944

Situation when SCN shall be issued:

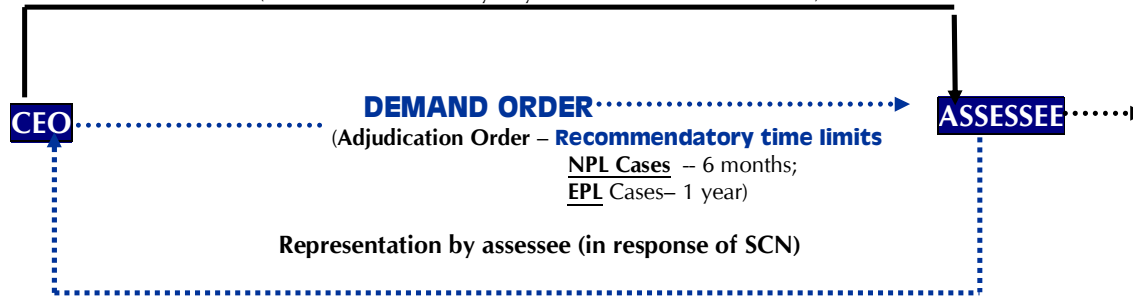
- Not Levied; ■ Short Levied; ■ Erroneously refunded
- Not Paid; ■ Short Paid;

[Demand-Contrary]

to earlier assessment approved by the CEO (either approved classification or approved valuation) is also possible at present]

SCN --- SERVED (see Note below)

(Notice to show cause why duty shall not be recovered from him)



Upon receipt of demand order, assessee shall pay up the demand immediately.

Failure to pay: Case *td* to “Recovery Cell” – **Coercive methods** (as mentioned in **Sec 11**) will be applied

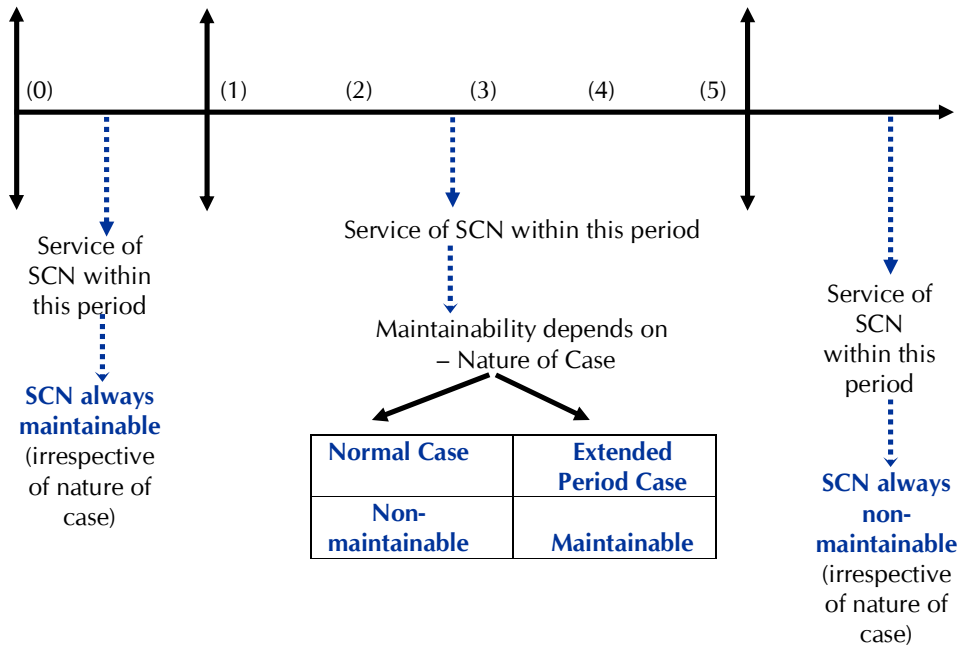
Time Limit for Service of SCN (to be counted from **RELEVANT DATE**)

☐ Cases involving Fraud / Collusion / Misrepresentation of facts / Suppression of Facts / Contravention of provisions of Act/ Rules with an intention to evade ED (i.e., Extended period case)	– within 5 Years (EPL) – within 1 Year (NPL)
☐ Other Cases (i.e., Normal period case)	

- ☐ Where duty of excise has not been levied or paid or short-levied or short-paid
 - Where return is to be filed and filed :: the date on which the return is so filed
 - Where return is to be filed but not filed :: the last date on which such return is to be filed
 - In any other case :: the date of payment of duty
- ☐ Where duty of excise is provisionally assessed :: the date of adjustment of duty after the final assessment thereof
- ☐ Where duty of excise has been erroneously refunded :: the date of such refund

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Special Point:



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VOLUNTARILY PAYMENT FACILITY

❑ Old Facility --- Payment before issuance of SCN --- Sec 11A (2B) Before service of SCN ---- assessee can opt for voluntarily payment of ED which may either be ascertained from the CEO (and intimated to the assessee) or may be ascertained on his own by the assessee upon such payment, he shall inform the CEO of such payment then, CEO shall not serve SCN in relation to ED so paid. However, still CEO has every right to determine whether there is still any short-payment of duty. If he finds that, then in relation to such duty he can proceed with SCN which can be served within 1 year from date of receipt of voluntarily payment information from the assessee. Note 1: <i>Voluntarily payment facility is not available in Fraud / Collusion / Wilful mis-statement / Suppression / intentional contravention cases.</i> Note 2: Alongwith ED, interest u/s 11AB @ 13% is always payable.	❑ New Facility --- Payment after issuance of SCN --- Sec 11A (1-A) Case of EPL (fraud etc) --SCN served u/s 11-A(1) ⇒ Duty specified in SCN acceptable in full by assessee --- Pay Voluntarily [ED + Interest 13% p.a. + Penalty (= 25 % of ED)] within 30 days of receipt of SCN → CEO will not pass DO (Demand Order) – Adjudication proceedings shall stand concluded with the voluntarily payment of assessee [However, Criminal Proceedings shall remain unaffected by such payment –i.e., prosecution is still possible] ⇒ Duty specified in SCN acceptable in part by assessee --- Pay Voluntarily [ED (as acceptable) + Interest 13% p.a. + Penalty (= 25 % of ED acceptable)] within 30 days of receipt of SCN → CEO will pass DO (Demand Order) for the balance amount
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	<u>Old Voluntarily Payment Facility</u>	<u>New Voluntarily Payment Facility</u>
1.	Sec 11-A(2B)	Sec 11-A(1A)
2.	This facility is applicable in respect of NPL Cases (Bona-fide cases).	This facility is applicable in respect of EPL Cases (Fraud cases).
3.	This facility provides for voluntarily payment before issuance of SCN by the CEO. <i>(i.e., this facility is available prior to initiation of adjudicating proceeding).</i>	This facility provides for voluntarily payment after issuance of SCN by the CEO. <i>(i.e., this facility is available subsequent to initiation of adjudicating proceeding).</i>
4.	Payment Involved: [Duty + Interest + Penalty]	Payment Involved: [Duty + Interest + Penalty]
5.	<u>Full Payment—Consequences</u> _ SCN shall not be served upon the assessee. <i>[Question of Criminal proceeding doesn't arise at all –as there was simply non-payment of duty and not evasion of duty]</i>	<u>Full Payment—Consequences</u> SCN already served --- Demand Order shall not be passed. <i>[However, Criminal Proceedings can still be conducted against the assessee]</i>
6.	<u>Part Payment—Consequences</u> _ SCN can be served in respect of balance payment and in pursuance of such SCN, Demand Order can be issued. Payment Involved: [Duty + Interest + Penalty]	<u>Part Payment—Consequences</u> SCN already served --- For balance amount SCN already issued will remain valid and Demand Order can be passed in pursuance of such SCN. Payment Involved: [Duty + Interest + Penalty]