* Assessment and Audit *

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* Assessment means determination of tax liability, and includes self-assessment, reassessment, provisional assessment, summary assessment and best judgement assessment.

* Sec. 59 :- Self-assessment :- Every person registered under the Act shall himself assess the tax payable by him for a tax period and after such assessment, he shall file the return required u/s 39.

* Sec. 66 :- Special Audit :-

If at any stage of scrutiny, inquiry, investigation or any other proceedings before him, any officer not below the rank of Asst. Commissioner, having regard to nature and complexity of the case and in the interest of revenue, is of the opinion that -

value has not been correctly declared	or	the credit availed is not within the normal limits

He may with the prior approval of Commissioner, issue a direction that to the registered person to get his BOA examined and audited by a chartered Accountant or a cost Accountant as may be nominated by the Commissioner and specified in the direction.

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The provision of special audit shall take effect even if the accounts of the regd. person have been audited under any other provisions of the GST Act or any other law for the time being in force

* The CA or cost Accountant to submit report → within 90 days to the Asst. Commissioner [Extension of another max. 90 days allowed by Asst. commissioner]

* The regd. person shall be given an ROOBH in respect of any material gathered on the basis of special audit to be used in any proceedings against him.

* On conclusion of special audit, the regd. person shall be informed of the findings of special Audit

* Where the special audit results in detection of tax not paid or short paid or erroneously refunded, or ITC wrongly availed or utilised, the process of demand and recovery will be initiated against such person u/s 73 or 74.

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Section 65:- Audit by tax authorities

The commissioner or any other officer authorised by him, by way of general or a specific order

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may undertake audit of any registered person at the POB of the regd. person or in their office for a FY or part thereof or multiples thereof.

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Notice of not less than 15 working days to be issued prior to conduct of audit.

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Audit is required to be completed within 3 months from the date of commencement of audit*

[Period extendable for a further period of max. 6 months by the commissioner]

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The PO along with its team to verify the documents on the basis of which BOA are maintained,

- returns and statements furnished
- Correctness of turnover
- Exemptions & deductions claimed
- Rate of tax applied
- ITC availed, utilised
- refund claimed and other relevant records and record his observations in his audit notes.

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The Regd. person to:- - facilitate the verification of accounts / records, - To provide such infoⁿ as may be required by authorities & to render assistance for timely completion of audit.

The proper officer may inform the regd. person, the discrepancies noticed, if any and the said person may file his reply and the PO shall finalize the findings of the audit after due consideration of the replies furnished.

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On conclusion, the PO shall within 30 days inform the registered person whose records are audited, about the findings, his rights and obligations and the reasons for such findings.

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where the audit results in detection of tax not paid or short paid or erroneously refunded, or ITC wrongly availed or utilised, the PO may initiate action u/s 73 or 74.

*. Commencement of Audit: means the later of the following:-

- the date on which the records/ accounts called for by the authorities are made available; or

- the actual date institution of audit at the POB of taxpayer.

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* Section - 64: Summary Assessment in certain Special cases.

Purpose: To protect the interest of revenue.

Previous permission of Additional Commissioner / Joint Commissioner required.

when the proper officer

- has evidence that a taxable person has incurred a liability to pay tax under the Act,

&

- the proper officer has sufficient grounds to believe that delay in passing an Assessment order may adversely affect the interest of revenue

The Summary Assessment order & Summary thereof shall be uploaded electronically.

Assessment order may be withdrawn by Add. C / JC

- On application filed by taxable person for withdrawn within 30 days from the date or reciept of order

or

- On his own motion when he finds, such order to be erroneous and may instead follow the procedures laid down u/s 73 or 74.

→ Where the taxable person to whom the liability pertains is not ascertainable and such liability pertains to supply of goods, the person-in-charge of such goods shall be deemed to be the taxable person liable to be assessed and liable to pay tax and any other amount, due under this section.

Sec. 63 : Assessment of Unregistered person.

Where the taxable person

fails to obtain registration even though liable to do so,	or	whose registration has been cancelled u/s 29(2), for any of the following reasons, namely :-
		→ A regd. person has contravened provisions of the Act or rules
		→ A person paying tax under composition levy has not furnished return for 3 consecutive tax period or in other case continuous period of 6 months
		→ Person taking voluntary registration has not commenced business within 6 months
		→ Registration obtained by fraud, wilfull misrepresentation or suppression of facts

but who was liable to pay tax, the PO may proceed to assess the tax liability of such person to the best of his judgement.

→ Before making assessment, the PO shall issue a notice to a taxable person containing the grounds on which the assessment is proposed to be made on best judgement basis and shall also serve a summary thereof in the prescribed form.

→ The taxable person shall be given 15 days time to furnish his reply, if any. Thereafter, an order shall be passed and summary thereof shall be uploaded electronically in the prescribed form.

However, ROOBH shall be given

→ The Assessment order shall be issued by PO within a period of 5 years from the due date of furnishing the annual return for the FY to which non-payment of tax relates.

Sec. 62: Assessment of non-filers of return.
Best Judgement Assessment:

When a registered person fails to furnish return u/s 39, or u/s 45, and

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a notice u/s 46 has been issued by PO to the defaulting taxable person requiring him to furnish the return within a period of 15 days

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taxable person fails to file return within the given time

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The PO may proceed to assess the tax liability of said person to the best of his judgement taking into account all the relevant material available

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The Assessment order shall be issued by PO within a period of 5 years from the date specified u/s 44 for furnishing of the annual return for the FY to which the tax not paid relates.

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When the registered person furnishes a valid return for the default period within 30 days of the service of the assessment order, the said assessment order shall be deemed to have been withdrawn but the liability for payment of interest u/s 50(1) or payment of late fee u/s 47 shall continue

Sec. 61 :- Scrutiny of Returns:

The returns furnished by a regd. person may be selected for scrutiny by the PO to verify its correctness.

When any return furnished by a regd. person is selected for scrutiny, the PO shall scrutinize the same with reference to the information available with him

→ If any discrepancy is found, PO shall issue a notice informing him of such discrepancy and seeking his explanation within 30 days from the date of servicing of the notice or such further period as may be allowed by him. Where possible, PO shall quantify the amount of tax, interest and any other amount payable in relation to such discrepancy.

→ The regd. person to whom notice is issued may

- Accept the discrepancy and pay the tax, int. and any other amount arising from such discrepancy or furnish an explanation for discrepancy to the PO

or

- submit his explanation regarding non-acceptance of discrepancy within a period of 30 days or such further period as may be permitted to him.

→ When the explanation furnished by the regd. person

- found to be acceptable, the PO shall inform him accordingly and no further action shall be taken in this regard.

or

- In case of no satisfactory explanation is furnished or when the regd. person fails to pay take the corrective measure, the PO may take recourse to any of the following measures:-
  - Proceed to conduct audit u/s 65
  - Direct to conduct special audit u/s 66
  - Undertake procedures of inspection, search, seizure u/s 67
  - Initiate proceeding for determination of tax u/s 73 or 74.

Sec. 60: Provisional Assessment:

Where the taxable person is unable to determine

Value of goods or services or both to be supplied by him	or	The tax rate applicable to the goods or services to be supplied by him.

He may furnish an application in prescribed form stating therein reasons for payment of tax on provisional basis along with the documents in support of his request, electronically, either directly or indirectly through a facilitation centre.

- The PO may on receipt of the application, issue a notice in prescribed form requiring the regd. person to furnish additional infn or documents in support of his request and the applicant shall file a reply to the notice, and may appear in person before the said officer if he so desires.

- The PO shall issue an order, allowing the payment of tax on a provisional basis including:-

the value or the rate or both on the basis of which the assessment is to be allowed on provisional basis	and	the amount for which the bond is to be executed and security to be furnished not exceeding 25% of the amount covered under the bond

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→ Finalization of provisional assessment:

The final assessment order has to be passed by the PO within 6 months from the date of communication of the order of provisional assessment.

However, on sufficient cause being shown and for reason to be recorded in writing, the above period of 6 months may be extended

by JC / Additional commissioner for a further period not exceeding 6 months	and	by the commissioner for such further period as may be deem fit but not exceeding 4 years.

PO shall issue a notice, calling for such infⁿ and records as may be required and shall issue a final asmt. order specifying the amount payable or the amount refundable if any.

→ Where the tax liability as per the final assessment order is higher than the provisional assessment ⇒ Interest shall be payable @ specified u/s 50(1) from the date the tax was due to be paid originally till the date of actual payment

→ If final tax liability is less than in provisional assessment :- Interest @ specified in sec. 56 from the date immediately after the expiry of 60 days from the date of reciept of application in accordance with sec. 54(4) till the date of refund of such tax.

→ Release of Security:

The applicant may file an application for release of security furnished after the issue of final assessment order.

The PO shall release the security after ensuring that applicant has paid the amount specified in final assessment order and issue an order within a period of 7 working days from the date of receipt of application.