

Chapter XII

Assessment

FAQ's

Provisional Assessment (Section 60)

Q1. How is the assessment made if the taxable person is not able to determine the value of goods and/or services or determine the rate of tax?

Ans. Where the taxable person is unable to determine the value of goods or services or both or determine the rate of tax applicable thereto, he may request the proper officer in writing giving reasons for payment of tax on a provisional basis and the proper officer shall pass an order, within a period not later than ninety days from the date of receipt of such request, allowing payment of tax on provisional basis at such rate or on such value as may be specified by him. [(Section 60(1))]

Q2. Whether Self-Assessment and provisional assessment are mutually exclusive?

Ans. Yes, if the taxable person opts for self-assessment, he cannot opt for provisional assessment for the same period for same supply. However, he can opt for provisional assessment if he is unable to determine taxable value / tax liability/ (rate of tax) for any subsequent periods.

Q3. What conditions needs to be satisfied by a taxable person for assessment of taxes on provisional basis?

Ans. The proper officer may allow for payment of tax on provisional basis subject to execution of bond in prescribed form along with surety / security as the proper officer may deem fit binding the taxable person for differential tax, if any. [Section 60 (2)]

Q4. What is the time limit for passing final assessment order in case of provisional assessment?

Ans. Section 60(3) of the CGST Act 2017 provides that the proper officer shall, within a period of six months from the date of communication of the provisional assessment order under sub-section (1), pass the final assessment order after taking into account such information as may be required for finalizing the assessment. However, the time limit of six months can be further extended on sufficient cause being shown and for reasons to be recorded in writing in the following manner:

- (a) by the Joint / Additional Commissioner for a further period of six months;
- (b) by the Commissioner for such further period not exceeding four years.

Q5. What are the consequences on conclusion of provisional assessment by way of passing final assessment order in so far as short / excess remittance of tax is concerned?

Ans. The consequences on concluding the provisional assessment by way of passing final assessment order would be as follows:

- (a) Additional tax liability: In case of short remittance of taxes in terms of final assessment order, the additional tax liability, if any should be remitted along with interest at the rate prescribed under Section 50(1) for delay in remittance of taxes viz., from the first day after the due date of remittance of taxes as prescribed under Section 39(7) till the date of actual payment [Section 60 (4)];
- (b) Excess remittance of tax on provisional basis: In case of excess remittance of taxes in terms of final assessment order, the registered person is entitled to refund of such excess remittance in the manner as provided in Section 54(8) along with interest as provided under Section 56. [Section 60(5)]

Q6. Is there any form prescribed for furnishing application for provisional assessment?

Ans. Every registered person requesting for payment of tax on a provisional basis in accordance with the provisions of Section 60(1) shall furnish an application along with the documents in support of his request, in **FORM GST ASMT-01** (in terms of Rule 98(1) of Chapter XI- Assessment And Audit of the CGST Rules).

Q7. Can proper officer require the registered person to furnish additional documents before issuing order for provisional assessment?

Ans. On receipt of the application, the proper officer may issue a notice in **FORM GST ASMT-02** requiring the registered person to furnish additional information or documents in support of his request and the applicant shall file a reply to the notice in **FORM GST ASMT-03**, and may appear in person before the said officer if he so desires. (Sub-rule 2 of Rule 98 of CGST Rules)

Q8. What will be the amount of bond and security to be furnished for provisional assessment?

Ans. The proper officer shall issue an order in **FORM GST ASMT-04**, in terms of sub-rule (3) of Rule 98 of CGST Rules, allowing the payment of tax on a provisional basis indicating the following:

- (a) the value or the rate or both on the basis of which the assessment is to be allowed on a provisional basis
- (b) the amount for which the bond is to be executed
- (c) security to be furnished not exceeding 25% of the amount covered under the bond.

Explanation to sub-rule (4) of Rule 98 of the CGST Rules, term “**amount**” shall include the amount of IGST, CGST, SGST, UTGST and cess payable in respect of the transaction.

Q9. Is there any form prescribed for execution of the bond?

Ans. The registered person shall execute a bond in accordance with the provisions of Section 60(2) in **FORM GST ASMT-05** along with a security in the form of a bank guarantee for an amount as determined by the proper officer in his order. (Sub-rule 4 of Rule 98 of the CGST Rules)

Q10. Whether bond executed under SGST or IGST Act, deemed to be issued under this Act?

Ans. Yes. As per *proviso to* sub-rule (4) of Rule 98 of the CGST Rules, a bond furnished to the proper officer under the SGST Act and IGST Act shall be deemed to be a bond furnished under the provisions of the Act and the rules made thereunder.

Q11. What will be the procedure of finalization of assessment made on provisional basis?

Ans. The proper officer shall issue a notice in **FORM GST ASMT-06**, calling for information and records required for finalization of assessment under Section 60(3) and shall issue a final assessment order, specifying the amount payable by the registered person or the amount refundable, if any, in **FORM GST ASMT-07**. (Sub-rule 5 of Rule 98 of CGST Rules)

Q12. What will be the time limit and procedure for the release of security furnished with bond?

Ans. The applicant may file an application in **FORM GST ASMT-08** for the release of the security furnished after issue of the final assessment order. (Sub-rule 6 of Rule 98 of CGST Rules)

The proper officer shall release the security furnished, after ensuring that the applicant has paid the amount specified in the final assessment order and issue an order in **FORM GST ASMT-09** within a period of 7 working days from the date of the receipt of such application. (Sub-rule 7 of Rule 98 of CGST Rules)

Scrutiny of Returns (Section 61)

Q13. What does scrutiny of returns mean under CGST Act, 2017?

Ans. The CGST Act, 2017 empowers proper officer to 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, if any, in a manner as may be prescribed.

In case of any discrepancies, the proper officer should seek explanation from

registered person. On receipt of satisfactory explanation, the proper officer is not required to take any further action. [Section 61 (1) &(2)]

In the event, after accepting the discrepancies, no satisfactory explanation is furnished within a period of thirty days or such further extended time. If the taxable person fails to take the corrective measures in the return for the month in which discrepancy is accepted, the proper officer may initiate audit under Section 65 or special audit under Section 66 or inspection, search and seizure under Section 67 or proceed to determine the tax and other dues under Section 73 or Section 74.

Q14. Whether any time limit has been specified to issue notice for scrutiny?

Ans. No, the provisions relating to scrutiny assessments do not specify time limit for issuing notice for scrutiny of assessments.

Q15. What action may be taken by the proper officer in case no satisfactory explanation is sought after the discrepancies are brought to the notice of the registered person?

Ans. In case, after accepting the discrepancies, no satisfactory explanation is furnished within 30 days or such further period as may be permitted, proper officer may:

- (a) Initiate Audit of accounts by the tax authorities under Section 65; or
- (b) Initiate special audit under Section 66; or
- (c) Initiate inspection, search and seizure under Section 67; or
- (d) proceed to determine the tax and other dues under Section 73 or Section 74.

Q16. How will a return under scrutiny be processed and what will be the mode of intimation of discrepancies?

Ans. Where any return furnished by a registered person is selected for scrutiny, the proper officer shall scrutinize the same in accordance with the provisions of section 61 with reference to the information available with him, and in case of any discrepancy, he shall issue a notice to the said person in **FORM GST ASMT-10**, informing him of such discrepancy and seeking his explanation and where possible quantifying the amount of tax, interest and any other amount payable in relation to such discrepancy. (Rule 99(1) of the CGST Rules)

Q17. Is there any form and time limit prescribed for furnishing the explanation for discrepancies noticed during scrutiny?

Ans. The registered person shall furnish an explanation for the discrepancy in **FORM GST ASMT-11** to the proper officer within such time, not exceeding thirty days from the date of service of the notice or such further period as may be permitted by the proper officer. (Sub-rule 2 of Rule 99 of CGST Rules)

Where the explanation furnished by the registered person or the information submitted thereby is found to be acceptable, the proper officer shall inform him accordingly in **FORM GST ASMT-12**. (Sub-rule 3 of Rule 99 of CGST Rules)

Assessment of non-filers of returns (Section 62)

Q18. Whether, The CGST Act, 2017 provides for assessment in case of registered taxable person who does not furnish returns under Section 39 and 45?

Ans. In terms of Section 62(1) of the CGST Act, 2017, the proper officer is empowered to assess the tax liability on such registered taxable person to the best of his judgment taking into account all the relevant materials which is available, or which is gathered and issue an assessment order in **FORM GST ASMT-13** 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. (Section 62(1) read with Rule 100 (1) of the CGST Rules)

Q19. Is there any additional opportunity provided for taxable person to submit a return even after passing an assessment order under Sec 62(1)?

Ans. Yes, if the registered person furnishes a valid return within thirty days from the date of service of best judgment assessment order under Section 62 (1), the said assessment order shall be deemed to have been withdrawn. (Sub-section 2)

Q20. Whether the registered person will get immunity from interest & late fee leviable if assessment order passed under Section 60(1) is withdrawn?

Ans. No, registered person will still be liable for interest under section 50(1) and late fee under Section 47 of CGST Act. (Sub-section 2)

Assessment of unregistered persons (Section 63)

Q21. Whether, The CGST Act, 2017 provides for assessment of taxes on the unregistered taxable person who fails to take registration even though liable to do so? What will be the procedure of such assessment?

Ans. If a taxable person fails to obtain registration even though liable to do so or whose registration has been cancelled under section 29(2) but who was liable to pay tax, the proper officer may assess the tax liability to the best of his judgement after providing opportunity of being heard to such person.

The proper officer shall issue a notice to a taxable person in **FORM GST ASMT-14** containing the grounds on which the assessment is proposed to be made on best judgment basis.

The registered person will be allowed a time of fifteen days to furnish his reply.

Q22. What is the Time limit for passing the assessment order on the unregistered person?

Ans. The proper officer, in relation to assessment of taxes on the unregistered taxable person, shall issue the assessment order in **FORM GST ASMT-15** within 5 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.

Summary assessment in certain special cases (Section 64)

Q23. Whether proper officer can proceed suo-moto to assess the tax liability of any person on possession of relevant evidence?

Ans. No, the proper officer has to obtain prior permission of Additional/Joint Commissioner to proceed to assess the tax liability.

Q24. Whether the summary assessment can be initiated based on mere change in opinion of proper officer?

Ans. No, mere change in opinion cannot be treated as evidence for initiation of summary assessment.

Q25. Whether summary assessment can only be initiated on previously filed return (u/s 34 and u/s 40)?

Ans. Summary assessment can be initiated on any taxable person. Submission of return u/s 39 and u/s 45 is not prerequisite.

Q26. Is there any form prescribed for order of summary assessment?

Ans. The order of summary assessment under Section 64(1) shall be issued in **FORM GST ASMT-16**.

Q27. What is the remedy available to the taxable person if the order passed u/s 64 is erroneous?

Ans. On an application made in **FORM GST ASMT-17** within 30 days by taxable person from the date of receipt of order passed summary assessment order the Additional/Joint Commissioner may withdraw such order and follow the procedure laid down in Section 73 or 74 which provides for determination of tax liability on account of tax not paid other than fraud, willful mis-statement etc., or otherwise. (Sub-section 2)

Q28. Whether the Additional / Joint Commissioner can withdraw the summary assessment order only on application by the taxable person?

Ans. The Additional / Joint Commissioner can, on his own motion may withdraw the summary assessment order in the event such order is erroneous and thereafter may follow the procedure laid down in Section 73 or 74 which provides for determination of tax liability on account of tax not paid other than fraud, willful mis-statement etc., or otherwise.

The order of withdrawal or, rejection of the application under Section 64(2) shall be issued in **FORM GST ASMT-18**.

MCQ's

Provisional Assessment (Section 60)

Q1. A taxable person may apply for provisional assessment:

- (a) when the taxable person is not able to determine the value of goods and/or services
- (b) when the taxable person is not able to determine the rate of tax.
- (c) (a) or (b)
- (d) (a) and (b)

Ans. (c) (a) or (b)

Q2. The provisional assessment sought by a taxable person can be used by:

- (a) The taxable person who has sought the provisional assessment.
- (b) The friends and relatives of the taxable person who has sought the provisional assessment.
- (c) The holding/subsidiary company of the taxable person who has sought the provisional assessment.
- (d) None of the above.

Ans. (a) *The taxable person who has sought the provisional assessment*

Q3. The payment of tax on provisional basis may be allowed, if the taxable person:

- (a) executes a bond in such form as may be prescribed in this behalf
- (b) with such surety or security as the proper officer may deem fit, binding the taxable person for differential tax if any.
- (c) (a) or (b)
- (d) (a) & (b)

Ans. (d) (a) & (b)

Q4. What is the time period within which the final assessment order should be passed?

- (a) Six months from the date of the provisional assessment.
- (b) Nine months from the date of the provisional assessment.
- (c) Three months from the date of the provisional assessment.

(d) One months from the date of the provisional assessment.

Ans. (a) *Six months from the date of the provisional assessment*

Q5. If final order is not passed within six months, time period specified in 60(1) may, on sufficient cause being shown and for reasons to be recorded in writing, be extended:

(a) by the Joint/Additional Commissioner for a further period of 6 months and by the Commissioner for such further period not exceeding 4 years.

(b) by the Commissioner for a further period of 6 months.

(c) by the Joint/Additional Commissioner for a further period of 1 year.

(d) by the Joint/Additional Commissioner for a further period of 1 year and by the Commissioner for a further period of 6 months.

Ans. (a) *by the Joint/Additional Commissioner for a further period of 6 months and by the Commissioner for such further period not exceeding 4 years*

Q6. Whether any additional interest/penalty/prosecution will be leviable for non-payment of tax determined under provisional assessment?

(a) Only interest specified under Section 50 will be liable.

(b) Interest u/s 50 + Penalty of ₹ 10,000.

(c) Only Penalty @ 50% of the default amount.

(d) No Penalty, only Prosecution.

Ans. (a) *Only interest specified under Section 50 will be liable*

Q7. What shall be interest payable to the taxable person if he is entitled to a refund consequent to the order for final assessment?

(a) Interest shall be payable only after 6 months after the final Assessment.

(b) Interest shall be payable only after 3 months after the final Assessment.

(c) Interest shall be paid on such refund as provided in Section 56.

(d) No interest shall be payable on the refund.

Ans. (c) *Interest shall be paid on such refund as provided in Section 56*

Q8. What will be the consequences when tax payable under final order passed under sub-section (3) is more than tax paid based on provisional assessment?

(a) Only Differential tax payable has to be paid on determination of final assessment.

(b) Differential tax payable has to be paid on determination of final assessment along with interest specified under Section 50.

- (c) Differential tax payable has to be paid on determination of final assessment along with interest specified under Section 50 and penalty of ₹ 20,000.
- (d) Differential tax payable has to be paid on determination of final assessment along with penalty of ₹ 20,000.

Ans. (b) *Differential tax payable has to be paid on determination of final assessment along with interest specified under Section 50*

Scrutiny of Returns (Section 61)

Q9. Whether all the returns submitted under Section 39 will be scrutinised?

- (a) No, 50% of the returns submitted under Section 39 will be scrutinised.
- (b) Yes, all the returns submitted under Section 39 will be scrutinised.
- (c) No, Returns submitted under Section 39 will be self-assessed and proper officer may select any return for scrutiny under this Section.
- (d) No, 35% of the returns submitted under Section 39 will be scrutinised.

Ans. (c) *No, Returns submitted under Section 39 will be self-assessed and proper officer may select any return for scrutiny under this Section*

Q10. Whether any time limit has been specified to issue notice for scrutiny?

- (a) Six months from the end of the respective financial year.
- (b) No time limit has been prescribed as of now, however same may be prescribed in the rules.
- (c) One Year from the end of the respective financial year.
- (d) 3 Years from the end of the respective financial year.

Ans. (b) *No time limit has been prescribed as of now, however same may be prescribed in the rules*

Note: As per Rule 99 of the CGST Rules, the proper officer shall inform an assessee of any discrepancy and seek his explanation thereto within such time, not exceeding 30 days from the date of service of the notice or such further period as may be permitted by such officer.

Q11. In case no satisfactory explanation is furnished for the discrepancies within a period of thirty days of being informed by the proper officer or such further period as may be permitted proper officer may initiate appropriate action:

- (a) Under Section 65 (Audit)

- (b) Section 66 (Special Audit)
- (c) Section 67, (Inspection, Search Seizure)
- (d) Proceed to determine the tax and other dues under Section 73 or Section 74.
- (e) Any of the above.

Ans. (e) *Any of the above*

Assessment of non-filers of returns (Section 62)

Q12. Is there any time limit specified to furnish the return after serving of assessment order?

- (a) Yes, Return has to be filed by registered person who has failed to submit return under Section 39 or Section 45 within 15 days from service the assessment order.
- (b) Yes, Return has to be filed by registered person who has failed to submit return under Section 39 or Section 45 within 30 days from service the assessment order.
- (c) Yes, Return has to be filed by registered person who has failed to submit return under Section 39 or Section 45 within 45 days from service the assessment order.
- (d) No time limit has been specified.

Ans. (b) *Yes, Return has to be filed by registered person who has failed to submit return under Section 39 or Section 45 within 30 days from service the assessment order*

Q13. What are the consequences, where a registered person fails to furnish the return required under Section 39 or Section 45, even after the service of a notice under Section 46?

- (a) The proper officer may proceed to assess the tax liability of the said person to the best of his judgement.
- (b) issue an assessment order within a period of five years from the date specified under Section 44
- (c) (a) or (b)
- (d) (a) and (b)

Ans. (d) *(a) and (b)*

Q14. What is the time limit for issuing order under section 62?

- (a) 9 months from the end of financial year.
- (b) 3 years for cases covered U/s 73 or 5 years for cases covered under 74

- (c) 5 years for cases covered U/s 73 or 3 years for cases covered under 74
- (d) 5 years from the due date of filing annual return.

Ans. (d) 5 years from the due date of filing annual return

Q15. If the registered person furnishes a valid return withinof the service of the assessment order u/s 62 (1), the said assessment order shall be deemed to have been withdrawn.

- (a) 30 days
- (b) 60 days
- (c) 1 month
- (d) 2 months.

Ans. (a) 30 days

Q16. Whether the registered person will get immunity from interest & late fee leviable if assessment order passed u/s 62(1) is withdrawn?

- (a) Taxable person will get immunity only from late fee u/s 47.
- (b) No, taxable person will still be liable for interest u/s Section 50 and late fee u/s Section 47. Therefore, no immunity has been provided for the same.
- (c) Taxable person will get immunity from late fee u/s 47 as well as interest u/s 50.
- (d) Taxable person will get immunity only from interest u/s 50.

Ans. (b) No, taxable person will still be liable for interest u/s Section 50 and late fee u/s Section 47. Therefore, no immunity has been provided for the same.

Assessment of unregistered persons (Section 63)

Q17. What is the consequence, where a taxable person fails to obtain registration even though liable to do so?

- (a) Proper officer may assess the tax liability to the best of his judgement.
- (b) Issue a show cause notice and pass assessment order after providing opportunity of being heard.
- (c) (a) or (b)
- (d) (a) and (b)

Ans. (d) (a) and (b)

Q18. What are the pre requisites for proper officer to pass assessment order under Section 63?

- (a) Period selected for assessment has to be within 5 years from the end of due date for filing annual return of relevant period.
- (b) Show cause notice has to be issued before passing assessment order.
- (c) Opportunity of being heard has to be given before passing assessment order.
- (d) All of the above.

Ans. (d) *All of the above*

Summary assessment in certain special cases (Section 64)

Q19. Whether proper officer can proceed Suo-moto in assessing the tax liability of a taxable person on possession of relevant evidence?

- (a) No, the proper officer has to obtain prior permission of [Additional/Joint Commissioner] to proceed to assess the tax liability.
- (b) No, the proper officer has to obtain prior permission of Chief Commissioner to proceed to assess the tax liability.
- (c) No, the proper officer has to obtain prior permission of Principle Chief Commissioner to proceed to assess the tax liability.
- (d) Yes, the proper officer can proceed Suo-moto in assessing the tax liability of a taxable person on possession of relevant evidence.

Ans. (a) *No, the proper officer has to obtain prior permission of [Additional/Joint Commissioner] to proceed to assess the tax liability.*

Q20. The order u/s 64 may be withdrawn:

- (a) On an application made by taxable person,
- (b) If the Additional/Joint Commissioner considers that such order is erroneous.
- (c) (a) or (b)
- (d) The order passed u/s 64 cannot be withdrawn.

Ans. (c) *(a) or (b)*