

Chapter XIII

Audit

FAQ's

Audit by Tax Authorities (Section 65)

Q1. What is Audit?

Ans. Audit means examination of records, returns and other documents maintained or furnished by registered person, to verify its correctness and to assess its compliance with the provisions of this Act. Hence audit cannot be conducted in case of unregistered person even if he was required to be registered. [S. 2(13)]

Q2. What is the scope of records, returns and documents to be examined under audit?

Ans. In an audit, the records, returns and documents to be examined shall be those maintained under this Act or Rules made thereunder or any other law for the time being in force. [S.2(13)]

Q3. What is the scope of audit?

Ans. In an audit, examination is done:

(a) to verify the correctness of

1. Turnover declared
2. Taxes paid
3. Refund claimed and
4. Input Tax credit availed

(b) to assess the compliance with the provisions of this Act or rules made thereunder. [S. 2(13)]

Q4. What kind of audits are envisaged under the law?

Ans. Following audits are envisaged under law:

1. Audit by Tax Authorities [S. 65]
2. Special Audit by Chartered Accountant or Cost Accountant nominated by Commissioner [S.66]
3. Audit of Accounts by Chartered Accountant or Cost Accountant where turnover exceeds prescribed limits i.e. 2 crores [S. 35(5), 44(2), Rule 80(3)] (Dealt in separate chapter of this book)

- Q5. Which officer is authorized to undertake the audit of a registered person?
Ans. The Commissioner of CGST/Commissioner of SGST or any officer authorized by him can only undertake audit. [S. 65(1)]
- Q6. How the audit of registered person by officer can be directed?
Ans. Audit of registered person by officer can be directed by
(a) A General Order or
(b) A Specific Order [S. 65(1)]
- Q7. Whether audit by officer can be done for a person other than registered person?
Ans. Audit by officer cannot be ordered for a person who is not registered even if he is required to be registered as per the provisions of the law. [S. 65(1)]
- Q8. What shall be the period and frequency of audit?
Ans. The period of audit shall be a financial year. Although, multiple financial years can also be audited. [R.101(1)].
- Q9. Whether any reason to believe or evidence is required for initiation of audit under Section 65?
Ans. No, Section 65 does not specify any such requirements. Commissioner can initiate audit of any registered person for such period, at such frequency and in such manner as may be prescribed.
- Q10. Where the audit can be conducted?
Ans. Audit may be conducted
1. At the place of business of registered person OR
2. In the office of the Commissioner or person authorized by him [S.65(2)]
- Q11. Whether registered person is required to be informed about conduct of audit?
Ans. The registered person is required to be given notice prior to the conduct of audit. [S. 65(3)]
- Q12. For how much period prior to conduct of audit, the notice is required to be given?
Ans. Not less than 15 working days prior to the conduct of audit. [S. 65(3)]
- Q13. In which form shall notice for audit be given?
Ans. Notice for audit shall be given in Form GST ADT-01 [R. 101(2)]
- Q14. In what time period the audit by officer is required to be concluded?
Ans. Audit by officer should be completed within 3 months from date of commencement of audit. [S. 65(4)]

Q15. Whether time period for completion of audit by officer can be extended?

Ans. Where Commissioner is satisfied that audit in respect of such registered person cannot be completed within 3 months he may for reasons to be recorded in writing extend the period by further period not exceeding 6 months. [Proviso to S. 65(4)]

Q16. What is meant by the date of "commencement of audit" for calculating the time distance of 3/6 months?

Ans. Commencement of Audit shall be later of:

- (a) Date on which records and other documents called for by tax authorities are made available by registered person OR
- (b) Actual Institution of audit at the place of business,

Q17. What are the obligations of the taxable person when he receives the notice of audit?

Ans. During the course of audit the taxable person is required to:

1. Afford necessary facility to verify the Books of Account or other documents as the authorized officer may require. [S.65(5)(i)]
2. Furnish such other information as the authorized officer may require. [S.65(5)(ii)]
3. Render assistance for timely completion of the audit. [S. 65(5)(ii)]

Q18. Whether proper officer can obtain assistance for conduct of audit?

Ans. Proper Officer is authorized to conduct audit with assistance of his team of officials [R.101(3)]

Q19. What process of audit is required to be followed by the officer?

Ans. Following process is to be followed for conduct of audit by officer:

1. Proper Officer shall verify the documents, correctness of turnover, exemptions and deductions claimed, the rate of tax applied, input tax credit availed and utilized and refund claimed. [R.101(3)]
2. Proper Officer shall record the observations in audit notes. [R. 101(3)]
3. Proper Officer may inform discrepancies noticed during audit to registered person [R.101(4)]
4. Registered Person shall reply to discrepancies [R. 101(4)]
5. Proper officer shall finalize findings of audit only after due consideration of reply [R. 101(4)]
6. On the conclusion of audit, Proper Officer shall inform the Registered Person whose records are audited about the:

- findings
- reasons for findings,
- assessee's rights and obligations.

[S. 65(6)]

7. Information of findings, reasons, right and obligations shall be made within 30 days(in FORM GST ADT-02) [S. 65(6)]

Q20. What action will be initiated when the audit conducted u/s 65(1) results in a demand?

Ans. Where the audit u/s 65(1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilized, the proper officer may initiate action under Section 73 or Section 74.

Special Audit (Section 66)

Q21. At what stage the directions of special audit can be given?

Ans. At any stage of scrutiny, inquiry, investigation or any other proceedings, having regard to the nature and complexity of the case and interest of revenue, a direction to Registered Person to get its accounts examined and audited can be given [S.66(1)]

Q22. Who shall direct the special audit to be done?

Ans. Direction has to be given by Proper Officer not below the rank of Assistant Commissioner before whom scrutiny, inquiry, investigation or any other proceeding is pending. [S.66(1)]

Q23. When shall special audit u/s 66 be applicable?

Ans. Direction for special audit is given having regard to nature and complexity of the case and the interest of the revenue. Direction can be given if officer is of the opinion that value has not been correctly declared or the credit availed is not within normal limits [S. 66(1)]

Q24. Whether proper officer can issue directions for special audit without approval?

Ans. Prior approval of Commissioner is required for giving directions for special audit. [S.66(1)]

Q25. What is the mode of communication of direction for special audit?

Ans. Direction for Special audit has to be made in writing to registered person. [S. 66(1)]

Q26. In what form will the direction for Special Audit be communicated?

Ans. Direction for Special Audit shall be communicated in Form ADT-03 [R.102(1)]

Q27. What are the elements of special audit directions?

Ans. Direction to special audit shall involve getting records including books of accounts examined and audited. [S.66(1)]

Q28. Who shall be required to do special audit?

Ans. Special audit has to be done by Chartered Accountant or Cost and Works Accountant nominated by Commissioner

Q29. What are the legal provisions regarding report of special audit?

Ans.

1. Report of Audit to be submitted by nominated CA or CWA duly signed and certified.
2. Report of special audit to be submitted within the stipulated time frame.
3. Report of special audit to be submitted to Assistant Commissioner (i.e. officer who gave directions for special audit).
4. Special Audit report shall mention therein particulars as may be specified. [S.66(2)]

Q30. Whether already audited accounts are also covered by special audit?

Ans. Special Audit may be directed even if accounts of the registered person have been audited under any other provisions of this Act or any other law for the time being in force.[S.66(3)]

Q31. How to use the material gathered during special audit?

Ans. Registered Person shall be given an opportunity of being heard in respect of material gathered on the basis of special audit which is proposed to be used in any proceedings against registered person under this Act or Rules [S.66(4)]

On conclusion of special audit registered person shall be informed about the findings of special audit in ADT-04 [R. 102(2)]

Q32. Who shall determine and pay the expenses of special audit?

Ans. Expenses of examination and audit of records including remuneration of Chartered Accountant or Cost and Works Accountant shall be determined and paid by Commissioner and such determination shall be final.[S.66(5)]

Q33. How to deal with detection of short paid taxes as a result of special audit?

Ans. Where audit results in detection of tax not paid/short paid /erroneous paid or ITC wrongly availed or utilized, Proper Officer may initiate action u/s 73 or 74 [S.66(6)]

Q34. What is the time limit to submit the special audit report?

Ans. The auditor will have to submit the report within 90 days. This period may be extended by the Assistant Commissioner on an application made to him for a period not exceeding 90 days. [S.66(2)]

Q35. Whether the phrase “nature and complexity of the case” is defined in the Act?

Ans. No, Section 66 does not define the phrase “nature and complexity of the case”. However, there is enough jurisprudence under the Income Tax Laws to determine what will constitute complexity of the case.

MCQ's

Audit (Section 65 to 66)

Q1. Who is authorised to undertake the audit of a registered person?

- (a) The Commissioner of CGST/Commissioner of SGST
- (b) Any officer authorised by Commissioner of CGST/Commissioner of SGST by way of a general or a specific order.
- (c) Only (a)
- (d) (a) or (b)

Ans. (d) (a) or (b)

Q2. Whether any reason to believe or evidence is required for initiation of audit u/s 65?

- (a) Reason to believe is a prerequisite for initiation of audit u/s 65.
- (b) Proper evidence is a prerequisite for initiation of audit u/s 65.
- (c) (a) & (b)
- (d) No, Sec 65 does not specify any such requirements.

Ans. (d) *No, Section 65 does not specify any such requirements*

Q3. The tax authorities may conduct audit u/s 65 at:

- (a) the place of business of the registered person
- (b) the place of residence of the registered person.
- (c) the office of the tax authorities.
- (d) (a) or (c)

Ans. (d) (a) or (c)

Q4. Prior to the conduct of audit u/s 65 the registered person shall be informed, by way of a notice, sufficiently in advance:

- (a) not less than fifteen working days

- (b) not less than thirty working days
- (c) not less than ten working days
- (d) No prior intimation required

Ans. (a) *not less than fifteen working days*

Q5. The time limit for completion of the audit u/s 65(1) is:

- (a) six months from the date of commencement of audit
- (b) three months from the date of commencement of audit
- (c) One year from the date of commencement of audit
- (d) None of the above.

Ans. (b) *three months from the date of commencement of audit*

Q6. Where the Commissioner is satisfied that audit u/s 65 in respect of such registered person cannot be completed within three months from the date of commencement of audit the time limit can be extended:

- (a) by a further period not exceeding six months
- (b) by a further period not exceeding three months
- (c) by a further period not exceeding nine months
- (d) no extension of time limit is permissible

Ans. (a) *by a further period not exceeding six months*

Q7. During the course of audit, the authorised officer may require the registered person:

- (a) to afford him the necessary facility to verify the books of account or other documents as he may require
- (b) to furnish such information as he may require and render assistance for timely completion of the audit
- (c) (a) and/or (b)
- (d) Only a)

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

Q8. Special audit u/s 66 can be directed at any stage of scrutiny, enquiry, investigation or any other proceedings having regard to nature and complexity of the case if, any officer not below the rank of Assistant Commissioner:

- (a) is of the opinion that the value has not been correctly declared
- (b) the credit availed is not within the normal limits

(c) assessee does not co-operate

(d) (a) or (b)

Ans. (d) (a) or (b)

Q9. Who can direct the registered person to get its records specially audited u/s 66?

(a) An officer not below the rank of Assistant Commissioner, with the prior approval of the Commissioner

(b) An officer not below the rank of Joint/Additional, with the prior approval of the Chief Commissioner

(c) An officer not below the rank of Chief Commissioner, with the prior approval of the Principle Chief Commissioner

(d) None of the above.

Ans. (a) *An officer not below the rank of Assistant Commissioner, with the prior approval of the Commissioner*

Q10. Who is authorised to conduct the special audit including books of account u/s 66?

(a) Chartered Accountant as may be nominated by the Commissioner.

(b) Cost and Works Accountant as may be nominated by the Commissioner.

(c) (a) or (b)

(d) Any officer as may be nominated by the Additional Director.

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

Q11. The time limit to submit a report of the audit u/s 66 is:

(a) within the period of ninety days without any extension of time

(b) within the period of sixty days without any extension of time

(c) within the period of ninety days. The Assistant Commissioner may, on an application made to him in this behalf or for any material and sufficient reason, extend the said period by another ninety days.

(d) None of the above.

Ans. (c) *within the period of ninety days. The Assistant Commissioner may, on an application made to him in this behalf or for any material and sufficient reason, extend the said period by another ninety days*

Q12. The expenses of audit u/s 66 is determined and paid by:

(a) the Commissioner.

(b) the Deputy/ Assistant Commissioner with prior approval of the Commissioner.

- (c) the registered person.
- (d) Any of the above.

Ans. (a) *the Commissioner*

Q13. Audit can be undertaken in case of :

- (a) Taxable Person
- (b) Unregistered Person
- (c) Registered Person
- (d) All of above

Ans. (c) *Registered Person*

Q14. Special Audit can be directed by a proper officer if he is of the opinion that:

- (a) Value requires verification
- (b) Value has been overstated
- (c) Value has not been correctly stated
- (d) All of above

Ans. (c) *Value has not been correctly state*