



ASSESSMENTS IN GST

CA.VIRAL M KHANDHAR

GST & INDIRECT TAXES COMMITTEE OF ICAI

TOPICS COVERED

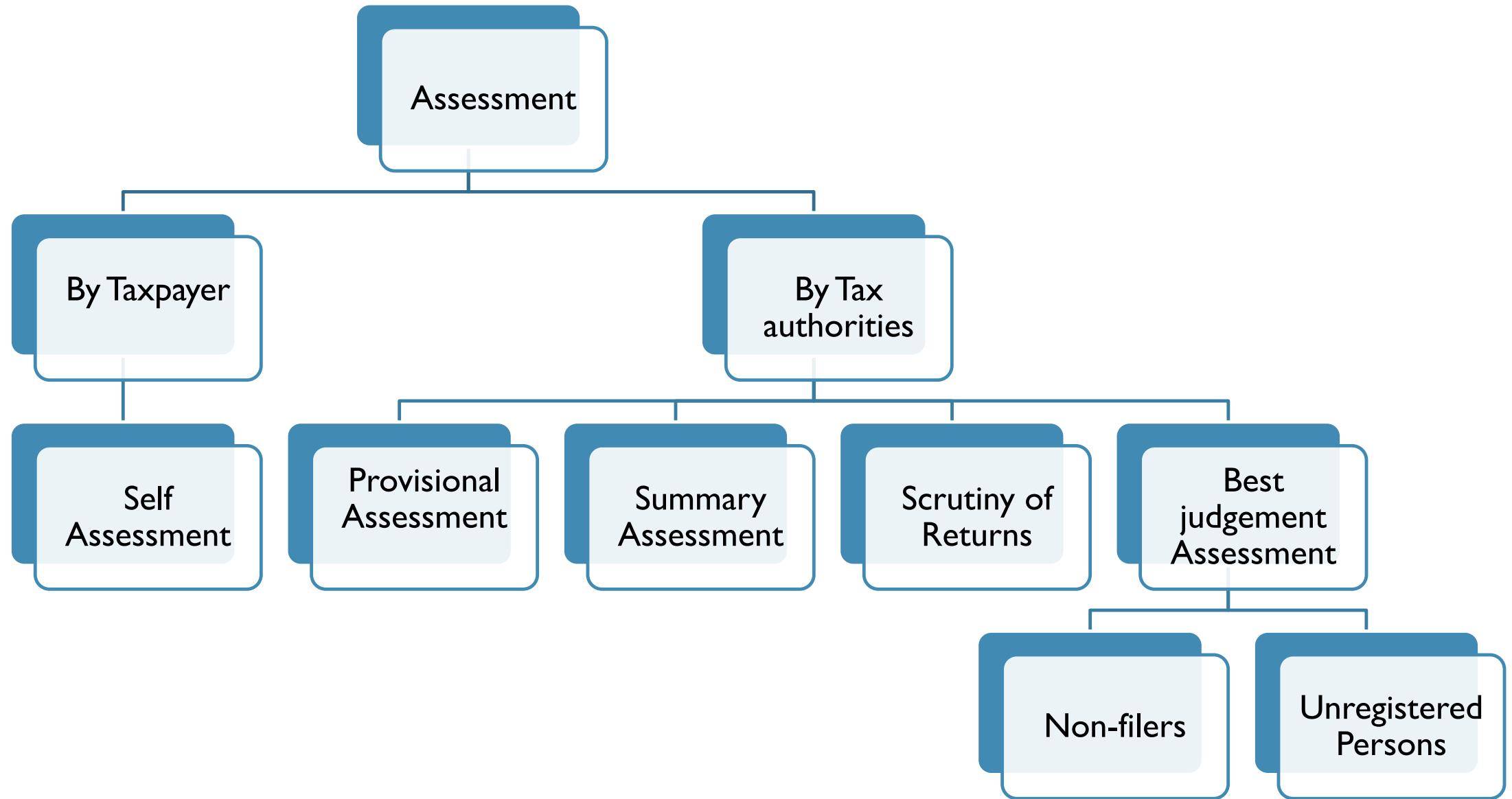
- **CHAPTER XII**
 - Self Assessment – **Section 59**
 - Provisional Assessment – **Section 60**
 - Scrutiny of Returns – **Section 61**
 - Assessment of Non-filer of returns – **Section 62**
 - Assessment of unregistered persons – **Section 63**
 - Summary Assessments in certain special cases – **Section 64**

ASSESSMENT AND ITS TYPES

Section 2(11) of CGST Act, 2017 - “assessment” means determination of tax liability under this Act and includes self-assessment, re-assessment, provisional assessment, summary assessment and best judgment assessment;

Types:

- Self Assessment
- Re-assessment/ Scrutiny assessment
- Provisional Assessment
- Summary Assessment
- Best Judgement Assessment



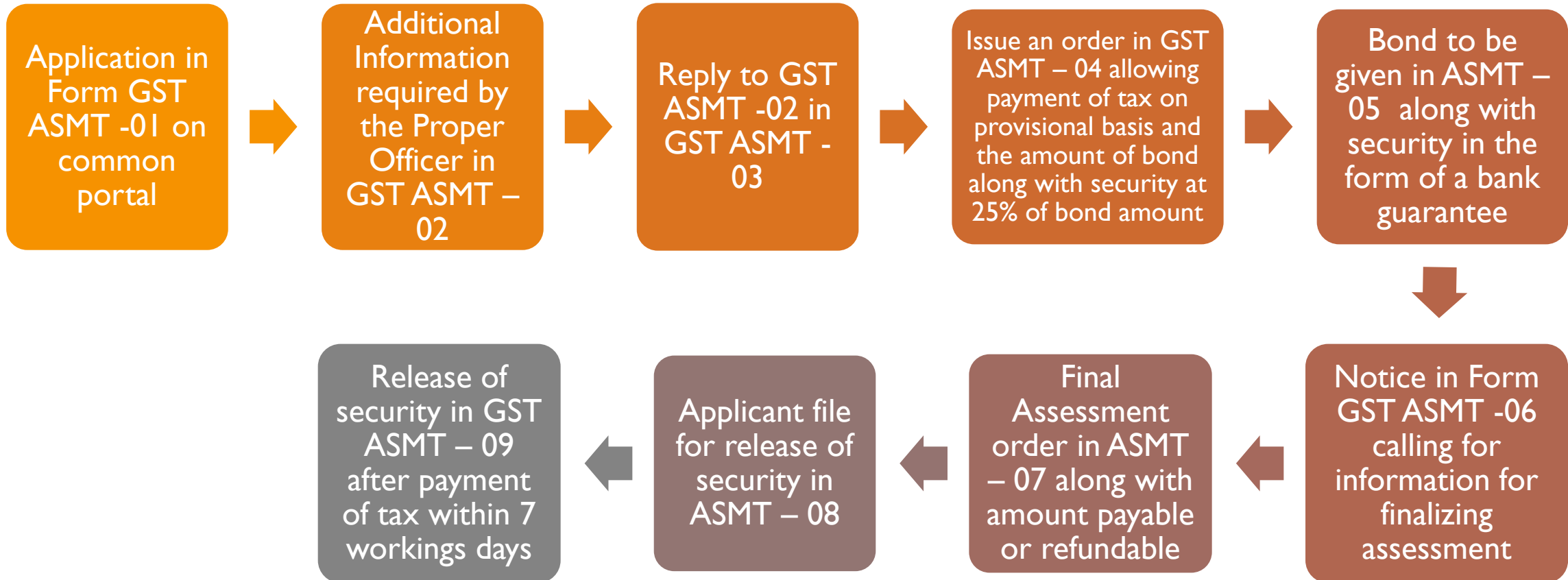
SELF ASSESSMENT – SECTION 59

Every registered person shall self-assess the taxes payable under this Act and furnish a return for each tax period as specified under section 39

- Section 39 - Furnishing of returns. (GSTR-3/3B, GSTR-4, GSTR-5, GSTR-6, GSTR-7)

PROVISIONAL ASSESSMENT – SECTION 60 AND RULE 98

- Where the taxable person is unable to determine
 - The value of goods or services or both
 - The rate at which tax is payable
- Write to the Proper Officer giving reasons for payment of tax on provisional basis
- Proper officer shall pass an order within 90 days allowing payment of tax on provisional basis indicating the value and rate of tax
- The taxable person executes a bond with surety or security to pay the differential between finally assessed tax and provisionally assessed tax.
- Final assessment within 6 months from date of provisional assessment order.
 - Can be extended for a further period of 6 months by JC/AC
 - Can be extended for such further period not exceeding 4 years by Commissioner.
- Tax to be paid along with interest at 18% and refund, if any can also be taken with interest.



Form GST ASMT – 04
[See rule 98(3)]

Reference No.:

Date

To

GSTIN -
Name -
Address -

Application Reference No. (ARN)

Dated

Order of Provisional Assessment

This has reference to your application mentioned above and reply dated-----, furnishing information/documents in support of your request for provisional assessment. Upon examination of your application and the reply, the provisional assessment is allowed as under:

<< text >>

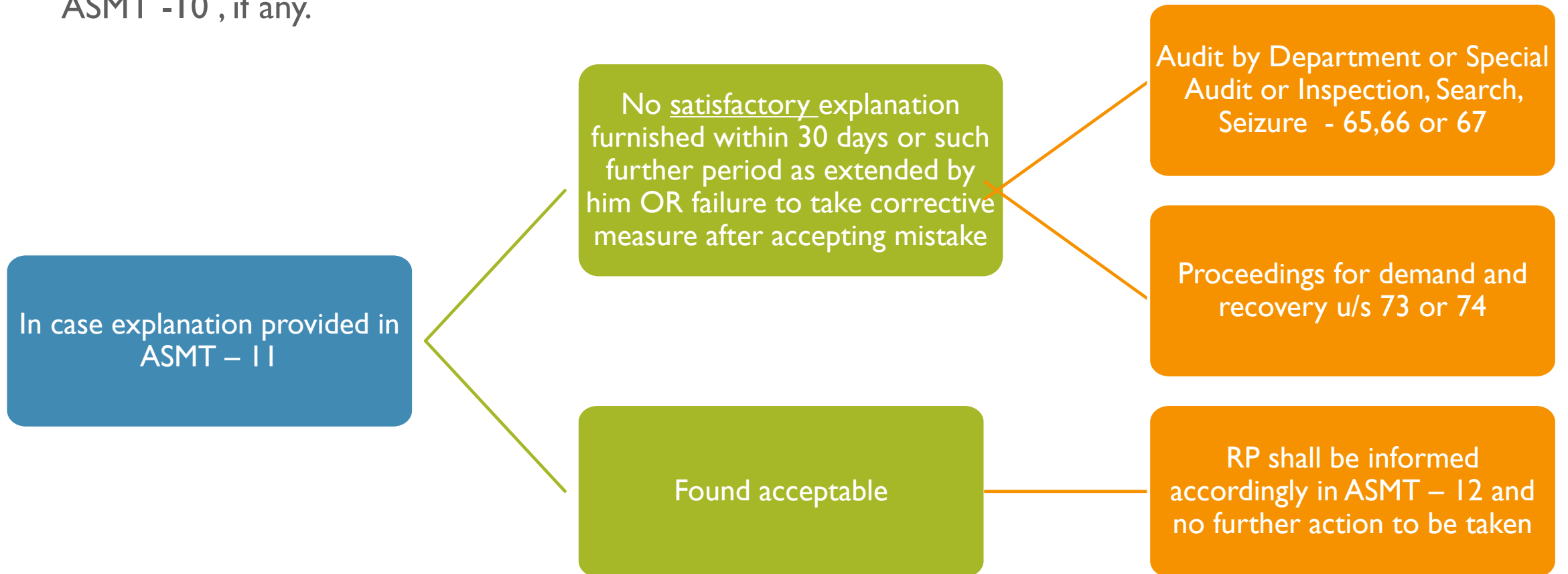
The provisional assessment is allowed subject to furnishing of security amounting to Rs.-----
----- (in words) in the form of ----- (mode) and bond in the prescribed format by ---
----- (date).

Please note that if the bond and security are not furnished within the stipulated date, the provisional assessment order will be treated as null and void as if no such order has been issued.

Signature
Name
Designation

SCRUTINY OF RETURNS – SECTION 61 AND RULE 99

- Proper Officer will 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 in ASMT -10 , if any.



Form GST ASMT - 10
[See rule 99(1)]

Reference No.:

Date:

To _____

GSTIN:

Name :

Address :

Tax period -

F.Y. -

Notice for intimating discrepancies in the return after scrutiny

This is to inform that during scrutiny of the return for the tax period referred to above, the following discrepancies have been noticed:

<< text >>

You are hereby directed to explain the reasons for the aforesaid discrepancies by -----
- (date). If no explanation is received by the aforesaid date, it will be presumed that you have nothing to say in the matter and proceedings in accordance with law may be initiated against you without making any further reference to you in this regard.

Signature
Name
Designation

Form GST ASMT-12

[See rule 99(3)]

Reference No.:

Date:

To

GSTIN
Name
Address

Tax period -
ARN -

F.Y. -
Date -

Order of acceptance of reply against the notice issued under section 61

This has reference to your reply dated ----- in response to the notice issued vide reference no. ----- dated --- . Your reply has been found to be satisfactory and no further action is required to be taken in the matter.

Signature
Name
Designation

ASSESSMENT OF NON-FILERS OF RETURNS – SECTION 62 AND RULE 100

- If a **registered person** fails to furnish any of the returns u/s 39 (GSTR-3/3B) and 45 (GSTR-10) even after serving a notice u/s 46 to file the return within 15 days,
 - Then Proper officer may proceed to assess the tax liability of such person to the best of his judgement taking into account all the relevant material available or gathered and issue assessment order in GST ASMT- 13 along with a summary in DRC-07 within a period of 5 years from the date specified under Section 44 for furnishing of annual return for the FY to which tax not paid relates.
- Where the RP furnishes a valid return within 30 days from receipt of assessment order, the said assessment order shall be deemed to have been withdrawn but the liability to pay interest and late fee shall continue.

Circular No. 129/48/2019 dated 24.12.2019

System generated reminder 3 days before due date

Mail sent to all defaulters immediately after due date

FORM GSTR-3A issued within 5 days of due date

Best Judgement assessment if no return filed within 15 days of GSTR-3A

SOME CASES ON BEST JUDGEMENT ASSESSMENT

- **SRI KUBERA CONSTRUCTIONS PVT. LTD. VERSUS STATE OF KERALA - 2019 (12) TMI 836 - KERALA HIGH COURT** - case that the assessments have been concluded against it without taking note of the returns filed by it, which would have indicated the extent of the turn over that could have been subjected to assessment. Contrary to this, the assessments have been completed by relying on past assessments of the petitioner, thereby resulting in an exaggerated demand against the petitioner. Thus, even if returns filed after the expiry of 30 days, the best judgement order will sustain.
- **MANGOMEADOWS AGRICULTURAL PLEASURE LAND (P) LTD. VERSUS THE STATE TAX OFFICER SGST DEPARTMENT, ETTUMANNOR - 2019 (9) TMI 1246 - KERALA HIGH COURT** - The statutory prescription of 30 days from the date of receipt of the assessment order passed under sub section (1) of Section 62 has to be strictly construed against an assessee and in favour of the revenue, since this is a provision in a taxing statute that enables an assessee to get an order passed against him on best judgment basis set aside. The provision must be interpreted in the same manner as an exemption provision in a taxing statute

ASSESSMENT OF UNREGISTERED PERSONS – SECTION 63 AND RULE 100

- Where
 - A **taxable person fails to obtain registration** even though liable to do so OR
 - Whose registration has been cancelled u/s 29(2) but liable to pay tax
- Opportunity of being heard to be given - The proper officer shall issue a notice in GST ASMT – 14 and summary thereof in DRC-01 and allow 15 days time
- The proper officer may proceed to assess the tax liability to the best of his judgement for the relevant periods and issue an assessment order in GST ASMT – 15 and summary order in DRC-07 within a period of five years from the date specified under Section 44 for furnishing of annual return for the FY to which tax not paid relates

Form GST ASMT - 14
[See rule 100(2)]

Reference No:

Date:

To _____
Name
Address

Tax Period --

F.Y. -----

Show Cause Notice for assessment under section 63

It has come to my notice that you/your company/firm, though liable to be registered under section ----- of the Act, have/has failed to obtain registration and failed to discharge the tax and other liabilities under the said Act as per the details given below:

Brief Facts –
Grounds –
Conclusion -

OR

It has come to my notice that your registration has been cancelled under sub-section (2) of section 29 with effect from ----- and that you are liable to pay tax for the above mentioned period.

Therefore, you are hereby directed to show cause as to why a tax liability along with interest not be created against you for conducting business without registration despite being liable for registration and why penalty should not be imposed for violation of the provisions of the Act or the rules made thereunder.

In this connection, you are directed to appear before the undersigned on ----- (date) at ----- (time)

Signature
Name
Designation

SUMMARY ASSESSMENT – SECTION 64 AND RULE 100

- Pre – requisites –
 - Previous permission of AC/ JC
 - **Evidence** showing tax liability of a person
 - Sufficient grounds to believe that any delay in doing so may adversely affect the interest of revenue
- Issue an assessment order in GST ASMT – 16 and a summary thereof in DRC-07
- Within 30 days of issue of order, the taxable person [GST ASMT -17] or the AC/JC [GST ASMT -18] may make an application for withdrawal of the above order, if such order is erroneous.
- Then follow procedure as per Section 73 or 74

PROPER OFFICER

Section 2(91) - "proper officer" in relation to any function to be performed under this Act, means the Commissioner or the officer of the central tax who is assigned that function by the Commissioner in the Board;

CIRCULAR NO.3/3/2017-GST, DATED 5-7-2017

Designation	Functions
Deputy or Assistant Commissioner of Central Tax	Sub-sections (1), (2) and (3) of Section 60 – Provisional Assessment
Superintendent of Central Tax	Sub-sections (1) and (3) of Section 61 – Scrutiny of Returns Sub-sections (1) of Section 62 – Best Judgment
Deputy or Assistant Commissioner of Central Tax	Section 63 – Assessment of Non-filers of returns Sub-section (1) of Section 64 – Summary Assessment



THANK YOU

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