



# THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

## GST & INDIRECT TAXES COMMITTEE

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GST & Indirect Taxes Committee, ICAI

**Two Days National Conference**  
**Hosted by**  
**The Ernakulam Branch of SIRC of ICAI**

**Topic: Departmental Audit & Special Audit  
Review of Financial Statements**

Date: 26-Jul-2022

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# TOPICS TO BE COVERED

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**AUDIT BY TAX AUTHORITIES**

**SPECIAL AUDIT**

**METHODS & SCOPE OF AUDIT**

**REVIEW OF FINANCIAL STATEMENTS**



# AUDIT BY TAX AUTHORITIES



## S. 2(13)

## DEFINITION OF THE TERM 'AUDIT'

*“Audit means the examination of records, returns and other documents maintained or furnished by the registered person under the GST Acts or the rules made thereunder or under any other law for the time being in force to verify the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and to assess his compliance with the provisions of the GST Acts or the rules made thereunder.”*



**S. 65 read with R. 101**

## **AUDIT BY TAX AUTHORITIES**

- **The Commissioner may undertake audit of registered person. Issue notice for audit (FORM GST ADT-01):**
  - a) **Name and address of the auditee**
  - b) **GSTIN**
  - c) **1 FY, part of FY or more than 1 FY**
  - d) **15 days time prior to conduct of audit**
- **Audit may be conducted at business premises or in revenue office**



# CHAPTER-XIII: AUDIT

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**S. 65 read with R. 101**

**AUDIT BY TAX AUTHORITIES**

## **FORM GST ADT-01**

The order of Commissioner must be **specific to the auditee and the tax period selected for audit**. Any error and deficiency in such orders would **abort any preparatory step** taken by the audit officer and preparation to respond taken by the auditee.



# CHAPTER-XIII: AUDIT

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**S. 65 read with R. 101**

**AUDIT BY TAX AUTHORITIES**

## **Self-assessment**

**S.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.**



# CHAPTER-XIII: AUDIT

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**S. 65 read with R. 101**

**AUDIT BY TAX AUTHORITIES**

## **Burden of proof**

**S.155. Where any person claims that he is **eligible for input tax credit** under this Act, the burden of proving such claim shall lie on such person.**



# CHAPTER-XIII: AUDIT

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**S. 65 read with R. 101**

**AUDIT BY TAX AUTHORITIES**

**Assessment proceedings, etc., not to be invalid on certain grounds**

**S.160.(1) No assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings done, accepted, made, issued, initiated, or purported to have been done, accepted, made, issued, initiated in pursuance of any of the provisions of this Act shall be invalid or deemed to be invalid merely by reason of-**



**S. 65 read with R. 101**

**AUDIT BY TAX AUTHORITIES**

**Assessment proceedings, etc., not to be invalid on certain grounds.**

**S.160. (1) Cond...**

**any mistake, defect or omission therein, if such assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings are in substance and effect in conformity with or according to the intents, purposes and requirements of this Act or any existing law.**



# CHAPTER-XIII: AUDIT

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**S. 65 read with R. 101**

**AUDIT BY TAX AUTHORITIES**

**Assessment proceedings, etc., not to be invalid on certain grounds.**

**S. 160(2)-The service of any notice, order or communication shall not be called in question, if the notice, order or communication, as the case may be, has already been acted upon by the person to whom it is issued or where such service has not been called in question at or in the earlier proceedings commenced, continued or finalized pursuant to such notice, order or communication.**



**S. 65 read with R. 101**

**AUDIT BY TAX AUTHORITIES**

**169. (1) Any decision, order, summons, notice etc. shall be served by any one of the following methods, namely:—**

- (i) By giving it directly to the addressee**
- (ii) By registered post**
- (iii) By e-mail**
- (iv) On the Common Portal**
- (v) Newspaper**
- (vi) Affixation**



## S. 65 read with R. 101

## AUDIT BY TAX AUTHORITIES

- **Inform discrepancies and obtain reply**
- **On conclusion of audit, the PO shall within 30 days inform the registered person about audit findings in FORM GST ADT-02**
- **Audit to be completed within 3 months from date of commencement of audit, extendable by another 6 months**
- **Provisions of S. 73 & S. 74 may be separately initiated**



# CHAPTER-XIII: AUDIT

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**S. 65 read with R. 101**

**AUDIT BY TAX AUTHORITIES**

**Expn. to S. 65(4)-Commencement of audit-**

shall mean **the date on which the records** and other documents, called for by the tax authorities, are made available by the registered person or **the actual institution of audit** at the place of business, **whichever is later.**



**S. 65 read with R. 101**

**AUDIT BY TAX AUTHORITIES**

**Proviso to S. 65(4)-Extn. of time by the Commissioner-**

**Provided that where the Commissioner is satisfied that audit in respect of such registered person cannot be completed within three months, he may, for the reasons to be recorded in writing, extend the period by a further period not exceeding six months.**



**S. 65 read with R. 101**

**AUDIT BY TAX AUTHORITIES**

## **Rule 101(3)-**

- **The PO authorized to conduct audit of the records and the books of accounts of registered person shall,**
- **with the assistance of the team of officers and officials accompanying him,**
- **Verify the documents on the basis of which the books of accounts are maintained and the returns and statements furnished under the provisions of the Act and the rules made thereunder,**



**S. 65 read with R. 101**

**AUDIT BY TAX AUTHORITIES**

## **Rule 101(3)-**

- **the correctness of the turnover, exemptions and deductions claimed, the rate of tax applied in respect of supply of goods or services or both, the ITC availed and utilized, refund claimed, and other relevant issues**
- **and record the observations in his audit notes**



## **S. 66 read with R. 102      SPECIAL AUDIT**

- **If at any stage of *scrutiny, enquiry, investigation or any other proceedings* before him, any officer not below the rank of AC, having regard to *nature & complexity* of case, and interest of revenue, is of the opinion that the value has not been correctly declared or the credit availed is not within the normal limits, with the prior approval of Commissioner, direct the registered person to get his records audited by CA or Cost Accountant**



## **S. 66 read with R. 102 SPECIAL AUDIT**

- **Report to be submitted within 90 days, extendable by another 90 days**
- **Audit expenses, remuneration: Paid by Commissioner**
- **Notice in FORM GST ADT-03 to registered person to get his records audited**
- **On conclusion, registered person shall be informed of the findings in **FORM GST ADT-04 [Copy of audit report?]****
- **PO may initiate action under S. 73 or S. 74.**



# SCOPE OF AUDIT BY PO



## SCOPE OF AUDIT BY PO – CHECKLIST

### SALES

- **Continuous Serial No. of Sales Bill-whether additional bill after filing returns, omissions, cancellation**
- **Rate of Tax**
- **Nature of Tax- CGST & SGST or IGST**
- **HSN Code of products**
- **Break up for registered & unregistered customers**
- **Compliance to rule 46-tax invoice**
- **Any exempt, Nil rated, non GST supply**
- **Sales tallied with books of accounts**



## SCOPE OF AUDIT BY PO - CHECKLIST

### PURCHASES & EXPENSES

- **Correct GSTIN and address on purchase bill**
- **GSTIN of seller**
- **Purchases tallied with books of accounts**
- **Inward supply of exempt, nil rated or non-GST supply**
- **Eligible ITC taken on purchases and expenses**



## SCOPE OF AUDIT BY PO - CHECKLIST

### RCM

- **Compliance with S. 9(3)**
- **Compliance with S. 9(4)-July to 12-Oct-17**
- **Correct rate, HSN**
- **ITC taken in the month of payment**
- **Self invoice [S.31(3)(f)], payment vouchers-procedural lapses**
- **Reimbursements to employees-procured through unregistered dealers**



## SCOPE OF AUDIT BY PO - CHECKLIST

### INPUT TAX CREDIT

- All conditions for taking ITC fulfilled-S. 16(2)
- Reversal of ITC used for exempted or non-business purposes
- ITC on Blocked Credits
- **Reversal of ITC if payment not made within 180 days with interest**
- Credit distributed by ISD or cross charge



## SCOPE OF AUDIT BY PO - CHECKLIST

### PAYMENT OF TAXES

- **Compliance with S. 49(5)/ S. 49A**
- **RCM to paid in cash**
- **Interest on late payments**
- **Late fee, if any**



# STUDY OF VARIOUS RATIOS



## STUDY OF VARIOUS RATIOS

- (i) Net Profit Ratio**
- (ii) Gross Profit Ratio**
- (iii) Debtors/ Turnover Ratio**
- (iv) Creditor/ Turnover Ratio**
- (v) Cash Payment/ Gross Tax Liability Ratio**
- (vi) Non-GST Expenses/ GST Expenses Ratio**
- (vii) Addition to Fixed Assets/ Total Assets Ratio**



# REPORTS TO BE REVIEWED



## REPORTS TO BE REVIEWED

### INTERNAL REPORTS

- (i) GST Migration Impact Study report**
- (ii) Documentation on Product Classification**
- (iii) Document on Event of Supply (Time of Supply and Place of Supply)**
- (iv) Inter Unit Transfer Policy**
- (v) ITC Recognition Policy**
- (vi) Common Credit Apportionment Rules**
- (vii) ISD Credit Transfer Policy**



## REPORTS TO BE REVIEWED

**(viii) GSTR-2A Credit Mismatch Treatment Notes**

**(ix) Software used for books of accounts, GST returns filing**

**(x) Reconciliation Statements**

- **Books v. Returns: 3B, R1, 2A, E-way bills etc.**
- **Consolidation of HO and Branches**
- **All GST returns**
- **Reconciliation of E-Ledgers**



## REPORTS TO BE REVIEWED

### EXTERNAL REPORTS

- (i) Internal Audit Report**
- (ii) Statutory Audit Report**
- (iii) Advance Rulings**
- (iv) GST Audit Report**



## OTHER AUDIT TOOLS

### AUDIT TOOLS

- (i) Review of FS: maintenance of records, stock, f-assets**
- (ii) The IT System Audit and Internal Audit Reports**
- (iii) Internal GST Audit Questionnaire**
- (iv) The use of audit software-risk based audit**
- (v) Gross T/B to check square-up of income & expenses**



# REVIEW OF ACCOUNTS FROM GST PERSPECTIVE



## REVIEW OF ACCOUNTS FROM GST PERSPECTIVE - CHECK POINTS

### – 1. Spike in GTO

### बाप-बेटे पर GST टैक्स चोरी का आरोप, अरेस्ट

■ विस, नई दिल्ली: राजधानी में जीएसटी की चोरी का ऐसा पहला मामला सामने आया है, जिसमें गिरफ्तारी की गई है। टैक्स चोरी के आरोप में शाहदरा के कारोबारी बाप और बेटे को अरेस्ट किया गया है। इनका कारोबार कॉपर ट्रेडिंग से संबंधित है। मामला इनपुट क्रेडिट का लाभ फर्जी बिलों के जरिये लेने का है। गिरफ्तारी सेंद्रल जीएसटी ईस्ट कमिश्नर ने की है। कुल टैक्स चोरी 28 करोड़ रुपये की बताई गई है, जो और बढ़ने की आशंका है। गौरतलब है कि जुलाई 2017 में जीएसटी के लागू होने के बाद दिल्ली में जीएसटी चोरी के मामले में यह पहली गिरफ्तारी हुई है।

#### क्या है मामला

दरअसल शाहदरा के कारोबारी ने इनपुट क्रेडिट लेने के लिए फर्जी कंपनियों के जरिये फर्जी बिल बनवाया। फिर उन बिलों के जरिये इनपुट क्रेडिट लेने के लिए अप्लाई भी कर दिया। इस दौरान माल की कोई आवाजाही नहीं हुई, बल्कि कागजों में ही सब कुछ दिखाया गया। इन बिलों को देखकर जीएसटी कमिशन को संदेह हुआ और बिल में दिये गये पते के आधार पर कई जगह पर सर्च

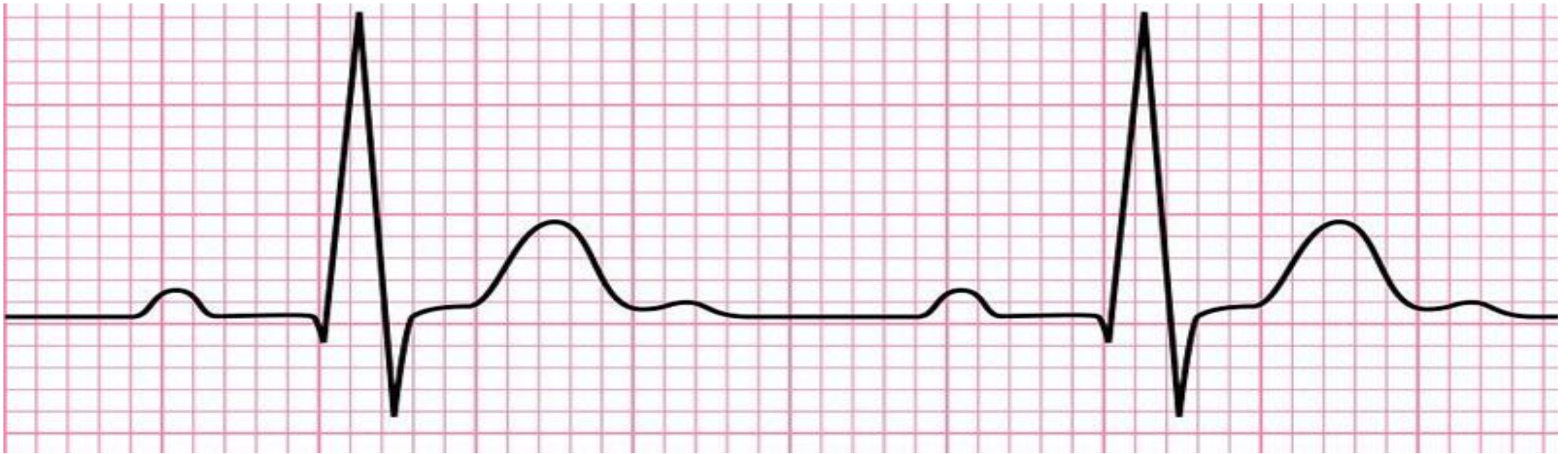
आपरेशन किया गया। जब बिल फर्जी पाया गया तो फिर कारोबारी और उसके बेटे को गिरफ्तार किया गया। यह गिरफ्तारी सीजीएसटी एक्ट के सेक्शन 69 (1) के तहत की गई। इस एक्ट में यह कहा गया है कि अगर कोई माल की सप्लाई किए बिना बिल देता है या इनपुट क्रेडिट का दावा करता है तो उसके खिलाफ कार्रवाई की जा सकती है। अगर टैक्स चोरी की राशि 5 करोड़ रुपये ज्यादा है तो गिरफ्तारी गैर-जमानती होगी।





## REVIEW OF ACCOUNTS FROM GST PERSPECTIVE - CHECK POINTS

### – 2. Erratic data behaviour





## REVIEW OF ACCOUNTS FROM GST PERSPECTIVE - CHECK POINTS

- **3. Replicate P&L A/c except Sch-III items in GSTR-3B**
  - **Monthly comparison to check data behaviour**
  - **Comparison with FORM GSTR-9 (Annual Return)**





## REVIEW OF ACCOUNTS FROM GST PERSPECTIVE - CHECK POINTS

### – 4. Cash v. ITC utilization ratio

- Check quarterly basis
- Comparative review-
  - ✓ Intra-company
  - ✓ Industry ratio





## REVIEW OF ACCOUNTS FROM GST PERSPECTIVE - CHECK POINTS

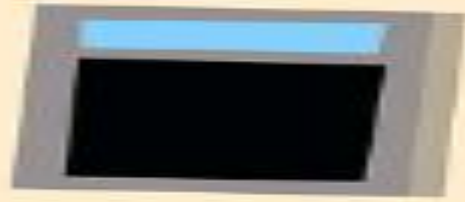
### – 5. Pricing/ valuation policies

- **Ex: In food processing industry, a manufacturing unit is supplying food to its sales outlet @ 18%. Outlet's outward supply is taxable @ 5% without ITC. In this case, valuation policies to be checked wisely. [R.30]**





**REVIEW**



**FINANCIAL  
STATEMENTS**



**NOTES TO ACCOUNTS**

# **REVIEW OF AUDITED FINANCIAL STATEMENTS**



## REVIEW OF FINANCIAL STATEMENTS

### Topics

- **Books of Accounts**
- **Financial Statements**
- **Director's Report**
- **Auditor's Report**
- **CARO**





## REVIEW OF FINANCIAL STATEMENTS

### Topics

- **Notes to Accounts**
- **Internal Audit Report**
- **Tax Audit Report**
- **Year End Adjustments**





## REVIEW OF FINANCIAL STATEMENTS

### Books of Accounts

- **Revenue Recognition v. GST Turnover:** As per AS revenue is recognised after passing of risk & reward. In GST turnover is recognised in terms of S. 12 & 13.

**Ex. Construction Contracts**

- **Variance due to Exchange rate fluctuations**

**Ex. In GST: Date of transaction**





## REVIEW OF FINANCIAL STATEMENTS

### Books of Accounts

- **Year end discounts: S. 15(3) conditions**
- **HSN and Rates verifications**
- **Taxability of other incomes**
- **Scrap sales**
- **Sale of fixed: Depreciation charge**





## REVIEW OF FINANCIAL STATEMENTS

### Books of Accounts

#### Ex. Profit or loss on sale of fixed assets

Cost of capital asset Rs. 10,00,000/-

ITC claimed Rs. 1,80,000/-

Max life of asset as per GST rules: 5 years

Asset sold after 3 years of use for: Rs. 3,25,000/-

(A) ITC to be reversed =  $1,80,000 \times \frac{24}{60} = 72,000/-$

(B) GST payable on sale value =  $3,25,000/- \times 18\% = 58,500/-$

**Higher of (A) & (B) will be the GST liability**





## REVIEW OF FINANCIAL STATEMENTS

### Books of Accounts

- **Compliance of TDS/TCS provisions**
- **To verify the claims of refunds**
- **180 days condition for claim of ITC**
- **Export of services: Payment within 1 year, else  
GST is payable with interest**





## REVIEW OF FINANCIAL STATEMENTS

### Books of Accounts: Reconciliations

- **Reco: GTO: GSTR-3B v. GSTR-1**
- **Reco: ITC: GSTR-3B v. GSTR-2A/2B**
- **Liability of interest: S. 50**
- **Verification of POS**
- **Claim of ITC before Sep next**





## REVIEW OF FINANCIAL STATEMENTS

### Director's Report

- **Expenditure in Foreign currency: RCM Liability to be verified**
- **Earning in Foreign currency: Whether shown as exports**
- **Remuneration to Directors: To check RCM liability-sitting fee**
- **CSR expenditure: Whether ITC claimed**
- **Response to Internal Auditors comments**





## REVIEW OF FINANCIAL STATEMENTS

### CARO

- **Stock auditors and Cost auditors comments** (*Clause 3(ii)*)
- **Comments on statutory dues** (*Clause 3(vii)(a&b)*)
- **Notes to Accounts**
- **Related party transactions: valuation issues**
- **Distinct party transactions: POS issues**





## REVIEW OF DISCLOSURES IN **CARO**

### Statutory Dues [Clause 3(vii)]

- **Regularity in depositing undisputed statutory dues**
- **If irregular-extent of arrears of outstanding statutory dues**
- **Not deposited on account of dispute-amount involved and forum where dispute is pending**





## REVIEW OF DISCLOSURES IN **CARO**

### Related Party Transactions [Clause 3(xiii)]

- **R.28 of CGST Rules, 2017** complied with

**RELATED PARTY  
AND THEIR  
DISCLOSURE**





## REVIEW OF FINANCIAL STATEMENTS

### Internal Auditor's Report

- **Claim of ineligible ITC**
- **ITC mismatch with 2A**
- **ITC claim without receipt of goods**
- **Inadequate internal control**





## REVIEW OF FINANCIAL STATEMENTS

### Form 3CD: Auditor's Report

- **GSTIN wise liability to pay GST**
- **Clause 21(a): Expenditure of personal nature- no claim of ITC**
- **Clause 44: Details of total expenditure from RD&URD**

**RD-Exempted supplies, from S. 10 and from others.**





## REVIEW OF FINANCIAL STATEMENTS

### Year End Adjustments

- **Provisions made for services availed: ITC can not be claimed in the absence of Invoice**
- **Provisions for Import of services to be made: RCM payable**
- **Provisions for GST/ Interest payable**
- **Provision for reversal of ITC with interest**





**S.65-66**

**CONCLUSIONS**

**Issue-1: Audit by the Department-returns, published financials or entire books of accounts;**

**Ans-1: Entire books of accounts**

**Issue-2: Authorization to audit-open for inspection or fait accompli.**

**Ans-2: Fait-accomplis**



**S.65-66**

**CONCLUSIONS**

**Issue-3: Audit procedure-permit to call for new reports to be generated and submitted;**

**Ans-3: Yes**

**Issue-4: Duration of audit;**

**Ans-4: Discussed above**



**S.65-66**

**CONCLUSIONS**

**Issue-5: Off-site or on-site;**

**Ans-5: Both**

**Issue-6: Audit findings confidential or not;**

**Ans-6: Confidential; unless disclosure is in public interest**



**S.65-66**

**CONCLUSIONS**

**Issue-7: Opportunity to respond to audit findings;**

**Ans-7: Yes; required.**

**Issue-8: Reply to audit findings;**

**Ans-8: Detailed replies would be recommended**

**Issue-9: SCN Limitation: 3/ 5 years.**



## ERSTWHILE LAWS & JUDICIAL AUTHORITIES

### I. Under the Service Tax Law

#### (i) Delhi High Court (2015)

**Audit provisions were held ultra-vires: Delhi High Court: *Mega Cabs (P) Ltd. v. Union of India & Others [2015] 53 DSTC 147 (Delhi),***



## ERSTWHILE LAWS & JUDICIAL AUTHORITIES

### I. Under the Service Tax Law

#### (ii) Delhi High Court (2014)

**Special Audit cannot be conducted unless under Service Tax Law conditions outlined under section 72A are fulfilled: Delhi High Court: *Travelite (India) v. Union of India [2014] 48 taxmann.com 227 (Delhi),***



## ERSTWHILE LAWS & JUDICIAL AUTHORITIES

### II. Under the Delhi VAT Law

#### (i) Delhi High Court (2014)

**Show cause notice necessary before orders for Special Audit: Delhi High Court: *Larsen & Toubro Ltd. v. Commissioner of Value Added Tax & Anr.* [2014] 73 VST 190 (Delhi).**



## ERSTWHILE LAWS & JUDICIAL AUTHORITIES

### II. Under the Delhi VAT Law

#### (ii) Delhi High Court (2014)

**Show Cause notice under section 58A issued by VATO-Held invalid: Delhi VAT Tribunal: *Gunjan International v. Commissioner of Trade & Taxes, Delhi, [2014] 52 DSTC J-326 (Delhi VAT Tribunal).***



## ERSTWHILE LAWS & JUDICIAL AUTHORITIES

### III. Under the Income Tax Law

(i) **Section 142(2A) does not enable AO to delegate his functions to the Special Auditor: Delhi High Court: *Delhi Development Authority and Another v. UOI* [2013] 350 ITR 432 (Delhi).**

(ii) **Supreme Court (2008): Honest attempt to understand the accounts must be first made: Supreme Court: *Sahara India (Firm) v. CIT* [2008] 300 ITR 403 (SC).**



## ERSTWHILE LAWS & JUDICIAL AUTHORITIES

### III. Under the Income Tax Law

(iii) Supreme Court (2006): Special audit should not be ordered for an underline purpose which was not *bonafide*: Supreme Court: *Rajesh Kumar and Ors. v. Deputy CIT and Ors. [2006] 287 ITR 91 (SC)*.



## ERSTWHILE LAWS & JUDICIAL AUTHORITIES

### III. Under the Income Tax Law

(iv) **Kerala High Court (2001): AO must scrutinize accounts and be satisfied about their complexity: Kerala High Court: *Muthoottu Mini Kuries v. Deputy Commissioner of Income Tax [2001] 250 ITR 455 (Ker.)*.**



## ERSTWHILE LAWS & JUDICIAL AUTHORITIES

### III. Under the Income Tax Law

(v) **Calcutta High Court (2002): Order liable to be quashed where AO does not apply mind: Calcutta High Court: *Bata India Ltd. and Another v. CIT and Ors [2002] 257 ITR 622.***



## ERSTWHILE LAWS & JUDICIAL AUTHORITIES

### IV. Under the GST Law

**No Judicial Authority**



# Thank You

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