



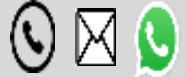
# Lawgics

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## Section 63 of CGST Act, 2017



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### 63. Assessment of unregistered persons

Notwithstanding anything to the contrary contained in section 73 or section 74, where a taxable person fails to obtain registration even though liable to do so or whose registration has been cancelled under sub-section (2) of section 29 but who was liable to pay tax, the proper officer may proceed to assess the tax liability of such taxable person to the best of his judgment for the relevant tax periods and issue an assessment order 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:

Provided that no such assessment order shall be passed without giving the person an opportunity of being heard.

### Rule 100: Assessment in certain cases

Rule 100(2)	The proper officer shall issue a notice to a taxable person in accordance with the provisions of section 63 in FORM GST ASMT-14 containing the grounds on which the assessment is proposed to be made on best judgment basis and shall also serve a summary thereof electronically in FORM GST DRC-01, and after allowing a time of fifteen days to such person to furnish his reply, if any, pass an order in FORM GST ASMT-15 and summary thereof shall be uploaded electronically in FORM GST DRC-07.
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### Our Interpretation

Section 63 read with Rule 100(2)	<p><b><u>Assessment of unregistered person</u></b></p> <p>This section begins with the phrase 'Notwithstanding anything to the contrary contained in section 73 or 74' and it therefore, appears that the assessment u/s 63 can be completed independent of section 73 or 74. This section supersedes Sections 73 and 74 of CGST Act, 2017. Thus, Best Judgement Assessment cannot be arbitrary or based on whims and fancies of the concerned officer.</p> <p>Where a person-</p> <ul style="list-style-type: none"><li>➤ Liable to obtain registration fails to get registration, or</li><li>➤ Whose registration has been cancelled though he was liable to pay tax</li></ul> <p>Such a person is termed as "Unregistered Person" and assessment of such person shall be done by proper officer to the best of his judgement for the relevant tax period or periods. The proper officer shall issue a notice in ASMT-14 containing grounds on which he proposes the assessment to be made on the basis of his best judgement and shall also serve a summary of demand in DRC-01</p> <p>A period of 15 days will be provided to the <b>unregistered person</b> for furnishing his reply in respect of such assessment. The proper officer shall consider the reply, if any received, and then frame an order in ASMT-15 and summary demand in DRC-07 but an opportunity of being heard must be given before passing an order in ASMT-15 and summary of demand in DRC-07.</p> <p>The assessment of unregistered person u/s 63 cannot be made after the expiry of 5 years from the last due date of furnishing annual return for such financial year to which tax not paid relates. Accordingly, the proper officer can issue assessment order within 5 years from the due date of the annual return for the year when the tax was not paid by the unregistered person against whom action is taken u/63 of CGST Act, 2017.</p>
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