

GST Notice – Why Notices and How to Handle it

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Law



Law is Merciless

Calcutta High Court in **DYM auto World Vs AC of CGST**



Can You Afford to
Not Reply to a Notice ?

● **What are the Options?**

- Rectification under section 161
- Appeal under section 107
- Writ Article 226 of the Indian Constitution





What are the Options?

S.No.	Particulars	Rectification	Appeal	Writ
1.	Time Limit	3 months	3 months	Reasonable
2.	Pre Deposit	Not Applicable	10 % of disputed Tax	Court May decide
3.	Other Points	Officer has time till 6 months	1 month delay can be condoned	For Stay of recovery separate suit to be filed

Stay on Recovery?

Be Very Careful and record the following in all replies

- ⦿ Request for personal Hearing – 75(4)
- ⦿ Objection to section 74 – ins 5/2023
- ⦿ Relied upon documents
- ⦿ Time limit
- ⦿ Contest Irrational Quantification

“



What is Section 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 finalised pursuant to such notice, order or communication.”*



Time limit for passing Orders

Section 73

- ⦿ Within 3 Years from due date of Annual Return
- ⦿ Notice 3 months before due date of Order

Section 74

- ⦿ Within 5 Years from due date of Annual Return
- ⦿ Notice 6 months before due date of Order



The Pay Early Benefit

Particulars	73	74
Before SCN	No Penalty	15% of tax
SCN + 29 Days	No Penalty	25% of tax
Order + 29 days	10% Tax or Rs.10,000 whichever is higher	50% of tax
After 29 days of Order		100% of tax

Along with Interest?

● Common Notices and Solutions

- 2A Vs 3B – Circular 183, 193 and Malik Traders
- 1 Vs 3B – 1.1.2022 – DRC-01B – 88C
- Credit note issued – DRC-01C – 88D
- E way bill not generated
- Freight RCM – Consignment note
- Rule 86B and Rule 21
- Creditor Balance – 43B(h) and 16(2) second proviso

● **Future Notices**

- Rule 42 and Rule 43 reversals
- Electronic credit Reversal and Reclaim Statement



● Mastering **ECRRS**

- 4B(1) – absolute reversals
- 4B(2) – ECRRS
 - Non Payment in 180 days
 - Not received Goods
 - Supplier not filed 3B
- Reclaimed show in 4D(1)
- POS Difference in 4D2

Table 4 – Eligi

Details
1
(A) ITC Available (whether in full or part)
(1) Import of goods
(2) Import of services
(3) Inward supplies liable to reverse charge (other than 1 & 2 above)
(4) Inward supplies from ISD
(5) All other ITC
(B) ITC Reversed
(1) As per rules 38, 42 and 43 of CGST Rules and Section 17(5)
(2) Others
(C) Net ITC Available (A) – (B)
(D) Other Details
1) ITC reclaimed which was reversed under Table 4(B)(2) in earlier tax period
2) Ineligible ITC under section 16(4) and ITC restricted due to PoS provisions

● The Summons

When – Section 70

- Proper officer is given powers to issue summon



What if I Don't Appear for Summon?

- Section 122 – Penalty Rs.50,000
- IPC 172 – absconding – 1 month , Rs.500
- IPC 173 – Prevents – 6 months , Rs.1000
- IPC -174 – Not Obedient –6 months , Rs.1000
- IPC 175 – not produced documents – 1 month – Rs.500
- IPC 177 False information– 6 months and 1000



Thanks!

Any questions ?

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