



AUDITS, ASSESSMENTS, APPEALS & REVISIONS(VAT ACT)

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ADDITIONAL COMMR STATE TAX

OBJECTIVES


- To know the provisions pertaining to audit, assessment, appeal and revision
- Necessity of conducting audit and assessment
- Method of conducting audit and assessment
- Remedies available to the dealer
- Remedies available to the department

OUTLINE

- Audit provisions
- How to do audit and what to look for
- When to do assessment, asst provisions
- Types of assessments
- Arriving at under declaration
- Appeal provisions
- Revision scenarios and procedure
- Questions

AUDIT

- Need of audit
 - to verify the genuineness of declaration
 - to identify mistakes/errors
 - to detect deliberate mistakes/frauds
 - to provide deterrent effect
 - to unearth undeclared revenue
 - to earn more income for government

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- compliance history of the dealer
 - sensitive commodities
 - information from other dealers
 - statutory form usage
 - changes in rates of tax of goods
 - seasonal businesses

AUDIT

- Selection of audits—need for homework
- Parameters for selection
 - reports based on available information
 - intelligence gathering
 - declarations to other departments
 - trends in business
 - major events relating to the trade

AUDIT

- Section 43 gives the power
 - To enter office, godown, place of business
 - To have access to records, books, goods
 - To break open
 - To seize books
 - To seize and confiscate goods
 - To search residence

AUDIT—How to

- Prior intimation to dealer
- Surprise audits in certain cases
- Check list of items to be verified
- Visit to office, godown, factory
- Verification of books, goods etc
- Seize books, goods if necessary
- Duty of the dealer to cooperate

ASSESSMENT

- Various types of assessments
 - unilateral
 - best judgment
 - assessment on scrutiny of records/assessment on audit

ASSESSMENT

- Assessment consequential to audit most important
- Conclusion to audit
- Clearly record the reasons for proposing tax
- Give opportunity to file objections/personal hearing
- Extension of time if necessary

ASSESSMENT

- Examine the objections
- Ask for proof
- Refer to any precedents/case laws
- Arrive at under declaration
- Clear calculations
- Issue reasoned order
- Time limitation for passing the order

ASSESSMENT

- Result of assessment
 - may confirm the turnovers and taxes
 - may result in tax due to the department
 - may result in restriction of input tax credit
 - may result in excess tax to the dealer
 - may result in restriction of refund claimed

ASSESSMENT—FOLLOW UP

- Demand to be paid within 30 days
- Refund claims to be processed
- Excess ITC can be carried forward or claimed as refund
- In cases of under declaration, penalty to be levied
- Prosecution can be launched in fraud cases

APPEALS

- Dealer dissatisfied with any proceedings
- Has the option to contest
- Various stages of appeal
- Sections 31, 33, 34 and 35
- Normal course of appeal for orders passed by DCs and below—Appellate JC-TVAT Tribunal-High Court

APPEALS

- Orders of JC and above—TVAT Tribunal-High Court
- Dealer can directly approach High Court or Supreme Court
- Court to decide on the admissibility of a direct appeal

APPEALS

- Preconditions for filing appeal before AJC
 - Total admitted tax to be paid
 - 12.5% of disputed tax to be paid
 - Appeal to be filed within 30 days of receipt of order
 - AJC can condone delay upto 30 days

APPEALS

- Application for stay of collection of tax can be filed by dealer
- AJC to dispose the appeal within 2 years
- AJC can confirm, enhance, annul or reduce the tax, penalty etc
- AJC can set aside the order
- AJC can direct the assessing authority to cause fresh enquiry and pass order

APPEALS

- Appeal to Tribunal can be made
- --against the orders of JC and above(including AJC)
- --within 60 days of receipt of order
- --on payment of 100% admitted tax
- --on payment of 25% of disputed tax
- --on payment of 50% disputed tax if appeal is against order of AJC

APPEALS

- Application for stay can be filed before Addl Commr pending appeal in Tribunal
- Tribunal can confirm, reduce or annul
- Can set aside the order
- Pass a fresh order/any order as it deems fit
- No time limit prescribed for disposal by Tribunal

APPEALS

- Appeal to High Court
- Within 90 days
- HC can condone delay
- HC will decide question of law or reverse, affirm or amend the order or remit it to Tribunal with its opinion
- HC can order stay of collection of tax

REVISIONS

- When orders passed by any authority are prejudicial to the interests of revenue
- Orders can be revised by the higher authority
- Section 32 of the Act
- Power can be exercised suo moto also

REVISIONS

- Revision can be done within 4 years only
- Dealer should be heard before enhancing the assessment
- Authorities who can exercise revision power listed in Rule 51

QUESTIONS

- An officer has conducted audit of a dealer in 2020 and wishes to pass assessment orders for the period not assessed earlier-i.e., from 2011 onwards. Discuss
- A dealer was assessed for Rs 22 lakhs on 31-11-2019. What are his options for payment or otherwise?



ALL THE BEST