

ASSESSMENT PROVISIONS AND PROCEDURES

Overview of Basic Concepts

PRESENTATION

BY

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**FOR NAGPUR BRANCH OF WIRC ON
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DISCLAIMER

This presentation is purely based on legal provisions and the last 36 year's practice of Mr. Ashok Chandak. Kindly also refer the actual position of law.

23(1)

- **If Registered Dealer fail to file refund**
- **Order can be passed during the period up to 3 years from the end of Financial Year**
- **Assessment is best judgment and ex-parte and even without any notice or any opportunity.**
- **If after assessment, return is filed the assessment order stands cancelled.**
- **Regular assessment can be made thereafter**
- **Provision of interest and penalty continues to apply**

23(2)

- **Regular assessment -returns filed by prescribed date.**

- **Time limit 4 years**

- **Exception :-**

- | | |
|---------------------------|--------------------|
| 1) 2006-2007, & 2007-2008 | 7 years |
| 2) 2005-2006 | 7 years & 3 months |
| 3) 2008-2009 | 4 years & 3 months |

- **Limitation applies only if returns are filed in time**

- **Notice in Form 301 is necessary**

- **Minimum 15 days notice is necessary**

23(3)

- **Regular assessment - even if single return in respect of any period is not filled**
- **Time limit – 5 years**
- **Exception for time limit for 23(2) are also applicable**
- **All other requirements of notice etc. are applicable**

23(4)

- **Assessment of Unregistered Dealer**
- **Time limit – 8 years**
- **Requirement of Notice etc. are applicable**

23(5)

TRANSACTION ASSESSMENT

- **Pre-requisite : any proceeding should be pending**
- **If returns are filed but yet to be assessed it is held as proceeding pending**
- **Any transaction can be assessed independently and demand can be raised.**
- **Notice in Form 302 with 15 days period is necessary**
- **In regular assessment is made, the transaction assessed, will be excluded.**
- **No limitation is provided for assessment under this sub-section. However, according to me earlier limitation will apply**

23(6)

- **Assessment of concealed transaction**
- **Notice in Form 315 should be served with 15 days period**
- **Time limit – 6 years**

23(7)

Fresh Assessment

- Comes only in operation if assessment is remanded by Appellate Authority with directions.
- No notice in prescribed form but opportunity of hearing is must.
- Time limit 36 months from date of Service of order on A.O.

23(8)

- **Ignoring direction of Tribunal**
- **Protective Assessment**
- **No recovery of Dues**

23(9)

- **Power of Commissioner to issue direction in particular case on application.**

23(10)

- **Single notice for all period in particular financial year.**

23(11)

- **Cancellation of Ex-parte assessment order under sub-section 2, 3 or 4.**
- **Application form 315 period 18 months from date of service of cancellation order.**

PREPARATION FOR ASSESSMENT

- After MVAT Audit Form 704 becomes base documents
- Verify before hand that all necessary statement on per claims made in Form 704 are readily available
- Verify the declaration available at the time of audit
- Verify the available declaration which were not available the time of audit
- Draw a list of pending declaration at the time of assessment
- Supply the necessary information
- Record objection if any during the proceedings.
- Make written submissions on the issues.

THANK YOU

Any Questions ?