

Sec. 73

Determination of tax

- not paid or
- short paid or
- erroneously refunded or
- input tax credit wrongly availed or utilised

for any reason

other than

fraud or

any wilful misstatement or

73 (2)

- The proper officer shall issue the notice under sub-section (1)
- **at least three months**
- prior to the time limit specified in
- sub-section (10) for issuance of order

73 (3)

- Where a notice has been issued for any period under sub-section (1), the proper officer may **serve a statement**, containing the details of
 - tax not paid or
 - short paid or
 - erroneously refunded or
 - input tax credit wrongly availed or utilised
- for such periods
- other than those covered under sub-section (1),
- on the person chargeable with tax.

73 (1)

Where it appears to the proper officer that any tax has

- not been paid or
- short paid or
- erroneously refunded, or
- **where input tax credit has been wrongly availed or**
- utilised for any reason,

other than

- the reason of fraud or
 - any wilful-misstatement or
 - suppression of facts
 - to evade tax,
 - he shall serve notice on the person chargeable
 - with tax
 - which has not been so paid or
 - which has been so short paid or
 - to whom the refund has erroneously been made, or
 - **who has wrongly availed or utilised input tax credit,** requiring him to show cause as to why he should not pay the amount specified in the notice along with
 - interest payable thereon under **section 50** and
 - a penalty leviable
- under the provisions of this Act or the rules made thereunder

73 (10)

- The proper officer shall **issue the order** u/s 73(9)
 - **within three years**
 - from the due date for furnishing of
 - annual return
 - for the financial year
 - to which the
 - tax not paid or
 - short paid or
 - input tax credit wrongly availed or
 - utilised relates to
- or
- **within three years**
 - from the date of erroneous refund

73 (4)

- The service of such statement shall be deemed to be **service of notice** on such person under sub-section (1),
- subject to the condition that
- the grounds relied upon for such tax periods
- other than those covered under sub-section (1) are the same as are mentioned in the earlier notice

73 (5)

- The person chargeable with tax may,
- **before service of notice**
- under sub-section (1) or, as the case may be,
- the statement under sub-section (3),
- **pay the amount of tax along with interest payable thereon under section 50**
- on the basis of his own ascertainment of such tax or
- the tax as ascertained by the proper officer and
- inform the proper officer in writing of such payment. **[See Rule 142(2)]**

73 (6)

- The proper officer, on receipt of such information,
- shall **not serve**
- any notice under sub-section (1) or, as the case may be,
- the statement under sub-section (3),
 - **in respect of the tax so paid** or
 - **any penalty payable**
- under the provisions of this Act or the rules made thereunder.

73 (7)

- Where the proper officer is of the opinion that
- **the amount paid under sub-section (5)**
- **falls short of the amount actually payable,**
- he shall proceed to issue the notice
- as provided for in sub-section (1)
- in respect of such amount which falls short of the amount actually payable.

73 (8)

- Where any person chargeable with tax
- u/s 73(1) or 73(3)
- **pays the said tax along with interest payable under section 50**
- **within thirty days** of issue of show cause notice,
- **no penalty** shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded.
- **[See Rule 142(3)]**

73 (9)

- The proper officer shall,
- after considering the representation, if any, made by person chargeable with tax,
- determine the amount of
- tax, interest and
 - a penalty equivalent to ten per cent. of tax
 - or
 - ten thousand rupees,
 - **whichever is higher,**
- due from such person and issue an order.
- **[See Rule 142(4)]**

73 (11)

- The Notwithstanding anything contained in u/s 73(6) or 73(8),
- **penalty u/s 73(9) shall be payable** where
- any amount of self-assessed tax or
- any amount collected as tax has
- **not been paid within a period of thirty days**
- from the due date of payment of such tax

Sec. 74

Determination of tax

- not paid or
- short paid or
- erroneously refunded or
- input tax credit wrongly availed or utilised

for any reason of

- **fraud or**
- **any wilful misstatement or**
- **suppression of facts**

74 (2)

- The proper officer shall issue the notice under sub-section (1)
- **at least SIX months**
- prior to the time limit specified in
- sub-section (10) for issuance of order

74 (3)

- Where a notice has been issued for any period under sub-section (1), the proper officer may **serve a statement**, containing the details of
 - tax not paid or
 - short paid or
 - erroneously refunded or
 - input tax credit wrongly availed or utilised
- for such periods
- other than those covered under sub-section (1),
- on the person chargeable with tax.

74 (1)

Where it appears to the proper officer that any tax has

- not been paid or
- short paid or
- erroneously refunded, or
- **where input tax credit has been wrongly availed or utilised**

by reason of

- **fraud or**
- **any wilful-misstatement or**
- **suppression of facts**
- **to evade tax,**

- he shall serve notice on the person chargeable
- with tax
- which has not been so paid or
- which has been so short paid or
- to whom the refund has erroneously been made, or
- **who has wrongly availed or utilised input tax credit,** requiring him to show cause as to why he should not pay the amount specified in the notice along with
- interest payable thereon under **section 50** and
- a penalty leviable equivalent to the tax specified in the notice.

74 (10)

- The proper officer shall **issue the order** u/s 74(9)
 - **within FIVE years**
 - from the due date for furnishing of
 - annual return
 - for the financial year
 - to which the
 - tax not paid or
 - short paid or
 - input tax credit wrongly availed or
 - utilised relates to
- or
- **within FIVE years**
 - from the date of erroneous refund

74 (4)

- The service statement u/s 74(3) shall be deemed to be **service of notice** u/s 74(1),
- subject to the condition that
- **the grounds relied upon in the said statement,**
- **except** the ground of fraud, or
- any wilful-misstatement or
- suppression of facts to evade tax,
- for periods other than those covered u/s 73(1) **are the same as are mentioned in the earlier notice**

74 (5)

- The person chargeable with tax may,
- **before service of notice**
- u/s 74(1)
- **pay the amount of tax along with interest payable** thereon under **section 50**
- **and a penalty equivalent to FIFTEEN per cent. of such tax**
- on the basis of his own ascertainment of such tax or
- the tax as ascertained by the proper officer and
- inform the proper officer in writing of such payment. [**See Rule 142(2)**]

74 (6)

- The proper officer, on receipt of such information,
- shall **not serve**
- any notice u/s 74(1)
 - **in respect of the tax so paid** or
 - **any penalty payable**
- under the provisions of this Act or the rules made thereunder.

74 (7)

- Where the proper officer is of the opinion that
- **the amount paid under sub-section (5)**
- **falls short of the amount actually payable,**
- he shall proceed to issue the notice
- as provided for in sub-section (1)
- in respect of such amount which falls short of the amount actually payable.

74 (8)

- Where any person chargeable with tax
- u/s 74(1)
- **pays the said tax along with interest payable** under **section 50**
- **And a penalty equivalent to TWENTY FIVE percent** of such tax
- **within THIRTY days** of issue of the notice,
- all proceedings in respect of the said notice shall be deemed to be concluded.
- [**See Rule 142(3)**]

74 (9)

- The proper officer shall,
- after considering the representation, if any, made by person chargeable with tax,
- determine the
 - amount of tax,
 - interest and
 - penalty
- due from such person and issue an order.
- [**See Rule 142(4)**]

74 (11)

- Where any person served with an order issued under sub-section (9)
- **pays the tax along with interest payable** thereon under **section 50**
- and
- **a penalty equivalent to FIFTY per cent. of such tax**
- within **THIRTY** days of communication of the order,
- all proceedings in respect of the said notice shall be deemed to be concluded.

