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## **The Legality of Consolidated Show Cause Notice by Clubbing of More Than One Financial Year Under The GST Law**

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### **Introduction**

Show-cause notice (SCN) is not just an aspirational guidance flowing from the principles of natural justice but is in fact a constitutional prescription as also the statutory mandate. SCN serves as a quasi-judicial step in the tax assessment process, aimed at ensuring fair tax collection by notifying taxpayers of potential liabilities, even Article 265 of the Constitution of India directs that "no tax shall be levied or collected except by authority of law.

2. In recent years, it has been a common practice for recovery of tax by clubbing of more than one financial year in a single SCN which has been carried out by various officers of different departments Customs, GST, Excise, Service Tax and etc. Clubbing of more than one financial year in a single SCN issued under Section 28 of the Customs Act, 1962 is legally sustainable, but legal standing of such notices issued under Section 73, 74 and 74A of the Central Goods and Services Tax Act 2017 ("CGST Act") is quite different due to the legal implications and judicial decisions carried out by various Hon'ble High Courts.

### **Different Sections for Issuance of SCNs under The CGST ACT**

3. Under the CGST Act, SCNs can be issued for various reasons, including cases of non-payment tax, erroneous refunds, or incorrect Input Tax Credit (ITC) claims. Provisions within Section - [73](#), [74](#), and [74A](#) (From Financial Year 2024-25 onward) delineate scenarios under which tax authorities may serve SCNs, establishing distinctions between bonafide and malafide cases of non-compliance.

*"Section 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 willful-misstatement or suppression of facts", prescribing a 3- year limitation for SCN issuance.*

*"Section 74 - Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful-misstatement or suppression of facts", with a 5-year limitation for SCN issuance.*

"Section 74A - Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason pertaining to Financial Year 2024-25 onward", with a broader time frame of 42 months from the date of annual return.

**Each financial year is legally treated as a distinct tax period under these sections, suggesting that SCNs should be issued separately for each financial year.**

#### **Judicial Review on Issuing Consolidated SCN for Multiple Periods Under Section 73 of The CGST Act.**

4. While the CGST Act does not explicitly support or prohibit clubbing SCNs across financial years, recent judgments have shed light on its legality. Recently the Hon'ble High Court of Karnataka in the case of *Gopi Chand v. Deputy Commissioner of Commercial Taxes (Audit)-1* Writ Petition No. 35993 of 2024 (T-RES), decided on 22-1-2025 [(2025) 27 Centax 288 (Kar.)], wherein a consolidated SCN and then an Order was passed under Section 73 of the CGST Act against petitioner for recovery of tax for financial years 2019-20 to 2023-24, the Hon'ble Bench held that clubbing multiple assessment years by issuing a common SCN and Order under Section 73 of the CGST Act for recovery of tax is legally impermissible.

5. Similarly, the High Court of Madras in case of *Titan Company Ltd. v. Joint Commissioner of GST and Central Excise* W.P. No. 33164 of 2023 and W.M.P. No. 32855 [(2024) 15 Centax 118 (Mad.)], the Hon'ble Bench had a similar view against legality of issuance of a SCN under Section 73 of the CGST Act consisting of multiple assessment years wherein the bench quashed the SCN by relying on the decision of Hon'ble Apex Court in the case of, *State of Jammu and Kashmir and Others v. Caltex (India) Ltd.* [AIR 1966 SC 1350] which held that where an assessment encompasses different assessment years, each assessment year could be easily split up and dissected and the items can be separated and taxed for different periods. The said law was laid down keeping in mind that each and every Assessment Year will have a separate period of limitation and the limitation will start independently and that is the reason why the Hon'ble Supreme Court has held that each assessment year could be easily split up and dissected and the items can be separated and taxed for different periods.

#### **Judicial Interpretation on Issuing Consolidated SCN for Multiple Periods Under Section 74 of The CGST Act.**

6. The Hon'ble High Court of Kerala in case of *X.L. Interiors v. Deputy Commissioner (Intelligence), SGST Department, Ernakulam* WP (C) No. 35156 of 2024 dated 14-10-2024 [(2024) 25 Centax 416 (Ker.)], wherein the Hon'ble Bench held that issuance of consolidated show cause notice under Section 74 of CGST Act for multiple financial years is **NOT ILLEGAL**. The Hon'ble Bench held that nothing in Section 74 prohibits the issuance of a consolidated show cause notice for multiple years. The provisions of sub-section (3) of Section 74 do not indicate that the notice to be issued under sub-section (1) of Section 74 must be for one particular year and on the contrary refers to a 'period'. Therefore, it is difficult to hold that the bunching of show cause notices is illegal and contrary to the provisions of Section 74 of the CGST Act.

7. Similarly, The High Court of Bombay in case of *RioCare India Pvt. Ltd. v. Assistant Commissioner CGST* Writ Petition No. 19381 of 2024, dated 6-1-2025 [(2025) 26 Centax 339 (Bom)], wherein, the Court held that a notice under Section 74(1) can be issued for any period provided said notice is given at least 6 months prior to the time limit specified in sub-section (10) of Section 74 for issuance of the order and there is no issue of limitation as contemplated under Section 74(10), hence, disposing of the Writ Petition.

#### **Conclusion**

8. There is no doubt that consolidated SCNs might enhance administrative efficiency but it is a legal pitfall due to lack of explicit legislative guidance on SCN clubbing which may lead to huge loss of resources until a legislative amendment comes out clarifying the conditions for clubbing of multiple assessment years in a single SCN which would provide greater certainty for tax administrators and taxpayers alike. Hence, beside different judicial interpretation on the view of clubbing of more than one financial year in a SCN, there is a strict need of a Circular/Notification clearing the limitation on issuance of consolidated SCN for multiple financial periods.

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