

# Received a GST Demand Notice? Here's What You Need to Know!

Under the Goods and Services Tax (GST) Act in India, demand notices are issued by tax authorities to recover tax liabilities due to non-compliance, incorrect filings, or suppression of facts. Each type of demand notice is issued under specific sections of the GST Act, covering different reasons, processes, penalties, and timelines for compliance. Below is a detailed breakdown of the types of demand notices under the GST Act, the provisions, and the appeal procedure.

## YouTube Video Link:

<https://youtu.be/wDOKYrGOniI?si=hPEgvbQHAmAGTf36>

## Types of Demand Notices Under GST and Relevant Provisions

### 1. Notice Under Section 73 - Demand for Non-Fraudulent Cases

- **Purpose:** Issued when there is a short payment, erroneous refund, or input tax credit (ITC) wrongly availed, but without fraud or willful misstatement.
- **Time Limit:** The notice must be issued within three years from the due date for filing the annual return for the relevant financial year.
- **Penalty:** No penalty if tax and interest are paid within 30 days of receiving the notice. Otherwise, a penalty of 10% of the tax amount or ₹10,000 (whichever is higher) may apply.

## **2. Notice Under Section 74 - Demand for Fraudulent Cases**

- **Purpose:** Issued in cases involving fraud, willful misstatement, or suppression of facts.
- **Time Limit:** The notice must be issued within five years from the due date for filing the annual return for the relevant financial year.
- **Penalty:** A penalty of 100% of the tax amount, but if paid within 30 days of notice, it may be reduced to 15-25%.

## **3. Notice Under Section 61 - Scrutiny of Returns**

- **Purpose:** Issued when discrepancies are identified during scrutiny of filed returns.
- **Time Limit:** Generally, 30 days or a time specified by the authority to correct and respond.
- **Penalty:** Not immediate; however, failure to comply could lead to further notices under Section 73 or 74.

## **4. Notice Under Section 62 - Assessment of Non-Filers of Returns**

- **Purpose:** Issued if a registered person fails to file a return, leading to a provisional assessment.
- **Time Limit:** Notice is issued immediately after the due date for filing returns has passed without submission.
- **Penalty:** If returns aren't filed within 30 days, the authority may finalize the assessment and recover dues.

## **5. Notice Under Section 63 - Assessment of Unregistered Persons**

- **Purpose:** Issued if a taxable person is discovered to be unregistered despite liability to register.

- **Penalty:** Heavy penalties may apply, depending on the findings.

## **6. Notice Under Section 64 - Summary Assessment**

- **Purpose:** Used in special circumstances if the authority believes immediate assessment is required to protect revenue interests.
- **Penalty:** Immediate tax liability is enforced, with little room for adjustment.

## **Response Process and Consequences of Non-Compliance**

### **1. Responding to Demand Notices**

- **Payment:** In most cases, prompt payment of tax due and interest can mitigate penalties.
- **Explanation Submission:** Taxpayers can submit explanations with documentary evidence to counter or clarify the tax authorities' claims.
- **Revision of Returns:** Where discrepancies are found in return filings (Section 61), taxpayers may revise and correct them to comply.

### **2. Consequences of Non-Compliance**

- **Levy of Penalties:** Failure to respond may lead to penalties, prosecution, and recovery actions, including asset seizures and property attachment.
- **Initiation of Recovery Proceedings:** If tax dues aren't paid within specified time limits, the tax authority can initiate recovery proceedings under Section 79.

## **Appeal Procedure for GST Demand Notices**

### **1. First Appeal – Appellate Authority (Section 107)**

- **Timeline:** Must be filed within three months from the date of receipt of the order.
- **Procedure:**
  - File Form GST APL-01 along with requisite documents and a deposit of 10% of the disputed tax.
  - Attend hearings, present evidence, and provide justification for the appeal.
- **Order:** Appellate authority issues a decision confirming, modifying, or annulling the demand order.

### **2. Second Appeal – Appellate Tribunal (Section 109)**

- **Timeline:** Must be filed within three months from the date of receipt of the appellate authority's order.
- **Procedure:**
  - File Form GST APL-05 along with a deposit of 20% of the disputed tax.
  - The Appellate Tribunal hears both sides and can confirm, modify, or reverse the previous order.
- **Decision:** The Tribunal's decision can be further appealed to the High Court on substantial legal issues.

### **3. Appeal to High Court and Supreme Court**

- **High Court:** For substantial questions of law, an appeal can be made to the jurisdictional High Court.

- **Supreme Court:** Further appeal to the Supreme Court is available if there is a significant question of law or constitutional issue.

### **Summary of Appeal Deposits for Disputed Tax**

- **First Appeal:** 10% of disputed tax (minimum requirement).
- **Second Appeal:** Additional 20% of disputed tax if appealing to Tribunal.

### **Key Points to Remember**

- **Timely Response:** Always respond within the stipulated time frame to avoid escalation.
- **Documentation:** Keep proper documentation of returns and payments as evidence.
- **Professional Help:** In cases involving legal complexity, consider consulting with a GST expert or tax lawyer.

### **Conclusion**

Understanding the type of demand notice, responding with appropriate compliance or explanations, and knowing the appeal procedure are crucial to managing GST demands effectively. Failure to comply not only incurs penalties but may also complicate future interactions with the GST authorities.