

PART-I

A SINGLE SHOW CAUSE NOTICE (SCN) FOR MULTIPLE ASSESSMENT YEARS

Now a days the GST authorities quite often issues show cause notice to cover multiple assessment years. This practice cleared significant legal issues due to its conflicts with GST provisions and challenges it imposes on the taxpayer. The department argues that issuing the SCN for multiple years is permissible. Since the GST act does not explicitly prohibit it. However the assessee argue that this practice creates problems on each financial year involve own time limits over statutory requirements.

The issue of SCN under GST is governed by Sec.73 and 74 of the CGST act (up to 31.3.2024)

Sec.73 – It applies to non-fraudulent cases where tax has not been paid or short paid. SCN must be issued 3 months before 3 years' time limit for the financial year.

Sec.74 – It applies to cases involving fraud or willful misstatement. SCN must be issued 6 months before 5 year time limit.

In our opinion a single show cause notice cannot be issued for multiple assessment years due to the following:

The GST acts assess the tax obligation of the tax payer and complete assessment for each financial year. Each financial year treated as separate assessment year. Therefore the issuance of single SCN for multiple assessment years is contradiction of provision of GST act.

Sec.73 & 74 mandate the officer to issue SCN and pass order within the time limit from the due date for furnishing annual return for the financial year. The law explicitly requires the issuance of SCN for each assessment year with corresponding orders.

For Example,

The department issues SCN for 2017-18, 2018-19 and 2019-20 on 25.4.2024 under Sec.73. The notice for 2019-20 would be valid as it falls within the time limit (i.e.31.5.2024). Whereas the time for issuing SCN and passing an order for the FY 2017-18 & 2018-19 already expired and time barred. Under these circumstances a single SCN cannot be issued for multiple assessment years.

Following are some of the recent judgments consistently emphasized that a single SCN covering multiple assessment years violates the provision of the GST. Some of the judgments support this view:

Veremax Technologies Services Ltd Vs Assistant Commissioner, GST Bengaluru

In this case, the Karnataka High court quashed the consolidated SCN issued for 4 years u/s 73. The court ruled that each financial year must be independently assessed with separate SCN for each year.

Bengaluru Golf Club Vs Assistant Commissioner, GST Bengaluru

The court held each action must be executed independently for each financial year to comply statutory timelines. It ruled that bunching multiple years into a single SCN was not permissible and assessed separate SCN.

Titan Company Ltd Vs. Joint commissioner, GST and Central Excise, Salem

The Madras High court ruled against the consolidation of SCN for multiple years stating that the litigation period must be separately applied to each assessment year. It clarified that issuing a single SCN for multiple years violates the time laid down u/s 73.

EXCEPTION:

Xl interiors vs deputy commissioner (intelligence) wp(c) no. 35156 of 2024 dated 14.10.2024

Recently the Kerala High court in the case of X L Interiors Vs Deputy Commissioner (Intelligence) WP(C) No. 35156 of 2024 dated 14.10.2024 viewed that the bunching of show cause notices does not cause any prejudice to the petitioner as it is open to the petitioner to take up any contention peculiar to any particular year in the reply to the show cause notice

However we differ with the above judgment due to the reasons:

- Assessment year may involve different tax positions, exemptions, and input tax credits, making it difficult to address all these complexities in a single response. Similarly, adjudicating authorities also find it challenging to accurately collect and review the information across several years, potentially affecting the impartiality and accuracy of the outcome.
- Each financial year must be treated as an independent assessment year, with SCNs and subsequent orders issued within the timelines prescribed by the GST Act
- Taxpayers argue that this practice creates severe compliance challenges, as each financial year involves unique timelines, exemptions, and statutory requirements. A consolidated SCN burdens the taxpayers with increased legal expenses and makes it harder to prepare a proper response, leading to delayed resolutions.
- 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...[Supreme Court in the case of Caltex (India) Ltd.'s case (supra)]

- The limitation period of three years would be separately applicable for every assessment year and it would vary from one assessment year to another. It is not that it would be carried over or that the limitation would be continuing in nature and the same can be clubbed. The limitation period of three years ends from the date of furnishing of the annual return for the particular financial year.
- Under the GST compliance framework, taxpayers must respond to SCNs using Form GST DRC-06, which mandates specifying the financial year in question. Clubbing SCNs across multiple years complicates this process, placing an undue compliance burden on taxpayer. Additionally, taxpayers may face limitations in preparing comprehensive responses for bunched demands, which often span different compliance years.
- Bunching SCNs can inadvertently contravene the CBIC's guidelines on pecuniary jurisdiction, as outlined in Circular No. 31/05/2018-GST. This circular prescribes monetary thresholds for tax officers' jurisdiction in issuing SCNs, ensuring administrative efficiency by matching case complexity with officers' seniority.

CONCLUSION:

In light of the above, the practice of issuing a single SCN for multiple assessment years is fundamentally inconsistent with the provisions of the GST law and established judicial precedents. Consequently, taxpayers may rely on these legal provisions and judicial rulings to challenge such consolidated SCNs and assert their rights.

PART-II

FREQUENTLY ASKED QUESTIONS

1. What is a Show Cause Notice (SCN) in GST?

An SCN is a legal notice issued by tax authorities to taxpayers to explain why specific actions, like payment of tax or penalties, should not be taken against them.

2. Can a single SCN be issued for multiple financial years?

No, GST law requires independent SCNs for each financial year.

3. What sections govern SCNs in GST?

Section 73 governs non-fraudulent cases, and Section 74 applies to cases involving fraud or wilful misstatement.

4. Why is a separate SCN required for each year?

Each financial year is treated as a separate assessment period with its own statutory timelines.

5. What is the timeline for issuing an SCN under Section 73?

An SCN must be issued at least 3 months before the expiry of 3 years from the due date of the annual return.

6. What is the timeline for issuing an SCN under Section 74?

It must be issued at least 6 months before the expiry of 5 years from the due date of the annual return.

7. What happens if an SCN is issued late?

Any action based on a late SCN is time-barred and invalid.

8. What challenges do taxpayers face with consolidated SCNs?

Consolidated SCNs may lead to confusion and difficulty in segregating issues by year.

9. Are there legal precedents for separate SCNs for each year?

Yes, cases like Veremax Technologies Services Ltd and Bengaluru Golf Club have reinforced this principle.

10. What should a taxpayer do if served with a single SCN for multiple years?

Challenge it based on the inconsistency with GST provisions and relevant court rulings.

11. How do courts view consolidated SCNs?

Courts have ruled that consolidated SCNs violate the GST Act's requirements for separate assessments per year.

12. Can a taxpayer request bifurcation of a consolidated SCN?

Yes, taxpayers can seek bifurcation to comply with the law.

13. What are the risks of ignoring a consolidated SCN?

Ignoring it may lead to adverse orders, but the taxpayer can challenge its validity later.

14. What are examples of issues in consolidated SCNs?

Issues may include overlapping demands, incorrect timelines, and non-specific allegations.

15. What is the consequence of issuing a single SCN for expired years?

Demands for time-barred years are invalid and unenforceable.

16. Can SCNs under Sections 73 and 74 be combined?

No, they address different scenarios and must be handled separately.

17. Does a consolidated SCN affect appellate rights?

Yes, it complicates appeals due to overlapping issues and timelines.

18. What legal protections do taxpayers have against improper SCNs?

Taxpayers can rely on Section 73/74 provisions and court judgments to defend against improper SCNs.

19. How does GST compliance software assist in SCN management?

It helps segregate issues by year and ensures timely responses to SCNs.

20. What documentation is essential for contesting an SCN?

Annual returns, payment records, and correspondence with tax authorities are crucial.

21. Can a consolidated SCN be partially valid?

Yes, but only for years within the statutory timeline.

22. Are SCNs limited to tax shortfalls?

No, they may also address interest, penalties, or procedural violations.

23. What is the role of professional assistance in SCN disputes?

Professionals help with legal arguments, drafting replies, and managing appeals.

24. Can a taxpayer settle disputes in consolidated SCNs under amnesty schemes?

Yes, provided they meet the eligibility criteria of the scheme.

25. What reforms are needed to address SCN issues?

Clear guidelines on issuing SCNs and stricter enforcement of timelines by authorities.

VA-GST UPDATES

PART-III

RELATED CIRCULAR/NOTIFICATIONS/CASE LAWS

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

S.R.KRISHNA KUMAR, J.

VEREMAX TECHNOLOGIE SERVICES LTD.

Versus

ASSISTANT COMMISSIONER OF CENTRAL TAX

Writ Petition No. 15810 of 2024 (T-Res), decided on 4-9-2024

In *Veremax Technologies Services Limited vs Assistant Commissioner of Central Tax, the Karnataka High Court* addressed whether a single Show Cause Notice (SCN) could cover multiple tax periods.

The Court sided with the petitioner, stating that issuing a single SCN for multiple tax periods is inconsistent with the CGST Act's requirements. Section 73(10) of the Act specifies that tax actions must be completed within a specific year and that separate SCNs should be issued for each assessment year. The Court quashed the consolidated SCN, concluding that combining multiple tax periods into one notice violated both the statutory timeline and established legal precedents. However, the Court permitted the tax authorities to issue separate SCNs for each year in compliance with the law.

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

S.R.KRISHNA KUMAR, J.

CHIMNEY HILLS EDUCATION SOCIETY

Versus

ADDITIONAL COMMISSIONER OF CENTRAL TAX

Writ Petition No. 26164 of 2024 (T-RES), decided on 30-9-2024

The Karnataka High Court in the case of **Chimney Hills Education Society Vs Additional Commissioner of Central Tax** noted that the practice of issuing single consolidated SCN for multiple assessment years contravenes provisions of CGST Act and each assessment year must be treated independently. Therefore, the Court held that the impugned notice was liable to be quashed with liberty to department to issue separate notice for each assessment year.

SIMILAR CASE LAWS:

- 1. Bengaluru Golf Club Vs Assistant Commissioner, GST Bengaluru W.P No.16500 OF 2024 (T-RES) dt.07/08/2024**
- 2. Titan Company Ltd Vs. Joint commissioner, GST and Central Excise, Salem (W.P.No.33164 of 2023 and W.M.P.No.32855 of 2023) dt. 18/12/2023**

Thanks and Regards

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