

PRE-BUDGET MEMORANDUM 2021-22: Central Excise & Service Tax

Sl.	Subject	Rationale	Recommendation
1.	Timely disposal of pending Show Cause Notices under Central Excise and Service Tax	<ul style="list-style-type: none"> • As per the provisions of Central Excise Act, 1944 & Finance Act, 1994, there is a specified time limit within which duty/tax can be demanded from the assessee. • Further, Sub section 11 of Section 11A of the Central Excise Act (introduced vide Finance Act 2011) and sub section 4B of Section 73 of the Finance Act, 1994 (introduced vide Finance Act 2014) prescribes the time period within which adjudicating authority is bound to complete the adjudicating process and determine the duty/ tax payable and issue the demand /adjudication order, if possible. • Therefore, though there is a limitation period defined under the law within which the matter needs to be adjudicated, due to discretion available with the officer to complete the proceedings beyond the prescribed timelines on reasonable grounds, the timelines are not actually followed in practice • Also, for the show cause notices, which have been issued prior to the insertion of the above time limit under the law, no reasonable period is being followed by the authorities to issue the adjudication orders. • Board had issued instructions F. No. 280/45/2015-CX. 8A, dated 17th September 2015 emphasizing that all the adjudicating authorities are directed to pass adjudicating order within the time limit prescribed. • However, despite above law and instructions, it is very known fact that the officers take years together to complete the adjudication or even to issue orders after personal hearings are over. Since the 	<p>As huge number of cases have already been closed under the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019; Further, it has been 3 years since the introduction of GST. Hence the pendency with the adjudicating officers under erstwhile laws should have come down substantially</p> <p>Hence, in light of above referred considerations, the Chamber suggest that an amendment should be made under the Central Excise Act & Service Tax law to provide that any show cause notice issued under the Act and pending adjudication on the date of amendment, should be adjudicated within a period of 2 years, as the case may be (<i>depending upon whether extended period has been invoked or not</i>).</p> <p>Any Show Cause Notice (past, present or future), which does not get adjudicated within the above prescribed time limit, shall be deemed to have been vacated by the department and no future demand can be raised on assessee on the same issue</p> <p>This will help the companies a long way for faster dispute resolutions and focus on business and ensure GST compliances</p>

		<p>adjudication remains pending for years, assessee is asked to furnish information in relation to such proceedings, even after 20-30 years of issuing the show cause notice. Giving notices for hearing after a gap of 20-30 years, is to catch the parties by surprise and prejudice a fair trial, as the documents relevant to the show cause notices are not available with the assessee.</p> <p>This causes undue hardship for arranging age-old documents as the person in-charge may no longer be associated with the organisation.</p>	
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