

DRAFTING OF SHOW CAUSE NOTICE

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PRESENTATION ON SHOW CAUSE NOTICE TO BE ISSUED BEFORE PASSING A STATUTORY ORDERS

OUTLINE

- The presentation is structured methodically for smooth flow of the content.
- Aimed at imparting the knowledge on the importance and the role a Show Cause Notice plays in the statutory, appealable orders.

THE PRESENTATION CONSISTS OF THE FOLLOWING PARTS

- Importance and necessity of show cause notice
- Preparation before drafting the show cause notice
- Basic features of show cause notice
- Introductory part of the show cause notice
- Body of the show cause notice
- Conclusion

A LEGAL REQUIREMENT

- Principles of natural justice require issue of show cause notice before levy of tax/penalty.
- All taxation Acts mandate issue of show cause notice provide an opportunity of personal hearing before orders are passed.
- Orders not preceded by show cause notices are bound to struck down by the courts.

Preparation before Show Cause Notice is issued

- Collect all material facts.
- Examine books of account.
- Understand the provisions of the Act.

Basic Features of Show Cause Notice

- Cogent and straight forward.
- Simple language with clean logic.
- All facts shall be marshalled.
- There should not be any ambiguity as to the facts or to the legal provisions.

INTRODUCTION

- The introduction should initiate the discussion on the proposal.
- It should contain the details of the tax payer to whom the show cause notice is meant for.
- It should contain the details of turnover/taxes disclosed by the taxpayer or already assessed.

BODY OF THE SHOW CAUSE NOTICE

- The introduction should flow into the main body of the Show Cause Notice. The body can be 2 or 3 paras or more depending on the proposal.
- It should clearly lay down the proposal without any ambiguity.
- All the facts should be brought into the body.

- If the information is gathered from several sources, all the sources should be clearly mentioned.

Example: If sales of Motor Vehicle by a dealer are obtained from transport department , we should mention it and also furnish a copy of the information to the dealer.

BODY OF THE SHOW CAUSE NOTICE-2

- After laying down the facts, bring the provision of the Act which apply to the case.
- Link the facts with the provisions.
- Cite case law, if necessary(Not compulsory)
- Our facts should neatly apply to the provisions.

- The Tax/penalty proposed should be specified.

Example: If a dealer is found suppressing sales of Motor Vehicles, when the information obtained from the transport department is compared with those recorded in the account books of the dealer, the fact of suppression of sales and the assessment/reassessment, penalty provisions in the Act should be linked to conclude the turnover/tax which is proposed to be assessed/penalty proposed to be levied shall be clearly mentioned.

CONCLUSION

- The time frame within which the tax payer should respond should be clearly mentioned.

Example: The dealer should file a reply to the Show cause Notice within 10 days of receipt of the Show Cause Notice.

- The consequences of ignoring the Show cause Notice also should be mentioned i.e., it will result in confirmation of the turnovers/taxes/penalties proposed in the SCN.

Thank you