

Value Added Tax Act, 2003

Section 64 - Revisional Powers of Additional Commissioner and Commissioner

(1) The Additional Commissioner may on his own motion call for and examine the record of any order passed or proceeding recorded under this Act and if he considers that any order passed therein by any officer, who is not above the rank of a Joint Commissioner, is erroneous in so far as it is prejudicial to the interest of the revenue, he may, if necessary, stay the operation of such order for such period as he deems fit and after giving the person concerned an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or canceling the assessment or directing a fresh assessment.

(2) The Commissioner may on his own motion call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by any officer subordinate to him is erroneous in so far as it is prejudicial to the interest of the revenue, he may if necessary, stay the operation of such order for such period as he deems fit and after giving the person concerned an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or canceling the assessment or directing a fresh assessment.

(3) The Additional Commissioner or the Commissioner shall not exercise any power under sub-section (1) or sub-section (2), as the case may be, if:-

- (a) the time for appeal against the order has not expired;
- (b) the matter has been subject to an appeal under Section 63 or a revision in the High Court; or
- (c) more than four years have expired after the passing of the order sought to be revised.

(4) Notwithstanding anything contained in sub-section (3), the Additional Commissioner or the Commissioner may pass an order under sub-section (1) or (2), as the case may be, on any point which has not been raised and decided in an appeal or revision referred to in clause (b) of sub-section (3), before the expiry of a period of one year from the date of the order in such appeal or revision or before the expiry of a period of four years referred to in clause (c) of that sub-section, whichever is later.

(5) Every order passed in revision under sub-section (1) shall, subject to the provisions of sub-section (2) of this Section and Sections 66 and 67, be final.

(6) Every order passed in revision under sub-section (2) shall, subject to the provisions of Sections 65 and 66, be final.

(7) If the order passed or proceedings recorded by the appropriate authority referred to in sub-section (1) or (2), involves an issue on which the High Court has given its decision adverse to the revenue in some other proceedings and an appeal to the Supreme Court against such decision of the High Court is pending, the period spent between the date of the decision of the High Court and the date of the decision of the Supreme Court shall be excluded in computing the period referred to in clause (c) of sub-section (3).

(8) In computing the period of limitation for the purpose of sub-section (3), any period, during which any proceeding under this Section is stayed by an order or injunction of any court, shall be excluded.

(9) For the purposes of this Section, record shall include all records relating to any proceedings under this Act available at the time of examination by the Additional Commissioner or the Commissioner.
