

Automatic Accrual vs. Jurisdictional Control: The Evolving Law on GST Interest

The interaction between Sections 73/74 and Section 75 of the Central Goods and Services Tax (CGST) Act, 2017, has increasingly become a matter of judicial scrutiny, particularly on the issue of whether interest can be levied in a final adjudication order when it was neither specified nor quantified in the preceding Show Cause Notice (SCN). Revenue authorities often maintain that interest is an automatic statutory consequence of unpaid tax. In contrast, taxpayers assert that the SCN determines the outer limits of the adjudicating authority's power, the so-called "jurisdictional ceiling".

The Statutory Conflict: Section 75(7) vs. Section 75(9)

At the heart of this dispute are two sub-sections of Section 75, which provide general provisions relating to the determination of interest.

- **Section 75(7):** *"The amount of tax, interest and penalty demanded in the order shall not be in excess of the amount specified in the notice and no demand shall be confirmed on the grounds other than the grounds specified in the notice."*¹

The Procedural Safeguard- This provision clearly **mandates that the quantum of tax, interest, and penalty confirmed in the adjudication order cannot exceed what has been specified in the SCN.** It further restricts confirmation of demand to the very grounds mentioned in the notice. In essence, it establishes a mandatory jurisdictional limit, ensuring that an assessee is not confronted with liabilities that were never proposed or disclosed.

- **Section 75(9):** *"The interest on the tax short paid or not paid shall be payable whether or not specified in the order determining the tax liability."*²

¹ <https://gstindia.biz/act-details/1-cgst-acts/section/82-section-75-general-provisions-relating-to-determination-of-tax>

² <https://gstindia.biz/act-details/1-cgst-acts/section/82-section-75-general-provisions-relating-to-determination-of-tax>

The Revenue's Shield - Conversely, revenue authorities frequently rely on Section 75(9), which states that **interest on short-paid or unpaid tax shall be payable whether or not specified in the order** determining the tax liability. The Revenue argues that because interest is a statutory mandate, its absence in the SCN does not preclude its inclusion in the final order.

At first glance, this provision appears to confer wide authority to recover interest even if it was not specifically referred to during adjudication. Authorities often invoke it to justify levying interest in final orders despite silence in the SCN. However, when read contextually and harmoniously, its scope becomes narrower. Section 75(9) addresses a limited situation — namely, where interest, though statutorily payable and forming part of proceedings, is omitted in the final order. Its object is to safeguard the compensatory character of interest under Section 50 and to prevent a drafting omission from extinguishing liability. It does not eliminate the requirement of proper notice, nor does it enlarge adjudicatory jurisdiction beyond what is proposed in the SCN.

The SCN is the foundation of Adjudication; it defines the Lis between the department and the assessee. If the SCN neither proposes nor quantifies interest, the assessee is deprived of a meaningful opportunity to contest the period of delay, the rate of Interest or the computation Methodology. Such deprivation strikes at the core of natural Justice.

Section 75(7) expressly includes “tax, interest, and penalty” within its scope. If Section 75(9) were interpreted to override Section 75(7), the limitation imposed by the latter, at least in respect of interest, would become meaningless. The legislature has consciously used inclusive terminology in Section 75(7), indicating that all three components are equally subject to the notice limitation. An interpretation permitting interest to be imposed without proposal in the SCN would effectively nullify the statutory restriction embedded in Section 75(7). Established principles of statutory construction require that provisions within the same section be harmonized so that none becomes redundant. A coherent

interpretation, therefore, treats Section 75(7) as regulating the scope of adjudication. In contrast, Section 75(9) ensures that omission in the wording of an order does not extinguish a properly invoked interest liability.

Quantification is Mandatory in the SCN

A critical distinction was made by the **Allahabad High Court in M/S Ziva Auto Sales vs. State of U.P. (2026)** (Division Bench). ³The Court stated that *“The contention of the GST authorities that Section 75(9) of Act, 2017 would apply and the interest on the short paid tax would be payable even though not specified in the order has no application in the present case, as it deals with the situation wherein the interest liability is not quantified in the order passed and not in the show cause notice.”*

The court clarified that Section 75(9) applies only to omissions in the order, not the SCN. If authorities knew of the interest liability during SCN issuance, failing to quantify it violates Section 75(7), rendering subsequent imposition unsustainable.

Judicial Interpretations: Upholding the Sanctity of the SCN

Recent judgments from various High Courts have clarified that the general statutory nature of interest cannot override the procedural requirement of Section 75(7).

1. The "Jurisdictional Ceiling" Rule In **M/S Bengal Engineering vs. State of West Bengal (2025)**, the **Calcutta High Court** (Division Bench) ⁴held that Section 75(7) operates as a strict **jurisdictional ceiling**. The court stated that *“The principle is clear: the Adjudicating Authority cannot travel beyond the four corners of the Show Cause Notice. The Hon'ble Supreme Court has consistently held that statutory provisions prescribing limits to an authority's power are mandatory and non-compliance with them renders the action ultra vires. The final demand, being in excess of the SCN, is legally dismantled. This vitiates the*

³ <https://gstindia.biz/case-law/136/>

⁴ <https://gstindia.biz/case-law/135/>

entire assessment order, as the increased demand lacks the necessary statutory foundation.”

2. Arbitrariness of Unnoticed Demands In **M/S Chaurasiya Zarda Bhandar vs. State of U.P. (2025)** (Single Bench), ⁵the Allahabad HC quashed an order where the SCN proposed a tax liability but made no mention of interest or penalty. The court found that imposing these additional sums in the final order was **arbitrary and against the specific provisions of Section 75(7)**. Similar conclusions were reached in *M/S Shri Ram Trading Company* and *M/S Sai Computers*, where demands exceeding the SCN amounts were labelled "ex facie contrary" to the Act.

The Principle of Natural Justice and the Foundation of the Case

It is a well-established legal principle that the SCN constitutes the foundation of the case. In *CCE, Bhubaneswar-1 vs. M/s. Champdany Industries Ltd. (2009)* (Division Bench), the Supreme Court held:⁶

“Apart from that, the point on Rule 3, which has been argued by the learned counsel for the Revenue, was not part of its case in the show-cause notice. It is well settled that unless the foundation of the case is made out in the show-cause notice, Revenue cannot in Court argue a case not made out in its show-cause notice.”

This principle continues to hold field under GST. Unless the basis of a demand, including interest, is laid in the SCN, the authority lacks jurisdiction to confirm it in the adjudication order.

While interest under GST may be mandated by law, it still must adhere to procedural fairness and transparency. Section 75(7) acts as a safeguard, requiring the department to clearly explain and specify its demands.

⁵ <https://gstindia.biz/case-law/137/>

⁶ <https://gstindia.biz/case-law/134/>

Under GST as well, the SCN delineates the scope of dispute, and authorities cannot construct a fresh case in the order or before a court. Even statutory interest must be supported by a foundational notice to sustain jurisdiction.

The current judicial trend suggests that:

- **Section 75(7) prevails over Section 75(9)** in the context of the SCN.
- If interest is neither specified nor quantified in the SCN, its later imposition in an order under Section 73(9) or 74(9) cannot be sustained.
- The statutory character of interest does not empower authorities to bypass the mandatory requirement of notifying the assessee of the exact quantum being demanded.
- Courts have, in substance, rejected the contention that Section 75(9) overrides the notice requirement. Instead, they have emphasized that Section 75(7) imposes a jurisdictional limitation and prevents adjudicating authorities from exceeding the four corners of the SCN. Section 75(9) does not create an independent adjudicatory power; it merely preserves the statutory liability of interest once properly invoked.

Scope of Sec. 75(9)

It is important to clarify that Section **75(9) is neither ultra vires nor otiose**. The provision has a legitimate statutory role within the scheme of the CGST Act. Interest under Section 50 remains compensatory in nature and, in appropriate circumstances, particularly in cases of self-assessed tax reflected in returns, may accrue automatically. Section 75(9) ensures that such statutory liability does not evaporate merely because of an omission in the wording of an order. However, judicial pronouncements have consistently underscored that once adjudication under Sections 73 or 74 is invoked, the discipline of Section 75(7) governs the field, requiring that tax, interest, and penalty must be proposed within the four corners of the Show Cause Notice. The courts have therefore not invalidated Section 75(9);

rather, they have confined its operation to situations where liability otherwise stands lawfully crystallised.

Section 75(9) is neither ultra vires nor redundant; it unquestionably has a statutory role within the GST framework. Yet the real question remains in what precise factual situations will courts permit its independent invocation, and where will they insist that the discipline of the Show Cause Notice prevails?



Authored by Ashu Dalmia and places on record his appreciation for the research and drafting assistance provided by Ankita Jha and Anshu Upadhyay.

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