**How to Respond to Show Cause Notice**

**INTRODUCTION**

A show cause notice is issued by the Disciplinary Authority, herein referred to as Authority, when prima facie; a government official is held responsible for misconduct. It is important that the accused be informed by the Authority that he is responsible for such misconduct. He then sends a reply to the Authority, within a time period, as to why the show cause notice should not be initiated. This time period is mentioned in the notice itself. The provision of reply is to give him a reasonable opportunity to disprove the charges levied on him.

**METHOD**

In any adjudication SCN is the primary stage and it is not an authority’s order. Therefore, SCN cannot be challenged before the first appellate authority.

In matter of taxation,against the issue of SCN stay could not be obtained in civil courts as the civil courts do not hold any jurisdiction in the taxation matters.

Thusfiling a writ petition before the High Court under Article 226 is the only way to challenge the issue of show cause notice.

**In case of Union of India V. Vicco Laboratories 2007 (11) TMI 21 (Supreme Court)**

**HELD -** Normally the writ should not interfere at the stage of issuance of show cause notice by the authorities.   In such a case the parties get ample opportunity to put forth their contentions before the authorities concerned and to satisfy the authorities concerned about the absence if case for proceeding against the person against whom the show cause notice has been issued.

Abstinence from interference at the stage of issuance of show cause notice in order to relegate the parties to the proceedings before the authorities concerned is the normal rule.

However the said rule is not without any exceptions. Where a show cause notice is issued either without jurisdiction or an abuse of process of law, certainly in that case, the writ court would not hesitate to interfere even at the stage of show cause notice.   The interference at the show cause notice stage should be rare and not in a routine manner.   Mere ascertain by the petitioner that notice was without jurisdiction and/or abuse of process of law would not suffice. It should *prima facie* be established.  Where factual adjudication would be necessary interference is ruled out.

Also in case of **Bhubaneswar Development Authority v. Commissioner of Central Excise and Service Tax (2015)**

**FACTS**- Demand-cum-show cause notice calling upon to submit the reply to the show cause notice within 30 days of the receipt of the notice was challenged. The question being as to why service tax interest/penalty shall not be levied.

The challenge is on the ground that the conditions precedent for exercise of jurisdiction to invoke the extended period of limitation are wholly absent and the Commissioner has not properly applied his mind to the questions as to the condition for invoking the extended period of limitation existed and/or acted mechanically. It was submitted that the impugned show cause notice amounts to wrongfully invocation of jurisdiction and hence ought to be quashed.

**HELD**- The High Court held that the issue whether the extended period of limitation was applicable, was yet to be determined by the Adjudicating Authority at first instance itself.  Hence writ petition was not maintainable.   The High Court directed the petitioner to file reply to show cause notice within 30 days of the order and to participate in proceedings.

**SHOW CAUSE NOTICE BY COURT (REPLY)**

If the Court sends a Show Cause Notice, the person to whom such notice is given must give it the highest priority. The show cause notice must not be taken lightly and its seriousness should be understood. The reason being that by sending a reply to the show cause notice, he/she can avoid criminal charges put on him and also the liabilities which arise from them. Points to be kept in mind while writing a reply to show cause notice:

1. A proper explanation has to be provided at the earliest.
2. It should be kept as brief as possible.
3. It must be written in such a manner that the Court is satisfied with the fact that he/she is aware of the gravity of the situation.

**Some more points to be kept in mind:**

When you are filling a reply to a show cause notice it must always be kept in mind that you must give a reasonable excuse**.** Any individual must draft his/her reply in such a way that if any layman would read it he should find the same as reasonable. Moreover, always sound humble in your reply and also sound sorry for the same. Lastly, be always very careful to file the reply within the specified time limit mentioned in the notice.

In case of **Meenakshi v. State of Haryana,** Considering the chain of facts and highlighting the reply filed by the petitioner to the notice under S. 340, the Court clarified that there was nothing illegal in it and did not amount to miscarriage of justice at all, for the opportunity of being heard was given to the petitioner as she was allowed to file reply to the show-cause notice. It is the non-acceptance of the forgiveness sought that has led to the filing of the complaint in the Court. Inderjit Singh, J accordingly held that there is no merit in the case and accordingly, dismissed the petition.