

# Chapter - 09

\* GSTP, Assessment, Demand & Recovery.

\* Provisional Assessment :-  
↳ Means, Temporary Basis pe Assessment Ho

Q :- why in Temporary Basis ?

because u are unable to Determine

Value ? Rate ?

Application to Officer. → Notice receive → Require Document → Officer Order pass

within 90 days of rec. of application. → indicate Rate & value → basis for assessment &

furnish Bond + Security amt.

Bank Max 25% Guarantee of Tax amt.

\* finalisation of Prov. Assessment :-

Prov. Order pass → within 6m. → final Ass. order pass → Approval required = A.C./J.C. → extension for further 6m

Before finalisation. ← Officer seek into → further 9 year. ← Commis. tone

Date \_\_\_/\_\_\_/\_\_\_

Shortfall in Payment

↓ Day after Due Date till the Date of Payment

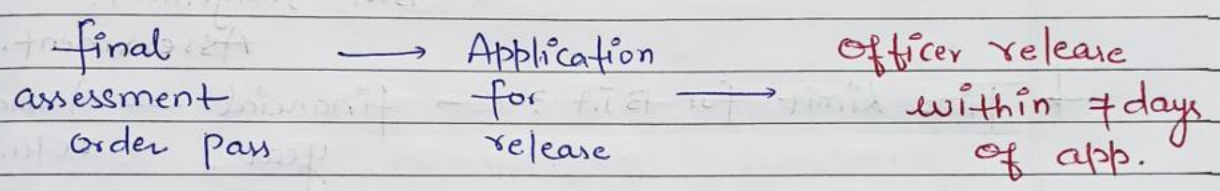
Pay int. 18% p.a  
Sec 50(c)

excessive Payment.

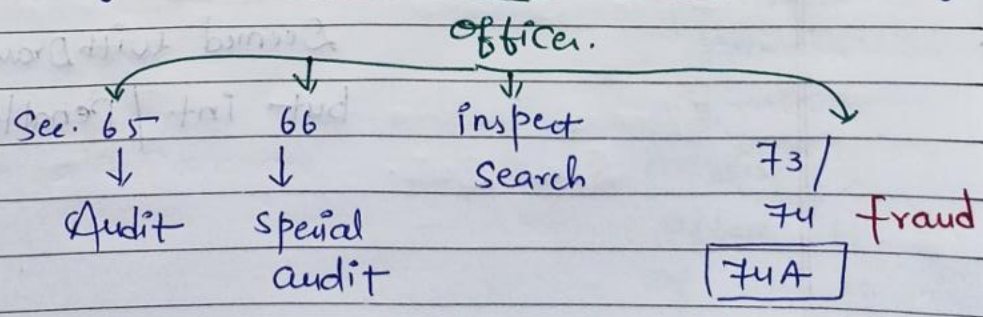
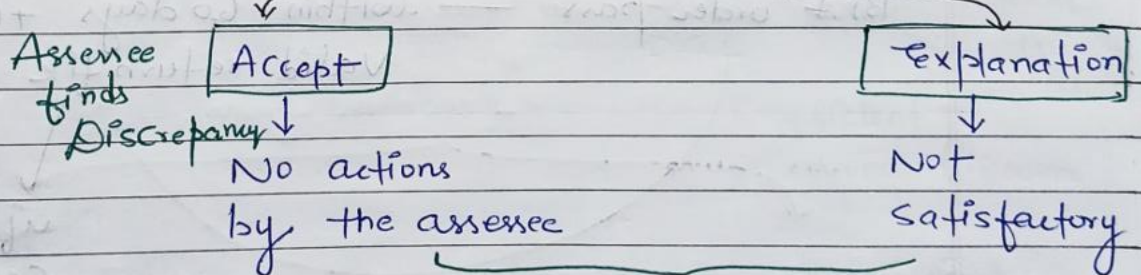
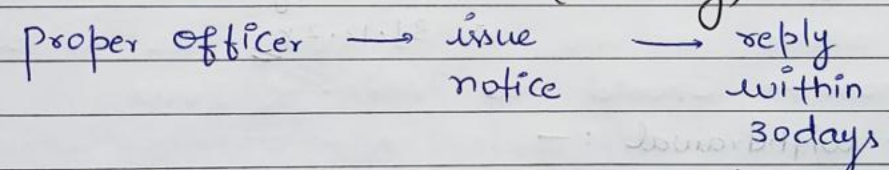
Refund within 60 days.

else int. receive.

\* Release of Security :-

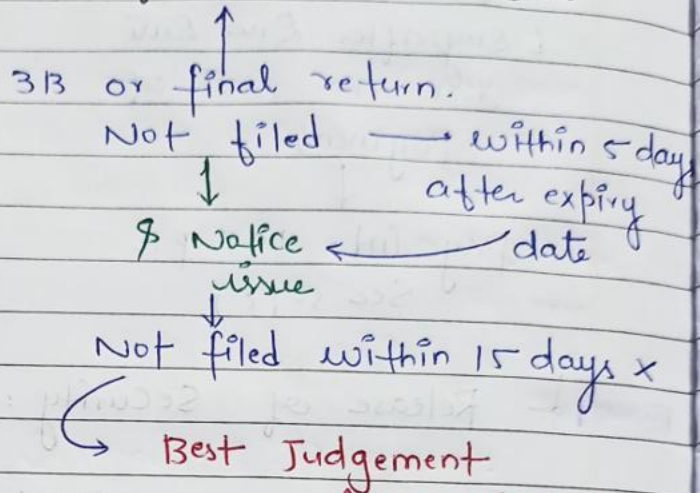


\* Sec 61 (Scrutiny) :-



\* Assessment of Non files of Return:-

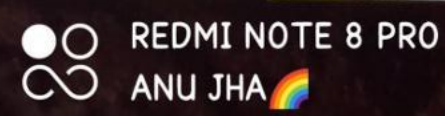
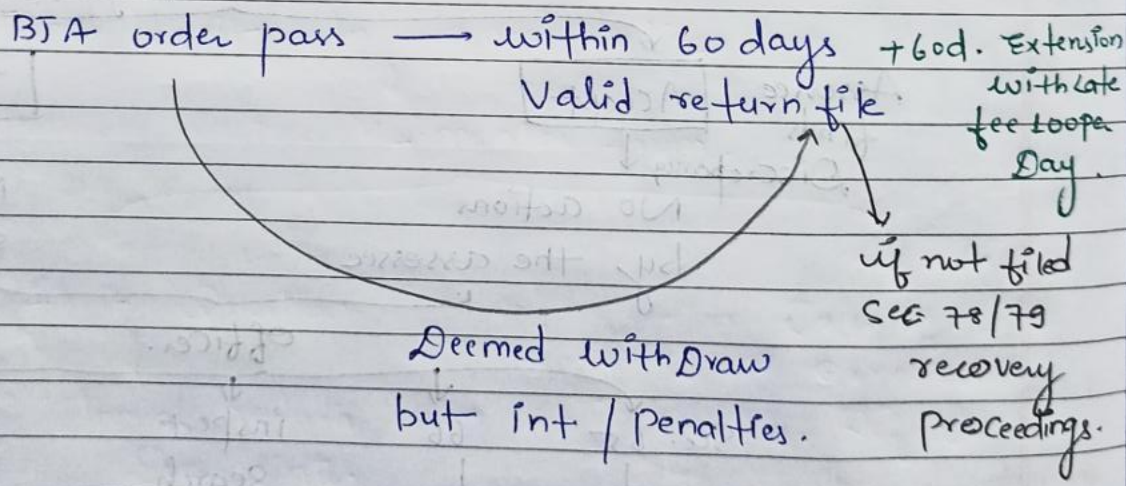
\* Section 62 Message is received 3 days before the Due Date



\* Time Limit for BJA? → financial year → Annual return → Due Date

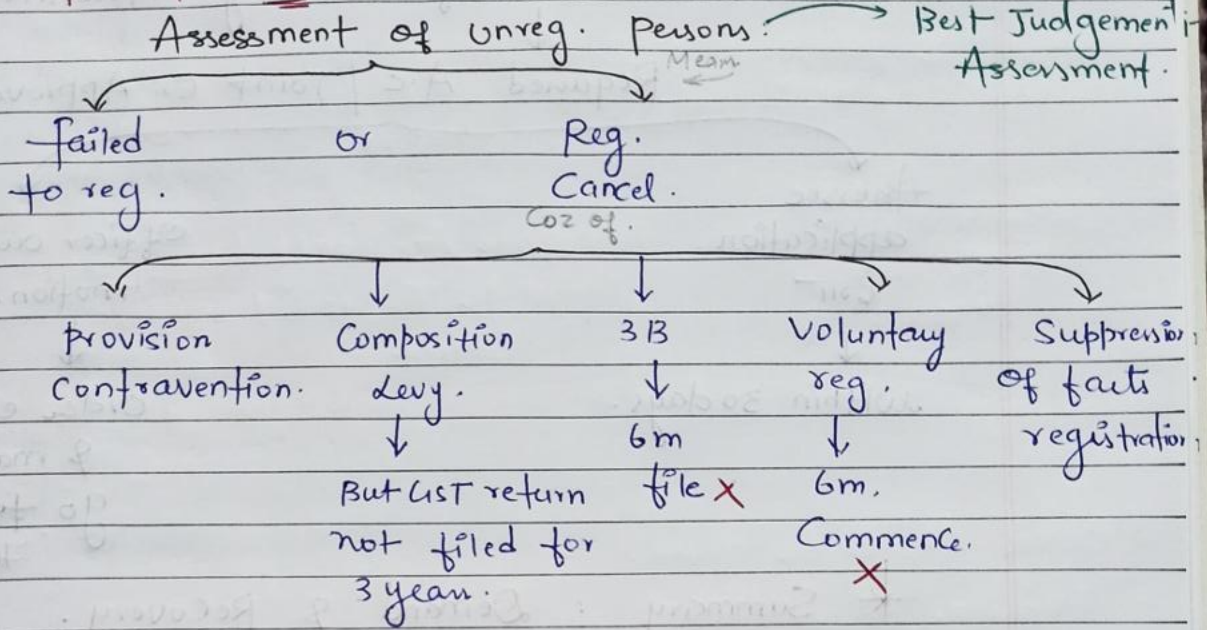
eg:- 22-23 | 31.12.23 + 5y = 31.12.28 → 5 years.

\* BJA withdrawal :-



Date \_\_\_/\_\_\_/\_\_\_

\* Section 63.

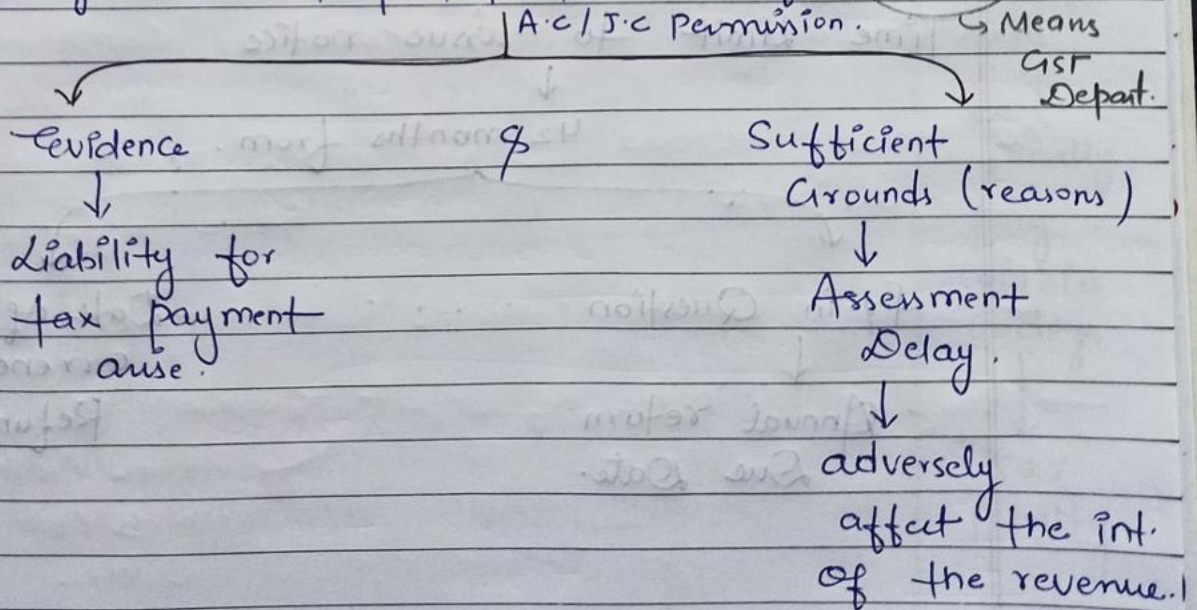


→ BJA → Notice → reply 15 days.

→ BJA order.   
 ↓   
 year → Annual return Due Date + 5 years.

\* Section 64. [Summary Assessment]

why S.A? → to protect the int. of Revenue.



\* withdrawal of Summary Assessment :-

↓  
Required A.c / Joint C. Approval

↓  
Assessee application  
↓  
GOIT

↓  
within 30 days.

↓  
Officer own motion,  
↓

Order erroneous & may go for Sect 74/74A.

\* Summary : Demand & Recovery.

Section 74A :- Tax not paid, short paid, erroneously Refund, or I.T.C wrongly availed or utilised.

- for above reasons notice will be issued but amount should be Min. ₹ 1000
- Time limit to issue notice

↓  
42 months from.

↓  
fy in Question  
↓  
Annual return Due Date.

↓  
Date of erroneous Refund

• Penalty

Other than  
fraud

↓  
10% of tax due  
or  
₹ 10,000

} Higher.

fraud

↓  
100%  
of tax  
Due

Also if  
tax collected or  
self assessed  
tax is not paid within  
30 days of Due Date.

\* officer to issue order :-

Notice + 12m + 6m extension.

penalty

	Other than fraud	fraud
1. Pay after pre show Cause notice but before notice	pay tax + Int. No Penalty	Tax + Int. + 15% Penalty
2. Pay after Notice	if paid within 60 days → No penalty	if paid with 60 days. ↓ 25% penalty.
3. Pay after order	10% of Tax Due or ₹ 10,000 Higher	pay within 60 days ↓ 50% penalty.

General Provision. Not \*

Sec. 75 → Determination of tax.

• Stay order period to be excluded → while counting limitation period.

• 75(2) → charges of fraud → Court could not find fraud → then case of other than fraud.

• Order required to be issued because of → Appellate Authority / Appellate Tribunal / Court → within 2 years ↓ from Communi-  
- cation of such order.

• OOBH should be given.

• Hearing adjournment allowed → Max 3 times.

• Adjudication order → Must be speaking order.  
Means with reasons.

• Demand amt in Orders → should be less than equal to → Demand amt in notice.

• Payment of int. is Mandatory → even if not mentioned in adjudication is completed.

• once penalty imposed u/s 74A → No other penalty for same offence.

\* Section 76 → tax collected but not deposited.

→ Based on principle of unjust enrichment

→ Means getting rich @ cost of others.



Proper office can adopt one or more of the Methods for recovery of the amounts payable.

- > Deduction out of any money owing to Defaulter.
- > By Detaining and selling the goods belonging to the Defaulter.
- > Recovery from any other person who owes money to Defaulter.
- > Collection by Detention of any movable or immovable property.
- > Recovery through District Collector.
- > Recovery through Magistrate.

Bonds or any other instruments may be executed towards amt. Due.

Bonds or any similar instruments may be executed towards the Amount Due.

By way of an explanation the scope of Sec. 79 has been expanded to include distinct person, which means that recovery proceeds can be instituted against any of the person falling under the same PAN.

P.T.O →

Modes of recovery.  
Section 79.

(1) (a)  
Deduction from  
money owned  
by 1st Department.

(1) (b)  
Sale of Goods under  
P.O

↓  
Detaining &  
Selling goods.

↓  
Auction / e-  
auction.

↓  
P.O Prepare  
Inventory &  
estimate M. value

↓  
Sell only required  
Quantity of goods

↓  
if Person pays  
amt before  
notice of  
auction

↓  
Cancel auctions &  
release the Goods.

\* 79(1)(c) → Garnishee Proceedings :- recovery from  
3rd person.

• P.O → notice in writing to another person.

from whom  
money is Due  
to such person.  
(Debtor)

or holds / subsequently  
holds.  
↓  
Money for  
Such Person  
(Bank A/c)

if future Money  
becomes Due to  
Such person.  
(M.F invst. / Insurance)

- if notice issued to post office / Bank, Insu. Co. then,
  - No need to produce any passbook, Deposit receipt etc.
- if person receiving notice → fails to pay → Deemed to be Defaulter.
- officer issuing notice → Amend / revoke / extend order.

→ Person Discharging Liability → to person in Default

ex → Debtor.

↓  
be Personally Liable

↓  
to Govt.

Upto Liability  
Discharged

or

Tax + int +  
Penalty.

Lower.

→ Person to whom notice is given → proves nothing is Due.

↓  
Sec. Does not apply to him.

→ officer to issue Certificate to payer.  
Mentioning Details.

\* 79(1)(d): — Recovery by sale of Movable / Immovable property.

→ P.O may Detain → if Property is Detained & Cost of keeping prop. is not Paid.

Sell through  
Auction / e-auction → within 30 days.

\* 79(1)(e) → Recovery as arrears of Land revenue

P.O Prepare Certificate → Send to Collector → shall proceed to recover.

\* 79(1)(F) → Recovery of fine imposed by magistrate :-

P.O + app. to → Magistrate.

\* RULE 146 → Recovery through execution of a Decree

Amt Payable to Defaulters Under Decree of Civil Court

→ P.O Send request to Court

ex → Defaulter Court Case Teet gaya.

\* RULE 157 → Recovery through Surety

\* RULE 160 → Recovery from Co. in Liquidation

↓  
notify liquidator.

Pay of Tax & other Amt in Instalments [Sec-80]

Application to Commissioner → Allow max 24 monthly Installation + int

↓  
Call report from Jurisdiction → financial ability.

whole amt becomes Due immediately.

Default in any instalment

then,  
 deposit  
 emed to  
 e Defaulter.  
 extend order.  
 n Default

→ p.o → Prepare list  
 M.P. + Immovable prop. → estimate value as per  
 M.V  
 ↓  
 order for attachment

In case of attachment / Distraint of:	
• an Immovable Property	Order shall be affixed on the prop. till the Confirmation of sale
• A Movable Property	Proper officer shall seize the prop. & take its Custody.

→ Any Person raises Dispute → His Interest  
 ↓  
 in prop. to be auctioned  
 P.O to investigate & Postpone sale  
 then may release prop. or reject the claim.

→ Defaulter payes  
 before notice for auction → Cancellation.

→ Amt. recovered from Auction - Apply towards.

- i) Admin Cost
- ii) Amt to be recovered
- iii) Amt Due & CUST/SCST etc
- iv) Surplus to Default - er.

→ if property to be sold → Neg. instrument or share  
 ↓  
 May sell such through broker.

- Officer selling Can't acquire int in it.
- No selling on Sunday / General holiday.
- May seek assistance from police station.

\* Instalment's not allowed :-

Person already defaulted on GST & recovery process.

Person not allowed installment in preceding fy.

amt is < ₹ 25000

\* Section 81 :- Transfer of property → valid/void.

Situations / Cases → valid	Situations / Cases → void
i) Made for adequate consideration	i) Creates a charge on it.
ii) without notice of the pendency of proceeding	ii) Parts with the property.
iii) without notice of such tax or other sum payable by the said person.	
iv) with previous permission of the proper officer.	

\* Sec. 82 → tax to be first charge except in case of IBC [insolvency & Bankruptcy Code.]

\* Sec 83 → prov. attachment to protect Revenue in certain cases.

prov. attachment → cease in 1 year

Cust Rates

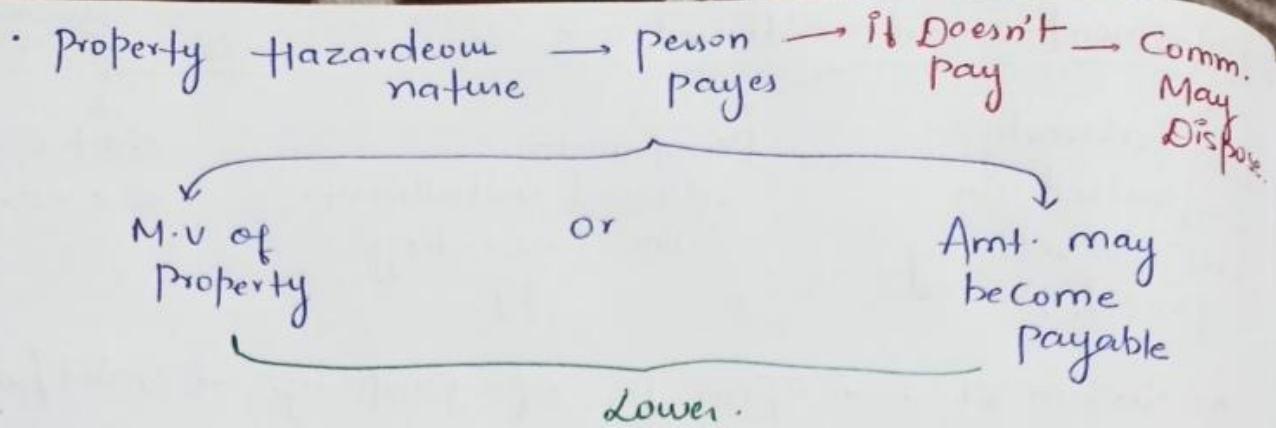
\* 159 → prov. attachment of property.

Commissioner Decides → Pass on order → Send a copy to

To be removed on writing instructions.

Place encumbrance

revenue or concerned authority

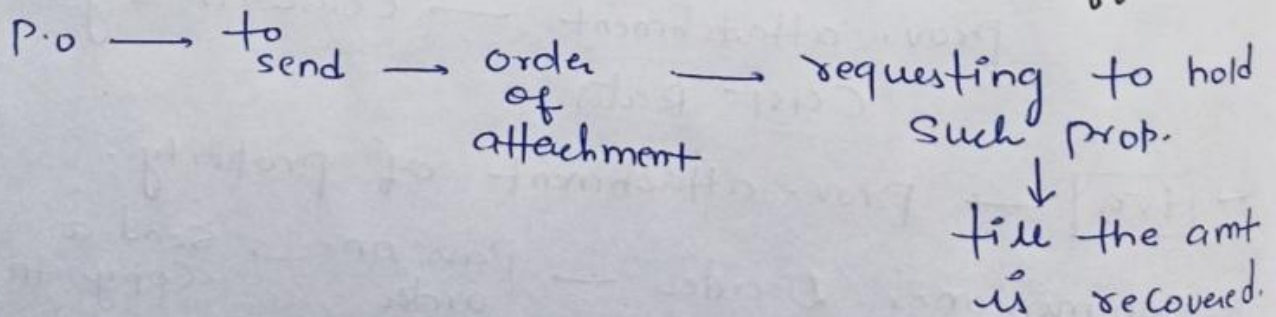


- then release prop. → on proof of payment.
- Prop. attached → file objection → At the any time.

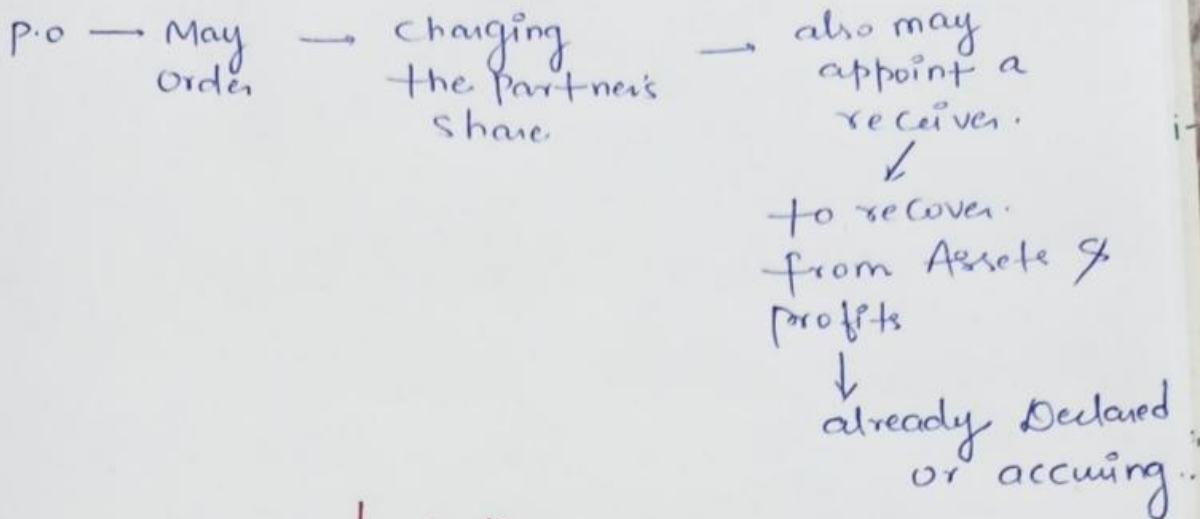
RULE 151 → Attachment of Debentures & shares.

- May attach → Prohibiting.
  - In case of Debt / creditor to recover. & Debtor to pay.
- Share → from transferring.
- Movable prop. → giving possession to Defaulter.
  - copy of orders to be sent to such Person.

RULE 152 → Attachment of Prop. → Custody of Courts or Public officer.



\* RULE 153 → Attachment of Int. in Partnership: -



\* Section 84 : -

Continuation & Validation of Recovery Proceedings.

↓  
Notice of Demand served

↓  
& Appeal / Revision is filled then,

Govt. Dues is enhanced  
↓  
Commissioner serve another S.C.N & start recovery proceeding.

Govt. Dues are lowered.  
↓  
Commissioner to intimate regarding Deduction to assessee & appropriate authority.

→ 10 April 25 →

→ IST Done: ←