



× NEW GROUND OF FACTS AND LAW

- × In *Devangere Cotton Mills Vs. CCE 2006(198) ELT 482 SC*, SC held that Tribunal is not right in refusing new ground only on the ground that the ground was not raised earlier.
- × The limitation applies for filing of an appeal but there is no time limit for raising new grounds on facts and law. *Shilpa Associates Vs. ITO 2004(165) ELT 22 Raj DB*.
- × However, purely issue/ground of law can be raised at any time and before any court. *CCE Vs. Ramdev Tobacco Co. 1991(51) ELT 631*.

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BENEFIT OF NOTIFICATION CAN BE CLAIMED AT ANY TIME

Abatement of duty or taxes can be claimed at any time in future though it may not have been claimed earlier. Tata Hydro Electric Power Vs. CCE 1999 (114) ELT 171.

PLEA OF LIMITATION IS A LEGAL ISSUE

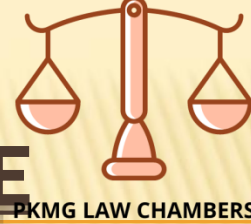
✘ The plea of limitation can be raised at any point unless there is a appreciation of facts. CCE Vs. Tata Engineering 1999(111) ELT 9 Patna HC.



- ✘ Pure point of law can be allowed to be raised at any time. CCE Vs. Pioma Industries 1997 (91) ELT 527 SC .
- ✘ **ISSUE OF JURISEDICATION CAN BE RAISED:**
- ✘ Defect of jurisdiction of authority strikes at the very authority to pass the order and hence plea can be taken at any time. CCE Vs. Imtiyaz Traders 2011(268) ELT 339 Guj DB. Fatima Bibi Vs. State of Guj 2008(6) SCC 789 SC.
- ✘ **ISSUE OF TAXABILITY OF PRODUCTS:**
- ✘ Additional ground of manufacture and taxability can be raised at any time. Mc Dowel ^ Co Ltd Vs. CCE 2005(182) ELT 114. HDFC Bank Vs. CST 2013(38) STT 212.



- ✘ **NO ADDITIONAL GROUND TO MAKE A NEW CASE**
- ✘ Party was not allowed to raise a different plea not raised earlier. *West Coast Paper Mills Vs. CCE 1997(91) ELT 526 SC.*
- ✘ Party cannot be allowed to raise new point inconsistent with the plea raised earlier. *CCE Vs. Exide Batteries 2005(181) ELT 320 SC.*
- ✘ Additional ground can be taken when evidence already on record. *CIT Vs. Gangappa Cables Ltd 1979 (116) ITR 778 AP. HC*



NO GROUND BEYOND SHOW CAUSE NOTICE

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- ✘ The Department can not be allowed to go beyond SCN and make out a new case altogether. SACI Allied Products Vs. CCE 2005(7) SCC 159 - followed in Caprihans India Ltd Vs. CCE 2015(325) ELT 632 SC.
- ✘ Section 75(7) CGST Act also provide that impugned order cannot go beyond the terms of SCN. In other words, in the impugned order or appellate order, the Adjudicating Authority or Appellate Authority cannot raise plea which was not raised in the SCN nor raise any point which is contrary to the terms of SCN.