

Judgements explaining the delegated legislation i.e. How it works, how one can trace the delegation of power and when the exercise of power becomes ultravies to the Statute			
S.N.	Case Subject	Case	Held
1.	Power is delegated for framing the Rules	Academy Of Nutrition Improvement ... vs Union Of India on 4 July, 2011	“Statutes delegating the power to make rules follow a standard pattern. <u>The relevant section would first contain a provision granting the power to make rules to the delegate in general terms, by using the words “to carry out the provisions of this Act” or “to carry out the purposes of this Act”.</u> This is usually <u>followed by another sub-section enumerating the matters/areas in regard to which specific power is delegated by using the words “in particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters”.</u>
2	How power is delegated to prescribe the form and manner of doing a thing	Sales Tax Officer vs K. I. Abraham on 7 April, 1967 1967 AIR 1823	<u>In our opinion, the phrase "in the prescribed manner" occurring in s. 8(4) of the Act only confers power on the rule-making authority to prescribe a rule stating what particulars are to be mentioned in the prescribed form, the nature and value of the goods sold, the parties to whom they are sold, and to which authority the form is to be furnished.</u> But the phrase "in the prescribed manner" in s. 8(4) does not take in the time element. In other words, the section does not authorise the rule making authority to prescribe a time- limit within which the declaration is to be filed by the registered dealer. <u>In Stroud's Judicial Dictionary it is said that. the words "manner and form" refer only "to the mode in which the thing is to be done, and do not introduce anything from the Act referred to as to the thing which is to be done or the time for doing it".</u>
3.	How power is delegated to prescribe a Time Limit for doing a particular thing	Sales Tax Officer vs K. I. Abraham on 7 April, 1967 1967 AIR 1823	The view that we have taken is supported by the language of s. 13 (4) (g) of the Act which states that the State Government may make rules for "the time within which, the manner in which and the authorities to whom any change in the ownership of any business or in the name, place or nature of any business carried on by any dealer shall be furnished." <u>This makes it clear that the Legislature was conscious of the fact that the expression "in the manner" would denote only the mode in which an act was to be done, and if any time-limit was to be prescribed. for the doing of the, act, specific words such as "the time within which" were also necessary to be-put in the statute.</u>
4.	Can a general provision which provides for making rules for the purpose of carrying our provisions of Act sufficient, if specific provision for which Power has been exercised does not delegate the power	Nelco Limited vs UOI [2020] 116 taxmann.com 255 (Bombay)	Although Section 140 of CGST Act, 2017 at that time did not specifically delegated the power to prescribe time limit but High Court observing the provisions of <u>Section 164 (1) of CGST Act which empowers the government, on the recommendation of the GST Council, to make rules for carrying out the provisions of the Act. Sub-section (3) of Section 164 declares that power to make a rule under this section also include the power to give retrospective effect. A power to levy penalty in the contravention is declared in sub-section (4). Sub-section (2) of Section 164 is in most extensive terms.</u> The Government can make rules for all or any of the matters which by this Act are required to be, or may be prescribed or in respect of which provisions are to be or may be made by rules. It is clear from reading Section 164(2), that the Government has the power to make rules not only for the matters already prescribed but those may be prescribed in future or in respect of which provisions are to be made by rules. Thus, section 164 governs the most comprehensive range of rule-making power. Thus, it was held that the time limit in Rule 117(1) is traceable to the rule-making power conferred in Section 164(2).
5.	Pre-Requisites of a Rule Making Power	General Officer ... vs Subhash Chandra Yadav & Anr 1988 AIR 876	“.....before a rule can have the effect of a statutory provision, two conditions must be fulfilled, namely, <u>(1) it must conform to the provisions of the statute under which it is framed; and (2) it must also come within the scope and purview of the rule-making power of the authority framing the rule.</u> If either of these two conditions is not fulfilled, the rule so framed would be void.”
6.	Can a Rule Making power travel beyond the Statute	Union Of India & Ors vs S. Srinivasan on 21 May, 2012	“... <u>If a rule goes beyond the rule-making power conferred by the statue, the same has to be declared ultra vires. If a rule supplants any provision for which power has not been conferred, it becomes ultra vires.</u> The basic test is to determine and consider the source of power which is relatable to the rule. Similarly, a rule must be in accord with the parent statute as it cannot travel beyond it.”