

A close-up photograph of a hand holding a wooden gavel with a gold band, positioned over a wooden surface. The gavel is the central focus of the image, and the background is slightly blurred, showing a person in a dark suit.

CBIC ISSUES GUIDELINES FOR UNDERTAKING INVESTIGATION WITH REGULAR TAXPAYERS

CBIC has issued the following directions to the CGST field formations to follow a uniform procedure in undertaking enforcement activities to promote ease of doing business in India:

- Within the jurisdiction allocated *vide* notification no.: 02/2017-Central Tax dated 19 June 2017, the Principal Commissioner shall be responsible for developing and approving intelligence, conducting search, completing investigation and undertaking subsequent actions. Information/ intelligence pertaining to another CGST field formation shall be forwarded by the Principal Commissioner to the concerned CGST field formation or Directorate General of GST Intelligence (DGGI), as the case may be.
- Each investigation shall be initiated only after the approval of the Principal Commissioner, except in the following situations, where a prior written approval of the zonal Principal Chief Commissioner shall be required:
 - Matters of interpretation seeking to levy tax/ duty on any sector/ commodity/ service for the first time, whether in Central Excise or GST; or
 - Investigations pertaining to big industrial houses or major multinational corporations; or
 - Sensitive matters or matters with national implications; or
 - Matters which are already before the GST Council.

In these cases, the concerned CGST field formation should collect details pertaining to the prevalent trade practice and the nature of transactions. Further, the impact of the matter should be examined to provide an adequate justification for initiating the investigation/ taking action.

- The fact of initiation of inquiry (if any) on the same subject matter with respect to the same taxpayer/ GSTIN by another investigating office/ tax administration must be ascertained for obtaining approvals to initiate investigation.
- Where the DGGI or the State GST department is simultaneously undertaking record-based investigation of the same taxpayer on different subject matter(s), the Principal Commissioner must engage in dialogue with the other investigating office(s) to consider the feasibility of any one of the offices pursuing these subject matters with respect to the taxpayer. If such outcome is not feasible, the reasons thereof should be confirmed on file by the Principal Commissioner.
- Where the Principal Commissioner observes that the issue under investigation is relevant to some or all of that taxpayer's GSTINs (registered under the same PAN) in multiple jurisdictions and the matter also falls within the charter of DGGI, he should make a self-contained reference to its zonal Principal Chief Commissioner who shall request the Principal Directorate General, DGGI to take up the matter in accordance with the DGGI guidelines.
- Where the Principal Commissioner observes that the issue under investigation is relevant to various other taxpayers across multiple jurisdictions, then he should, within 30 days from the initiation of the investigation undertake either of the following actions with the approval of the zonal Principal Chief Commissioner:
 - If the description of GSTINs or similar entity types involved (or likely to be involved) across various jurisdictions related to the issue or topic is available, the self-contained reference is to be shared with each concerned Zone or all the Zones.

- In other situations, the Principal Director General, DGGI shall be requested to issue a suitable alert.
- Where an issue investigated by the Principal Commissioner is based on the interpretation of the GST law leading to a direction of proposing non-payment/ short-payment of tax, being contrary to the prevalent trade practice in the sector/ industry (based on a particular interpretation on that issue), the zonal Principal Chief Commissioner should make a self-contained reference to the relevant policy wing of the CBIC, i.e. the GST Policy or the TRU.
- **Guidelines pertaining to the issuance of letters/ summons:**
 - In initiating an investigation with respect to a listed company/ PSU/ Corporation/ Government Department/ Agency or an Authority established by law, the practice to be adopted by the CGST field formation for seeking details should be initially sending official letters to the designated officer of such entity, seeking requisite information (instead of summons) in reasonable time. Divergence from this practice at the initial stage must be backed by written reasons.
 - Further, such letter/ summons should disclose the specific nature of the inquiry being initiated/ undertaken and should not be vague (such as inquiry in connection with “GST enquiry” or “evasion of GST” or “GST evasion”, etc.).
 - The information available digitally/ online on the GST portal should not be called for under a letter/ summons from a regular taxpayer. Further, such a letter/ summons should not be used as a means to seek information in specific formats. Further, the scope of the summons should be within the wording of Section 70 of the Central Goods and Services Tax Act, 2017 and it should not be akin to a fishing inquiry.
 - It is not acceptable to seek information such as “*please clarify whether ITC availed and utilised was proper*” via letters/ summons in cases where the taxpayer has utilised ITC towards payment of GST.
 - In issuing summons, the norm shall be of prior reasoned approval (of officers not below the Deputy Commissioner/ Assistant Commissioner level) of the content of the summons to be printed, including what is being sought and the time frame to be provided which must be reasonable for its compliance.
 - If for strictly operational reasons, it is not possible to obtain such prior written permission, the approval by the designated officer can be verbal. However, it must be confirmed in writing at the earliest opportunity.
 - Before summoning any information/ documents from a regular taxpayer, the relevancy and propriety of what is being sought must be recorded (on e-file), ensuring that it is holistic and a result of preparation, and also to avoid repeated issuance of summons or seeking piecemeal information.
 - The scanned copy of a statement (recorded under summons) must be uploaded in the same e-file in which the approval was obtained to issue the summons. The outcome of the search/ inspection conducted, including the panchnama (if any) must also be uploaded. The e-file should be submitted for information to the Additional/ Joint Commissioner in not more than four working days from the date of statement, completion of search/ inspection.
- An investigation must reach a conclusion at the earliest, which should not exceed one year. The show-cause notice should not be delayed after the conclusion of the investigation. The closure report consequent to the appropriate payment of dues should not be delayed and must have a brief self-explanatory narration of the issue and period involved.
- Conclusion of investigation may also take the form of recording that the investigation is not being pursued further as nothing objectionable was found in terms of the matter investigated.
- The Principal Commissioner is to be proactive to ensure prevention of complaints in respect of the investigation and related work being undertaken within the jurisdiction.
- The Additional/ Joint Commissioner in charge of the investigation is the Grievance Officer whom the taxpayers may approach in case of any grievance, and in case of persistence of reasonable grievance, the Principal Commissioner may consider meeting the taxpayer.

BDO India Comments

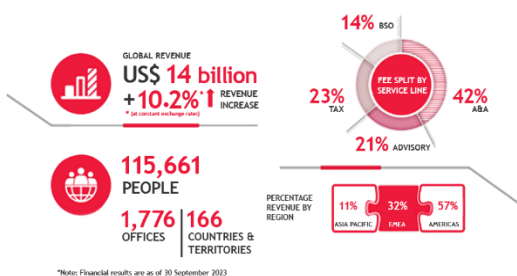
The issuance of the aforesaid instruction, which brings the investigation proceeding under closer supervision of the senior officer at the Principal Commissioner level and also seeks to ensure a focussed and time-bound investigation, is welcome. While the aforesaid instruction vividly stipulates the guidelines to be followed in investigations, the implementation of the guidelines (in letter as well as in spirit) would result in a consistent approach and would also restrict the hardships faced by the taxpayers, resulting in achieving the objective of these guidelines, i.e. to ensure the ease of doing business. Moreover, issuance of the similar instructions by the State GST Departments would also help the taxpayers.

[Source - Instruction No.: 01/2023-24-GST (Inv.) dated 30 March 2024]



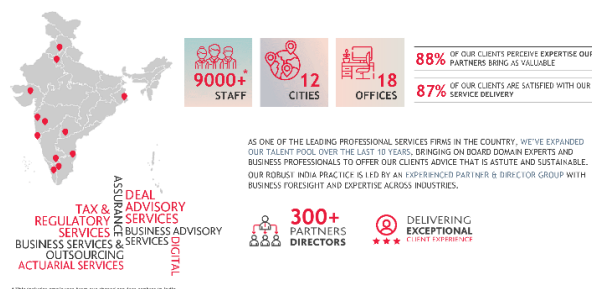
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For any content related queries, you may write in to taxadvisory@bdo.in

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