



ASC

GST TIMES





Compliance Calendar

S. No.	Due Date	Forms	Period	Description
1.	10 th March 2021	GSTR-7	February, 2021	Return for Tax Deducted at source to be filed by Tax Deductor
2.	10 th March 2021	GSTR-8	February, 2021	E-Commerce operator registered under GST liable to TCS
3.	11 th March 2021	GSTR-1	February, 2021	Taxpayers having an aggregate turnover of more than INR 1.50 crores or opted to file monthly return
4.	12 th March 2021	GSTR-2B	February, 2021	Auto generated ITC statement
5.	13 th March 2021	GSTR-1	January-March, 2021	Optional for taxpayers who have opted for Quarterly Return Monthly Payment ("QRMP") Scheme
6.	13 th March 2021	GSTR-6	February, 2021	Every Input Service Distributor (ISD)
7.	20 th March 2021	GSTR-5 & 5A	February, 2021	Non-resident ODIAR services provider file Monthly GST Return
8.	20 th March 2021	GSTR-3B	February, 2021	Taxpayers having an aggregate turnover of more than INR 5 crore
9.	22 nd March 2021	GSTR-3B	February, 2021	Taxpayer having an aggregate turnover up to INR 5 crore and whose principal place are in the state of: Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh or in the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep
10.	24 th March 2021	GSTR-3B	February, 2021	Taxpayer having an aggregate turnover up to INR 5 crore and whose principal place are in the state of: Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or in the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi
11.	25 th March 2021	PMT-06	February, 2021	Challan for deposit of goods and services tax for taxpayers who have opted for QRMP Scheme
12.	31 th March 2021	GSTR-9	FY 19-20	Taxpayer having an aggregate turnover of more than rupees 2 Crores in the preceding financial year
13.	31 th March 2021	GSTR-9C	FY 19-20	Taxpayers having an aggregate turnover of more than rupees 5 Crores in the preceding financial statement
14.	31 th March 2021	CMP-08	FY 21-22	Due date for opting for composition scheme



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GOODS AND SERVICES TAX (GST)



CBIC notifies class of person to whom Aadhar authentication not applies

CBIC vide notification No. 03/2021, dated 23rd February, 2021 notified class of person to whom aadhar authentication not applies.

In exercise of the powers conferred by sub-section (6D) of section 25 of the Central Goods and Services Tax Act, 2017, the Government, on the recommendations of the Council and in supersession of the notification No. 17/2020-Central Tax, dated the 23rd March, 2020, which contain details related to class of person exempt from aadhar authentication, hereby notifies that the provisions of sub-section (6B) or sub-section (6C) of section 25 of the said Act shall not apply to a person who is, —

- (a) Not a citizen of India; or
- (b) A Department or establishment of the Central Government or State Government; or
- (c) A local authority; or
- (d) A statutory body; or
- (e) A Public Sector Undertaking; or
- (f) A person applying for registration under the provisions of sub-section (9) of section 25 of the said Act.

Standard Operating Procedure (SOP) for implementation of the provision of suspension of registrations

CBIC vide circular No. 145/01/2021, dated the 11th February, 2021 reproduced provisions related to suspension of registration.

On observance of discrepancies /anomalies which indicate violation of the provisions of Act and rules made thereunder; and that continuation of such registration poses immediate threat to revenue.

2.1 Sub-rule (2A) of rule 21A is reproduced hereunder:

“(2A) Where, a comparison of the returns furnished by a registered person under section 39 with

- (a) The details of outward supplies furnished in FORM GSTR-1; or
- (b) The details of inward supplies derived based on the details of outward supplies furnished by his suppliers in their FORM GSTR-1, or such other analysis, as may be carried out on the recommendations of the Council, show that there are significant differences or anomalies indicating contravention of the provisions of the Act or the rules made thereunder, leading to cancellation of registration of the said person, his registration shall be suspended and the said person shall be intimated in FORM GST REG-31, electronically, on the common portal, or by sending a communication to his e-mail address provided at the time of registration or as amended from time to time, highlighting the said differences and anomalies and asking him to explain, within a period of thirty days, as to why his registration shall not be cancelled.”;

2.2 Till the time an independent functionality for FORM REG-31 is developed on the portal, in order to ensure uniformity in the implementation of the provisions of above rule across the field formations, the Board hereby provides the following guidelines for implementation of the provision of suspension of registrations under the said rule.



3. On the recommendation of the Council, the registration of specified taxpayers shall be suspended and system generated intimation for suspension and notice for cancellation of registration in FORM GST REG-31, containing the reasons of suspension, shall be sent to such taxpayers on their registered e-mail address. Till the time functionality for FORM REG-31 is made available on portal, such notice/intimation shall be made available to the taxpayer on their dashboard on common portal in FORM GST REG-17. The taxpayers will be able to view the notice in the “View/Notice and Order” tab post login.

4. The taxpayers, whose registrations are suspended (hereinafter referred to as “the said person”) under the above provisions, would be required to furnish reply to the jurisdictional tax officer within thirty days from the receipt of such notice / intimation, explaining the discrepancies/anomalies, if any, and shall furnish the details of compliances made or/and the reasons as to why their registration shouldn’t be cancelled:

a. The said person would be required to reply to the jurisdictional officer against the notice for cancellation of registration sent to them, in FORM GST REG-18 online through Common Portal with in the time limit of thirty days from the receipt of notice/ intimation.

b. In case the intimation for suspension and notice for cancellation of registration is Issued on ground of non-filing of returns, the said person may file all the due returns and submit the response. Similarly, in other scenarios as specified under FORM GST REG-31, they may meet the requirements and submit the reply.

5.1 Post issuance of FORM GST REG-31 via email, the list of such taxpayers would be sent to the concerned Nodal officers of the CBIC/ States. Also, the system generated notice can be viewed by the jurisdictional proper officers on their Dashboard for suitable actions. Upon receipt of reply from the said person or on expiry of thirty days (reply period), a task would be created in the dashboard of the concerned proper officer under “Suo moto cancellation proceeding”.

5.2 Proper officer, post examination of the response received from the said person, may pass an order either for dropping the proceedings for suspension/ cancellation of registration in FORM GST REG-20 or for cancellation of registration in FORM GST REG-19. Based on the action taken by the proper officer, the GSTIN status would be changed to “Active” or “Cancelled Suo-moto” as the case maybe.

5.3 Till the time independent functionality for FORM GST REG-31 is fully ready, it is advised that if the proper officer considers it appropriate to drop a proceeding any time after the issuance of FORM GST REG-31, he may advise the said person to furnish his reply on the common portal in FORM GST REG-18.

5.4 It is advised that in case the proper officer is prima-facie satisfied with the reply of the said person, he may revoke the suspension by passing an order in FORM GST REG-20. Post such revocation, if need be, the proper officer can continue with the detailed verification of the documents and recovery of short payment of tax, if any. Further, in such cases, after detailed verification or otherwise, if the proper officer finds that the registration of the said person is liable for cancellation, he can again initiate the proceeding of cancellation of registration by issuing notice in FORM GST REG-17.



Guidelines for provisional attachment of property under section 83 of CGST Act, 2017

CBIC vide Instruction No. CBEC-20/16/05/2021-GST/359, dated: 23.02.2021 issued guidelines for provisional attachment of property/bank accounts under Section 83 of the Central Goods and Services Tax Act, 2017

Doubts have been raised on various issues pertaining to provisional attachment of property. In view of the cases before various Hon'ble Courts and observations made on the modalities of implementation of provisions by the authorities, the following guidelines are hereby issued with respect to the exercise of power under section 83 of the Act.

- There must be pendency of a proceeding against a taxable person mentioned in Section 83 of the CGST Act.
- The Commissioner must have formed the opinion that provisional attachment of the property belonging to the taxable person is necessary for the purpose of protecting the interest of the government revenue.
- The Commissioner must exercise due diligence and duly consider as well as carefully examine all the facts of the case, including the nature of offence, amount of revenue involved, established nature of business and extent of investment in capital assets and reasons to believe that the taxable person, against whom the proceedings are pending, may dispose of or remove the property, if not attached provisionally. Further, the reason for firming such opinion must be recorded.
- Power of provisional attachment must not be exercised in a routine/mechanical manner and careful examination of all the facts of the case is important to determine whether the case is fit for exercising such power.
- The value of property attached provisionally shall not be excessive and should be as near as possible to the estimated amount of pending revenue against such person.
- Provisional attachment can be made only of the property belonging to the taxable person, against whom the proceedings mentioned under Section 83 of the CGST Act are pending.
- Issued the manner and procedure for provisional attachment of property, cases fit for provisional attachment of property, types of property that can be attached, time period of attachment, manner of investigation and adjudication, property exempt from attachment etc.



Applicability of Dynamic QR Code on B2C invoices & compliance

CBIC vide Circular no. 146/02/2021-GST, dated 23rd February, 2021 clarified various issues related to applicability of dynamic QR Code on B2C invoices.

Various references have been received from trade and industry seeking clarification on applicability of Dynamic Quick Response (QR) Code on B2C (Registered person to Customer) invoices and compliance of Notification No. 14/2020-Central Tax, dated 21st March, 2020, which requires Dynamic QR Code on B2C invoice. The issues have been examined and in order to ensure uniformity in the implementation of the provisions, the Board hereby clarifies the issues in the table below:

Sl. No.	Issues	Clarification
1.	To which invoice is Notification No 14/2020-Central Tax dated 21st March, 2020 applicable? Would this requirement be applicable on invoices issued for supplies made for Exports?	<p>This notification is applicable to a tax invoice issued to an unregistered person by a registered person (B2C invoice) whose annual aggregate turnover exceeds 500 Cr rupees in any of the financial years from 2017-18 onwards. However, the said notification is not applicable to an invoice issued in following cases:</p> <p>i. Where the supplier of taxable service is:</p> <p>a) an insurer or a banking company or a financial institution, including a non-banking financial company;</p> <p>b) a goods transport agency supplying services in relation to transportation of goods by road in a goods carriage;</p> <p>c) supplying passenger transportation service;</p> <p>d) supplying services by way of admission to exhibition of cinematograph in films in multiplex screens</p> <p>ii. OIDAR supplies made by any registered person, who has obtained registration under section 14 of the IGST Act 2017, to an unregistered person.</p> <p>As regards the supplies made for exports, though such supplies are made by a registered person to an unregistered person, however, as e-invoices are required to be issued in respect of supplies for exports, in terms of Notification no. 13/2020-Central Tax, dated 21st March, 2020 treating them as Business to Business (B2B) supplies, Notification no. 14/2020-Central Tax, dated 21st March, 2020 will not be applicable to them.</p>
2.	What parameters/ details are required to be captured in the Quick Response (QR) Code?	<p>Dynamic QR Code, in terms of Notification No. 14/2020-Central Tax, dated 21st March, 2020 is required, inter-alia, to contain the following information: –</p> <p>i. Supplier GSTIN number</p> <p>ii. Supplier UPI ID</p> <p>iii. Payee's Bank A/C number and IFSC</p> <p>iv. Invoice number & invoice date,</p> <p>v. Total Invoice Value and</p> <p>vi. GST amount along with breakup i.e. CGST, SGST, IGST, CESS, etc.</p>

<p>3.</p>	<p>If a supplier provides/displays Dynamic QR Code, but the customer opts to make payment without using Dynamic QR Code, then will the cross reference of such payment, made without use of Dynamic QR Code, on the invoice, be considered as compliance of Dynamic QR Code on the invoice?</p>	<p>If the supplier has issued invoice having Dynamic QR Code for payment, the said invoice shall be deemed to have complied with Dynamic QR Code requirements.</p> <p>In cases where the supplier, has digitaiily displayed the Dynamic QR Code and the customer pays for the invoice: –</p> <p>i. Using any mode like UPI, credit/ debit card or online banking or cash or combination of various modes of payment, with or without using Dynamic QR Code, and the supplier provides a cross reference of the payment (transaction id along with date, time and amount of payment, mode of payment like UPI, Credit card, Debit card, online banking etc.) on the invoice ; or</p> <p>ii. In cash, without using Dynamic QR Code and the supplier provides a cross reference of the amount paid in cash , along with date of such payment on the invoice;</p> <p>The said invoice shall be deemed to have complied with the requirement of having Dynamic QR Code.</p>
<p>4.</p>	<p>If the supplier makes available to customers an electronic mode of payment like UPI Collect, UPI Intent or similar other modes of payment, through mobile applications or computer based applications, where though Dynamic QR Code is not displayed, but the details of merchant as well as transaction are displayed/ captured otherwise, how can the requirement of Dynamic QR Code as per this notification be complied with?</p>	<p>In such cases, if the cross reference of the payment made using such electronic modes of payment is made on the invoice, the invoice shall be deemed to comply with the requirement of Dynamic QR Code. However, if payment is made after generation / issuance of invoice, the supplier shall provide Dynamic QR Code on the invoice.</p>
<p>5.</p>	<p>Is generation/ printing of Dynamic QR Code on B2C invoices mandatory for pre-paid invoices i.e. where payment has been made before issuance of the invoice?</p>	<p>If cross reference of the payment received either through electronic mode or through cash or combination thereof is made on the invoice, then the invoice would be deemed to have complied with the requirement of Dynamic QR Code.</p> <p>In cases other than pre-paid supply i.e. where payment is made after generation / issuance of invoice, the supplier shall provide Dynamic QR Code on the invoice.</p>
<p>6.</p>	<p>Once the E-commerce operator (ECO) or the online application has complied with the Dynamic QR Code requirements, will the suppliers using such e-commerce portal or application for supplies still be required to comply with the requirement of Dynamic QR Code?</p>	<p>The provisions of the notification shall apply to each supplier/registered person separately, if such Person is liable to issue invoices with Dynamic QR Code for B2C supplies as per the said notification. In case, the supplier is making supply through the E-commerce portal or application, and the said supplier gives cross references of the payment received in respect of the said supply on the invoice, then such invoices would be deemed to have complied with the requirements of Dynamic QR Code. In cases other than pre-paid supply i.e. where payment is made after generation / issuance of invoice, the supplier shall provide Dynamic QR Code on the invoice.</p>



Guidelines for determination of tax by proper officer under Section 73 and 74 of CGST Act, 2017

CBIC vide FILE No. CT/1444/2021-C9, dated: 22/02/2021 issued guidelines for determination of tax by proper officer under section 73 and 74 of CGST Act 2017

Determination of Tax under Section 73 of CGST Act, 2017: In the following situations where the person chargeable with tax has no intention to evade tax, either by way of fraud or through wilful misstatement or through suppression of facts, the determination of tax by the proper officer shall be done under Section 73 of CGST Act, 2017.

- i. Tax is not paid or short paid
- ii. Any erroneous refund
- iii. Input Tax credit is wrongly availed or utilized

Time Limit: Sub-section 10 of Section 73 prescribes time limit for issuance of order under Section 73. It is required that the proper officer shall determine tax, interest and penalty if any, within 3 years from the due date for filing annual return for the financial year to which the amount relates and in the cases of erroneous refunds within 3 years from the date of such erroneous refund. Section 73 (2) further provides that notice under Section 73 (1) (SCN) shall be issued at least three months prior to limitation period for issuance of order u/s 73. Period of Stay, if any, shall be excluded in computing the above periods.

Intimation of tax ascertained as being Payable: Sec 73(5) read with Rule 142(1A) provides for a pre-notice opportunity, to a person chargeable with tax, to declare and pay tax deficiency either voluntarily or based on an intimation (in Form GST DRC 01A) issued by the proper officer and to avail the relief available under Section 73(5). Though the issuance of intimation in Form DRC 01A has been made optional through the Rule amendment Notification No. 79/2020 of Central Tax dated 15-10-2020, it is advisable that a pre-notice opportunity may be given to avoid further litigation on this count. Hence before service of notice u/s 73(1), the proper officer may communicate the details of tax, interest and penalty if any as ascertained by proper officer in Form GST DRC -01A.

A Person chargeable with tax, on receipt of intimation in Form GST DRC-01A, can use the second part of the said form i.e. Part B, to communicate to the officer if he has made part-payment of the ascertained liability, or if the liability is not acceptable by him. He can also thereto attach submissions against the proposed liability.

The person chargeable with tax, who either on his own ascertainment or on receipt of intimation (in Form DBC-01A) communicated by the proper officer can pay tax along with interest and a penalty in cases specified under Section 73 (11) and shall inform the proper officer of such payment in FORM GST DRC-03.

The proper officer, on receipt of such information, shall issue an acknowledgment, accepting the payment made by the said person in FORM GST DRC-04 and thereafter shall not serve any Show Cause Notice under 73(1) or Statement under 73(3)



Show Cause Notice under 73 (1) or Statement Section 73(3):

Show Cause Notice under Section (1): If the person chargeable with tax has not made any payments as provided under Section 73(5) or if the amount paid falls short of the amount actually payable or had communicated that the liability is not acceptable to him, the proper officer shall proceed to issue notice under 73(1) (SCN) along with a summary thereof electronically in Form GST DRC-01 in respect of such amount not paid or short paid.

Statement under Section 73(3): If proper officer wants to issue Show Cause Notice on the same grounds, as specified in an earlier issued Show Cause Notice, for additional periods than as specified in the said SCN, he may do so by serving a statement. Along with statement, he shall issue a summary thereof electronically in Form DRC-02.

Payment made against the show cause notice or statement: A person to whom notice under 73(1) or Statement under 73(3) has been issued (along with form DRC-01 or DRC-02) can make payments thereof and intimate it to proper officer in form DRC-03 within 30 days from the issuance of such notice.

If the person chargeable with tax who has been issued with SCN pays the tax along with interest payable within 30 days of issue of SCN, the proper officer, on receipt of such information in form DRC-03, shall issue an acknowledgment, accepting the payment made by the said person in FORM GST DRC-05 and thereafter all proceedings in respect of the said SCN shall deemed to be concluded subject to Section 73(11).

Issuance of Order u/s 73 Determining Tax, Interest and Penalty: The person to whom the show cause notice (SCN) has been issued along with form DRC-01 or form DRC-02, can make representation against such notice in form GST DRC -06 to the proper officer.

If the person chargeable with tax who has been issued with a SCN has not paid any tax along with interest payable or has made any short payment or has not given any satisfactory explanation within 30 days of issue of SCN, the proper officer, after considering the representation, if any, filed by the said person in GST DRC -06, and after providing an opportunity for personal hearing as provided u/s 75(4) shall determine;

- i. the tax
- ii. interest under Section 50 of the Act due from such person and
- iii. a penalty equivalent to 10% of the said tax or Rs. 10000/-, whichever is higher;

And shall issue an Order along with a summary of such order to be uploaded electronically in Form GST DRC – 07 stating the amount of demand and due date for making the payment of said taxes along with interest and penalty.

Determination of Tax under Section 74 of KSGST/CGST Act, 2017: in the following situations where the person chargeable with tax has intention to evade tax, either by way of fraud or through willful misstatement or through suppression of facts, the determination of tax, by the proper officer, shall be done under Section 74 of KSGST/CGST Act, 2017.



- i. Tax is not paid or short paid
- ii. Any erroneous refund
- iii. Input Tax Credit is wrongly availed or utilized

Time Limit: Sub-section 10 of Section 74 prescribes time limit for issuance of order under Section 74. It is required that the proper officer shall determine tax, interest and penalty if any, within 5 years from the due date for filing annual return for the financial year to which the amount relates and in the cases of erroneous refunds within 5 years from the date of such erroneous refund. Section 74 (2) further provides that notice under Section 74 (1) (SCN) shall be issued at least six months prior to limitation period for issuance of order u/s 74. Period of Stay, if any, shall be excluded in computing the above periods.

There may be instances where the appellate authorities decides not to sustain the notice issued u/s 74 for the reason that the charges of fraud or any willful misstatement or suppression of facts to evade tax has not been established and in such circumstances, by virtue of Section 75(2), the proper officer shall determine the tax payable deeming the notice issued as a notice issued under 73(1). Where any order is required to be issued in pursuance of the direction of the appellate authority or tribunal or a court, such order shall be issued within two years from the communication of the said direction. Hence any orders issued pursuant to Section 75(2) can be issued within two years from the date of receipt of the said appellate or court order.

Intimation of tax ascertained as being Payable: Sec 74(5) read with Rule 142(1A) provides for a pre-notice opportunity, to a Person chargeable with tax, to declare and pay tax deficiency either by him voluntarily or based on an intimation (in Form GST DRC 01A) issued by the proper officer and to avail the relief available under Section 74(5). Though the issuance of intimation in Form DRC 01A has been made optional through the Rule amendment Notification No. 79/2020 of Central Tax dated 15-10-2020, it is advisable that a pre-notice opportunity may be given to avoid further litigation on this count, especially since there is penal consequences under Section 74. Hence before service of notice u/s 74(1), the proper officer may communicate the details of tax, interest and penalty if any as ascertained by proper officer in Form GST DRC -01A.

A Person chargeable with tax, on receipt of intimation in Form GST DRC-01A, can use the second part of the said form i.e. Part B, to communicate to the officer if he has made part-payment of the ascertained liability, or if the liability is not acceptable by him. He can also thereto attach submissions against the proposed liability.

The person chargeable with tax, who either on his own ascertainment or on receipt of intimation (in Form DRC-01A) communicated by the proper officer can pay tax along with interest and a Penalty equivalent to 15% of such tax and shall inform the proper officer of such payment in FORM GST DRC-03.

The proper officer, on receipt of such information, shall issue an acknowledgment, accepting the payment made by the said person in FORM GST DRC-04 and thereafter shall not serve any Show Cause Notice under 74(1) or Statement under 74(3)



Show Cause Notice under 74 (1) or Statement Section 74(3):

Show Cause Notice under Section 74(1): if the person chargeable with tax has not made any payments as provided under Section 74(5) or if the amount paid falls short of the amount actually payable or had communicated that the liability is not acceptable to him, the proper officer shall proceed to issue notice under 74(1) (SCN) along with a summary thereof electronically in Form GST DRC-01 in respect of such amount not paid or short paid.

Statement under Section 74(3): if proper officer wants to issue Show Cause Notice on the same grounds, as specified in an earlier Show Cause Notice, for additional periods than as specified in the said SCN, he may do so by serving a statement. Along with statement, he shall issue a summary thereof electronically in Form DRC-02.

Payment made against the show cause notice or statement: A person to whom notice under 74(1) or Statement under 74(3) has been issued (along with form DRC-01 or DRC-02) can make payments thereof and intimate it to proper officer in form DRC-03 within 30 days from the issuance of such notice.

if the person chargeable with tax who has been issued with SCN pays the tax along with interest payable and a Penalty equivalent to 25% of such tax within 30 days of issue of SCN, the proper officer, on receipt of such information in form DRC-03, shall issue an acknowledgment, accepting the payment made by the said person in FORM GST DRC-05 and thereafter all proceedings in respect of the said SCN shall be deemed to be concluded subject to Section 74(11).

issuance of Order u/s 74 Determining Tax, interest and Penalty: The person to whom the show cause notice (SCN) has been issued along with form DRC-01 or form DRC-02, can make representation against such notice in form GST DRC -06 to the proper officer.

if the person chargeable with tax who has been issued with a SCN has not paid any tax along with interest payable or has made any short payment or has not given any satisfactory explanation within 30 days of issue of SCN, the proper officer, after considering the representation, if any, filed by the said person in GST DRC -06, and after providing an opportunity for personal hearing as provided u/s 75(4) shall determine;

- i. the tax
- ii. interest under Section 50 of the Act due from such person and
- iii. a penalty equivalent to said tax;

And shall issue an Order along with a summary of such order to be uploaded electronically in Form GST DRC – 07 stating the amount of demand and due date for making the payment of said taxes along with interest and penalty.



Personal Hearing and Adjournments: Section 75(4) mandates that an opportunity of hearing shall be granted to the person chargeable with tax where a request is received or where any adverse decision is contemplated under Section 74(9). Personal hearing can be adjourned for reasons to be recorded in writing, when sufficient cause is shown by the person chargeable with tax. However, such adjournments can be granted for a maximum of 3 times.

It is mandatory that the proper officer shall issue a speaking order and shall set out all relevant facts and basis of his decision in the Order issued u/s 73(9) / 74(9). The proper officer cannot determine an amount of tax, interest and penalty in excess of the amount specified in the SCN and also the grounds shall not go beyond what is mentioned in the SCN. It has to be borne in mind that an adjudication proceedings u/s 73(9) shall be deemed to be concluded, if the order is not issued within three years and in the case of proceedings u/s 74(9) shall be deemed to be concluded, if the order is not issued within five years.

By virtue of Rule 142(6) of the GST Rules, 2017 the order issued by the proper officer will be treated as the notice for recovery.

Where any penalty is imposed under Section 73 or Section 74, no penalty for the same act or omission shall be imposed on the same person under any other provisions of this Act.

Section 83 of the Act authorises provisional attachment to protect revenue in certain cases. Where during the pendency of any proceedings under section 62 or section 63 or section 64 or section 67 or section 73 or section 74, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may, by order in writing attach provisionally any property, including bank account, belonging to the taxable person.

Guidelines for procedures to be followed during GST Search Operation

CBIC vide F.No. GST/INV/DGOV Reference/20-21, dated: 02.02.2021 issued guidelines for procedure to be followed during GST Search Operation.

Section 67 of the Central Goods and Services Tax Act, 2017 contains provisions for search. Similar provisions are contained in Section 18 of the Central Excise Act, 1944. These provisions prescribe that all the searches be carried out in accordance with the provisions of Code of Criminal Procedure, 1973. Thus the following guidelines must be adhered to while carrying out search proceedings:

- i) The officer issuing authorization for search should have valid and justifiable reasons for authorizing a search, which shall be duly recorded in the Search should be carried out only with a proper search authorization issued the Competent Authority.
- ii) The instructions related to generation of DIN For each search authorization shall be scrupulously followed by the officer authorising search.



iii) The premises of a person cannot be searched on the authority of a search warrant issued for the premises of some other person. Where a search warrant, through oversight, has been issued in the name of a person who is already dead. The authorised officer should report to the Competent Authority and get a fresh warrant issued in the names of the legal heirs.

iv) In case of search of a residence, a lady officer shall necessarily be part of the search team.

v) The search shall be made in the presence of two or more independent witnesses who would preferably be respectable inhabitants of the locality, and if no such inhabitants are available or willing, the inhabitants of any other locality should be asked to be witness to the search. PSU employees, Bank employees etc., may be included as witnesses during sensitive search operations to maintain transparency and credibility. The witnesses should be informed about the purpose of the search and their duties.

vi) The officers conducting the search shall first identify themselves by showing their identity cards to the person in-charge of the premises. Also, before the start of the search, the officers as well as the independent witnesses shall offer their personal search. After the conclusion of the search all the officers and the witnesses should again offer themselves for their personal search:

vii) The search authorization shall be executed before the start of the search and the same shall be shown to the person in charge of the premises to be searched and his/her signature with date and time shall be obtained on the body of the search. The signatures of the witnesses with date and time should also be obtained on the body of the search authorization.

viii) A Panchnama containing truthful account of the proceedings of the search shall necessarily be made and a list of documents/goods/ things recovered should be prepared. It should be ensured that time and date of start of search and conclusion of search must be mentioned in the Panchnama. The fact of offering personal search of the officers and witnesses before initiation and after conclusion of search must be recorded in the Panchama

ix) In the sensitive premises videography of the search proceedings may also be considered and the same may be recorded in Panchnama.

x) While conducting search, the officers must be sensitive towards the assessee /party. Social and religious sentiments of the person(s) under search and of all the person(s) present, shall be respected at all times. Special care/ attention should be given to elderly, women and children present in the premises under search. Children should be allowed to go to school, after examining of their bags. A woman occupying any premises, to be searched, has the right to withdraw before the search party enters. If according to the customs she does not appear in public, if the person in the premises is not well, a medical practitioner may be called.



xi) The person from whose custody any documents are seized may be allowed to make copies thereof or take extracts therefrom for which he/she may be provided a suitable time and place to take such copies or extract therefrom. However if it is felt that providing such copies or extracts therefrom prejudicially affect the investigation, the officer may not provide such copies, if such request for taking copies is made during the course of search, the same may be incorporated in Panchnama, intimating place and time to take such copies

xii) The officer authorized to search the premises must sign each page of the Panchnama and annexures. A copy of the Panchnama along with all its annexures should be given to the person in-charge of the premises being searched and acknowledgement in this regard may be taken. If the person in-charge refuses to sign the Panchnama the same may be pasted in a conspicuous place of the premises, in presence of the witnesses. Photograph of the Panchnama pasted on the premises may be kept on record.

xiii) In case any statement is recorded during the search each page of the statement must be signed by the person whose statement is being recorded. Each page of the statement must also be signed by the officer recording the statement as 'before me'.

xiv) After the search is over, the search authorization duly executed should be returned to the officer who had issued the said search authorization with report regarding the outcome of the search. The names of the officers who had participated in the search should be written on the reverse of the search' authorization. If search authorization could not be executed due to any reason, the same should be mentioned in the reverse of the search authorization and a copy of the same may be kept in the case file before returning the same to the officer who had issued the said search authorization.

xv) The officers should leave the premises immediately after completion of Panchnama proceedings.

xvi) During the prevalent COVID-19 pandemic situation, it is imperative to take precautionary measures such as maintaining proper social distancing norms, use of masks and hand sanitizers etc. The search team should take all measures as contained in the guidelines of Ministry of Home Affairs, and Ministry of Health & Family Welfare, and also the guidelines issued by the State Government from time to time.



GET IN TOUCH!

In case of any further enquiries or further clarification, please feel free to contact us

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