Azadi Ka Amrit Mahotsav

भारत सरकार / Govt. of India
मुख्य आयुक्त कार्यालय / Office of the Chief Commissioner
सीमा शुल्क एवं केंद्रीय जीएसटी परिक्षेत्र /Customs & Central GST Zone
मेरठ परिक्षेत्र , मेरठ/ Meerut Zone, Meerut
चौधरी चरण सिंह विश्विद्यालय के सामने , मंगल पाण्डेय नगर , मेरठ-२५०००४) उ0प्र (0
Opp. CCS University, Mangal Pandey Nagar, Meerut-250004(UP)
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C. No. GCCO/Tech/Meet/17/2023-Tech O/o CC-CGST-Zone/Meerut/ /219 Dated: 08-04-24

A meeting of State Coordination Committee (SCC) of State of Uttarakhand was held on 29/02/2024 at 1500 Hrs. through Video Conference (VC) mode with the Members of State Coordination Committee of Uttarakhand State, constituted vide this Office Order dated 11/09/2023. The meeting was chaired by Shri Rajeev Jain, Chief Commissioner, CGST Zone, Meerut and Co-chaired by Shri Ahmed Iqbal, Commissioner, State GST, Uttarakhand.

The following Members of the State Coordination Committee, Uttarakhand were present in the meeting: -

- Shri Neelesh Kumar Gupta, Commissioner, CGST Dehradun;
- Shri Shubh Chintan, Commissioner, CGST Audit, Dehradun;
- Shri Umesh Kumar, Additional Director, DGGST, New Delhi;
- Shri Nitin Wapa, Additional Commissioner, CGST (Audit), Dehradun;
- Shri Rahul Kumar Yadava, Joint Commissioner (CCO), CGST Zone, Meerut & Nodal Officer, State Coordination Committee, Uttarakhand
- Shri Saurabh Dabas, Joint Director, Directorate of GST Intelligence, Meerut Zonal Unit;
- Shri Vivekanand Maurya, Joint Commissioner, CGST, Dehradun;
- Deputy Secretary, GST Council Secretariat;
- Shri Anurag Mishra, Joint Commissioner, State GST, Uttarakhand;
- Official of State Tax Hqrs. State of Uttarakhand

2. At the outset, Shri Rajeev Jain, Chief Commissioner welcomed all the participating members and once again informed the members about the functions and mandate of the State Coordination Committee as stated in the Office Memorandum dated 19/07/2023 issued by the Office of the GST Council, New Delhi, which are as under:

a) The Committee shall engage in data sharing on important cases of evasion or audit, knowledge sharing and promote coordinated efforts in checking fake ITC being passed on, curbing tax evasion practices, sharing important audit paras & modus-operandi detected in Audit/Investigation, maintaining and updating contact details of field level officers and other GST related matters.

b) Referring any issue requiring a change in Act/Rules/Notification/ Form/Circular/Instruction/improvement on GST portal, etc., to the GST Council Secretariat and the relevant Policy Wing of the CBIC/ GSTN/ DOR.

c) Make collaborative efforts on the issues pertaining to taxpayer facilitation as well as taxpayer grievances and conducting outreach programme.

d) To arrive at a uniform stand by the Central and State GST Administration in GST related petitions before any legal forum.

e) Co-ordination in the matter regarding Investigation/anti-evasion proceedings so as to ensure that on the same issue, investigation in- respect of taxpayers are not undertaken by multiple administration.

f) Conducting a coordinated verification drive for suspicious tax payers at local level.

g) Any other GST matter deemed fit for coordinated work between Central and State Tax Administrations.

3. Shri Rajeev Jain elaborated that SCC is a forum for coordination between the Centre / State Tax authorities and the Intelligence agencies. He emphasized that in GST regime the moto is one nation one tax. To achieve this aim, it is equally important that the actions of authorities must not be repeated. The taxpayers should have a peaceful, supportive & judicious environment so that the ease of doing business can evolve in true sense. A better Coordination between the different agencies is in the heart of this Coordination Committee. He appreciated that the State Coordination Committee Meeting of Uttarakhand State is being regularly held.

4. The chairman then asked Shri Neelesh Kumar Gupta, Commissioner, CGST, Dehradun to start the meeting and put the point-wise agenda before the forum. Shri Neelesh Kumar Gupta then started putting the agenda points before the committee one by one. The agenda point wise discussion is as under:

A. Use of fudged documents for GST registration: It was come to the notice during investigations by the AE branch that many GSTIN registrations had been taken on the fake/manipulated electricity bills as address proof of the principal place of business of the applicant. The *modus operandi* is that "the applicant downloads electricity bills from the UPCL site, where anyone can download any other's electricity bill provided the customers electricity account no./service connection number, and edit the electricity bill and upload the same at the GST site as address proof of the principal place of business during the process of GSTIN registration." During the current financial year, these types of cases where fake electricity bills were uploaded, consists of 80-85% of all cases where Search has been conducted. In such cases we were not able to detect the parties which lead to the non-execution of Search Authorizations. It also leads to the unnecessary harassment of the family who actually resides there. Further, it was also come to the notice during one investigation of M/s M. A. Timber, having GSTIN – 05DISPA7732J1ZZ by the AE branch that the party had uploaded the fake rent agreement as address proof. In this particular case, even the name of the person i.e. Mohd. Azim taking GST registration was not mentioned in the rent agreement. The Central GST and the State GST authorities may direct the concerned GST branch/office under their jurisdiction, who are responsible to issue GSTIN, to take cognizance of both issues mentioned above and verify the electricity bill uploaded by the applicant with the electric bill available on the UPCL site and also verify the rent agreement before the approval/issuance of GSTIN.

The Commissioner, CGST, Dehradun stated that the party uploaded fudged electricity bills by way of changing the name of the bill owner and used the same for GST registration. We have already suggested to Uttarakhand power corporation and copy shared to SGST, Uttarakhand that necessary steps should be taken to tackle the morphing of electricity bills viz masking the bill number, electricity bill holder's details etc. They were also suggested to make the arrange two step or three step verification in downloading the electricity bills. So that atleast this misuse can be checked. Our officers also get the documents verified from the same websites, but extra sensitivity is needed which can only be taken care by some initiatives at electricity departments end. The board circular 03/2023 also directs to verify the details submitted by registrant so that no possibility of fake registrations can arise. Shri Neelesh Kumar Gupta, Commissioner, CGST, Dehradun also submitted that he also spoke to Commisisoner, SGST who is currently holding charge of Additional Secretary, Energy, Government of Uttarakhand. Shri Neelesh Kumar Gupta requested to Shir Ahmed Iqbal, Commissioner, SGST to through some light on the implementation part of Electricity Department in this regard. Shri Ahmed Iqbal, Commissioner, SGST, Uttarakhand and Additional Secretary, Energy, Government of Uttarakhand informed that now a day the Chief Secretary, Government of Uttarakhand is also holding charge of Secretary, Electricity Board, Uttarakhand. On receipt of information on this issue, Madam Chief Secretary immediately ordered for implementation of necessary amendments through the IT branch. The masking of digits has already been implemented so far and further improvements have also been initiated which will be fully operational till the end of this fiscal year. The Commissioner, SGST, Uttarakhand submitted that they have flagged the issue, but due to active participation of CGST, the change came into effect. The Chief Commissioner admired the initiative taken by CGST & SGST departments. He also emphasized that in this regard, Instruction No. 01/2023 dated 07/07/2023 issued from CCO, CGST Zone Meerut, in compliance of Instruction NO. 03/2023-GST dated 14/06/2023, which provides guidelines for processing of applications for registration. It covers almost all aspects of registration process. This instruction should be followed in letter and spirit.

B. i) <u>Monetary Limit for Adjudication of GST cases specifically the amout of SGST when adjudicated by CGST proper officer</u>: Reference to Board Circular No. 31/5/1018-GST dated 09.02.2018 prescribing the monetary limit for adjudication contained in Section 73 and 74 of the CGST Act, 2017 in which proper officers have been instructed to adjudicate on the basis of fixed monetary limit.

The description in Column 3 of the table mentioned at para 5 of the Circular (ibid), states that "Monetary limit of the amount of ....under Section 73 or 74 of the CGST Act" cropped up a confusion in field formation, it the same is read in juxtaposition with Section 6(2)(a) of CGST Act, 2017 which states that:

"where any proper officer issues an order under this Act, he shall also issue an order under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as authorised by the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, under intimation to the jurisdictional officer of State tax or Union territory tax;"

For the reason cited above, the above circular has raised doubt that while the proper officer adjudicates any show cause notice for alleged demand of central tax within his monetary limit. However, due to legal obligation of the provisions of Section 6(2)(a) *(printed below on next page)* sometimes, on summing up the tax demand of central tax and state tax, the monetary limit exceeds beyond the limit prescribed for the said proper officer. In such a situation, the proper officer may refuse or postpone the adjudication proceedings citing the reason of monetary limit. On going through above point and observing the above referred circular, it is opined that the circular needs clarification in respect of SGST liabilities and total liabilities i.e. IGST + CGST +SGST.

The Chief Commissioner enquired that what is the criteria of monetary limit of adjudication in SGST. The officers of SGST HQ, Uttarakhand submitted that the monetary limit for adjudication is based on turnover of the preceding financial year. The STO can adjudicate cases where the turnover was upto Rs. 75 Lakhs in preceding financial year. Assistant Commissioner can adjudicate the cases where turnover of the party was upto Rs. 2 Crore and so on. The Chief Commissioner asked the members that as per the Circular No. 31/5/1018-GST dated 09.02.2018 the monetary limit in respect of tax amount of SGST is not mentioned. The Chairman requested the representative of DGGST to throw some light on this issue. Shri Umesh Kumar, Additional Director, DGGST submitted that a reference may be sent to DGGST which will be forwarded to policy wing for clarification. The Chairman directed the Commissioner, CGST, Dehradun to prepare a reference in this regard and send to CCO, so that the same may be submitted to DGGST for further necessary clarification.

ii) Misuse of IGST Refund Procedure: The misuse of IGST refund where the export duty was paid during the export of goods and the payment of IGST was made by utilizing the ITC. The said refund was granted automatically by the system based on shipping bills. In sanction of such refunds, the taxpayers take advantage on the procedural lapses.

The Commissioner, CGST, Dehradun stated that since there is no check of admissibility of ITC at customs end, hence, there may be a change. The Chief Commissioner submitted that the admissibility of 100% ITC can not be verified unless there is some utility as there are thousand of invoices. He added that it will also be against the ease of doing business. Shri Neelesh Kumar Gupta added that we are only trying to propose a change in mechanism and no other purpose may be solved. The Chairman stated that it is better not to take this point as there is no proposal

(iii) Need of Monetary Limit for filing of Appeals in GST cases: There is concept of monetary limit for filing appeal by the department before various fora in respect of Central Excise, Service Tax & Customs related cases to minimise the litigation, but for GST cases, there is no monetary limit prescribed, which may increase huge number of litigations involving petty amounts.

This matter may also be taken for provisions of monetary limit in GST cases as a number of appeals are pending but the appellate tribunals are still to operate. Accordingly, a provision of monetary limit for finalization of cases in GST may be introduced so that the litigation is minimised. The chairman opined that the tribunals are still to be formed and once the working, the quantity of work, the disposal of the tribunals, the quality of issues are tested by time, then only this type of suggestions can be taken forward. Shri Ahmed Iqbal added that if there is any such proposal the state should also be involved to ensure the uniformity. The Chairman again pressed that the performance of tribunals are yet to be tested. Shri Shubh Chintan, Commissioner, CGST (Audit), Dehradun, intervened and submitted that it is not a matter of coordination however he also supported the opinion by the Chairman that the performance of tribunals is yet to be tested. . The Deputy Secretary, GST Council, submitted that states can make a committee in this regard which can screen the cases on certain grounds. The Chairman stated that without authority of government no such action may be taken by any of the formations whether it is CGST or SGST. The monetary limits can only be decided by board or government. However, this issue may be forwarded to GST Policy wing for further necessary action if any.

C. **Need of Sharing of Adjudication Orders with SGST Office:** The adjudication orders issued can be shared by Central administration & State administration with each other so as to bring the uniformity before legal forums.

Shri Neelesh Kumar Gupta, Commissioner, CGST, Dehradun stated that they have started sharing of adjudication orders passed by High Court, with the SGST authorities, of the cases where the issue involves larger ramifications. The *chairman stated that the adjudication orders issued by Additional Commissioners may even be shared with state authorities in soft copy. Shri Ahmed Iqbal, Commissioner, SGST submitted that if it is desired the credentials of CGST officers may be created on the State GST Portal and link of these orders, MCM Minutes etc may also be shared through the portal which will suffice the purpose of knowledge-sharing. The Chairman appreciated the initiative and suggested the Commissioner, SGST, the IT related issues viz. size of data, capacity of the servers, privacy of the credentials etc, may be resolved first, then only sharing may be executed.*

D. **Disposal of DRC 03:** For conclusion of proceedings under section 73(5) or 74(5) of the GST Act, a taxpayer has to request for the closure of case. In this regard, a formal closure letter is issued with respect to the investigation on a particular issue and then DRC 04 (acknowledgement of acceptance of payment made voluntarily) is issued which indicate that the proceedings initiated against the taxpayer have been concluded. This also ensures effective disposal of DRC 03 and due appropriation of tax, interest and penalty deposited by the taxpayer into government account.

It was discussed that the entries to be made in DRC 03 are not very specific. The Commissioner, CGST, Dehradun submitted that they have already sent a suggestion to create drop down list in various heads so that the reasons, authorities / agency, amount, particular remarks etc. all entries may be very much specific and clear.

In this regard, it may also be suggested that some rights on AIO may be given to the investigating authorities viz. DGGSTI, Anti-evasion branches for verification of those DRC 03 through which the tax, interest and / or penalty is deposited in particular cases being investigated by these agencies / branches. These agencies may issue DRC 04 against the same. It will certainly enhance the pace of DRC 03 verification and also acknowledge to the taxpayer in very little time. However, the same may be sent to GST Policy wing / GST Council.

E. **Recovery of Arrears of CGST formation by SGST and Vice versa:** Collection of State Tax arrears under the existing laws by the central tax authorities during the sanction of refund to the assesse in the jurisdiction of Centre and vice-versa i.e. the arrears of central tax under existing law may be collected by the State Tax during sanction of refund to the assesse in the jurisdiction of state.

Shri Vivekanand Maurya, Joint Commissioner, CGST, Dehradun submitted that by way of DRC 07 the arrears may be recovered. The Chief Commissioner inquired whether the arrears automatically populated in DRC 07. Shri Anurag, Joint Commissioner, SGST, Uttarakhand submitted that once, the arrears are entered in liability register, the same are reflected in concerned GSTIN. At the time of refund, the same may be adjusted.

F. **Sharing of SOP for Best Judgement Assessment under Section 62:** The state tax authorities may be requested to share the SOPs of various practices followed in respect of the best judgement assessments carried out under section 62 of the Act.

The Commissioner, SGST informed that the assessment in Section 62 is yet not started, hence, no SOP is developed so far.

G. **Mention of specific reasons of cancellation of GST registration:** The reasons of cancellation of registration is recorded as "others", because of it, the direction of further action is not proper. The Chairman enquired whether this problem is created by the CGST side. The Commissioner, CGST, Dehradun, submitted that in some cases of DGGSTI and some cases of preventive branch the reason of cancellation is found recorded as others. The Chairman directed to the CGST Commissioner, Dehradun, to look into the matter and take necessary action to rectify the same.

H. **Appellate powers of Commissioner & Joint Commissioner of State tax:** The Commissioner, SGST, Uttarakhand submitted that the High Court Uttarakhand has issued an interim order in the case of Vinod Kumar wherein the authority of Joint Commissioner (Appeal) is challenged in an operating para. This order is being quoted by certain group of advocates and CAs before various fora and the authority of Joint Commissioner (Appeal) is challenged on the ground that the Joint Commissioner (Appeal) is not empowered to hear the appeal as the Commissioner, SGST, Uttarakhand is not empowered to hear appeals being an Executive Commissioner. As the power of appeal is not lying with the Commissioner, the Commissioner cannot delegate the power which he is not having. In result of this order, the authority of Joint Commissioner (Appeals) is challenged, accordingly the appeals are directly being moved to the High Court. The Commissioner, SGST submitted that he had already stated before the court that the authority for hearing appeals is given in the GST laws. The SGST officers stated that this order is related to registration matter and there is an operating para in the order wherein the authority is challenged. The Chairman suggested that observation may not be part of the order. State officers should move forward with their authority. However, the Chief Commissioner also requested to share the copy of order so that necessary suggestion, if any, may be passed on.

Finally, all the members of the State Coordination Committee appreciated the initiative taken by the Department to hold a meeting of SCC on regular basis. Shri Rajeev Jain, Chief Commissioner & Chairman & Chairman and Shri Ahmed Iqbal, Commissioner, SGST & Co-Chair thanked all the members for participating in the meeting and requested them to attend the meetings in future also.

8-4-24 (Rahul Yadava)
Joint Commissioner &
Central Tax Secretary, CGST Zone, Meerut.

C. No. GCCO/Tech/Meet/17/2023-Tech O/o CC-CGST-Zone/Meerut/ Dated:

Copy to: -

1. The Office of the GST Council, 5th Floor, Tower-II, Jeevan Bharti Building, Connaught Place, New Delhi in respect of OM dated 19/07/2023 issued vide F.NO.820/GRC/GSTC/2019/9417.
2. The Principal Director General, Directorate General of Goods & Services Tax, Indirect Tax and Customs, 5th Floor, MTNL Building, Bhikaji Cama Place, New Delhi (email: dggst-cbic@gov.in) in respect of letter C. NO. DGGST/Tech/ANLS/9/2023-DD/AD-II/616 dated 18/08/2023
3. Commissioner, CGST Commissionerate – Dehradun
4. Commissioner, CGST Audit Commissionerate – Dehradun
5. Additional Director General, DGGSTI, Meerut Zonal Unit
6. Commissioner, SGST, Uttarakhand;
7. SGST Headquarter, Uttarakhand
8. PA to the Chief Commissioner, Customs, CGST Zone, Meerut.
9. The Joint Commissioner (CCO), Central Tax Secretary, CGST Zone, Meerut.

8-4-24

Joint Commissioner &

Central Tax Secretary, CGST Zone, Meerut.