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वित्त मत्रांलय / Ministry of Finance // राजस्व विभाग / Department of Revenue
केन्द्रीय कर के प्रधान मुख्य आयुक्त का कार्यालय, बेंगलूरु अंचल
OFFICE OF THE PRINCIPAL CHIEF COMMISSIONER OF CENTRAL TAX, BENGALURU ZONE
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C.No. GCCO/TECH/MISC/457/2023-TECH दिनांक /Date: # As approved

Minutes of the Meeting

Purpose:	Karnataka State Co-ordination Committee Meeting for the Quarter ending 31.03.2024	
Date:	16.04.2024	
Place:	Conference Hall, Office of the Principal Chief Commissioner of Central Tax, Bengaluru CGST Zone,C.R. Building, Queen's Road, Bengaluru	
Time:	11.30AM to 1.30 PM	
Attendees:	CGST	1. Shri Roopam Kapoor, Pr. Chief Commissioner of Central Tax, Bengaluru Zone **(Co-chair)** 2. Smt. Kiran Verma, Pr. Commissioner of Central Tax, Bengaluru West CGST Commissionerate 3. Shri Pradip Kumar Suman, Commissioner of Central Tax, Bengaluru North-West CGST Commissionerate 4. Dr. Kotraswamy M, Commissioner of Central Tax, Bengaluru North CGST Commissionerate 5. Shri N J Kumaresh, Commissioner of Central Tax, Bengaluru East CGST Commissionerate 6. Shri Shreyas K M, Joint Commissioner of Central Tax, PCCO, Bengaluru Zone 7. Smt. Akshatha Shrinivas, Deputy Commissioner of Central Tax, PCCO, Bengaluru Zone
	SGST	1. Smt. Shikha C, Commissioner of Commercial Taxes, Karnataka **(Co-chair)** 2. Smt. Annies Kanmani Joy, Additional Commissioner of Commercial Taxes (Enforcement), South Zone, Bengaluru 3. Shri K Raman, Additional Commissioner of Commercial Taxes, (HQ 1), Bengaluru 4. Dr. Ravi Prasad, Additional Commissioner of Commercial Taxes, (Policy and Law) 5. Dr. Shobharani M R, Additional Commissioner of Commercial Taxes,(Audit – Intelligence and Co-ordination) 6. Shri Krishan Kumar, Joint Commissioner of Commercial Taxes, (Vigilance), Bengaluru 7. Shri C.M. Lokare, Deputy Commissioner of Commercial

	Taxes, (Audit- Intelligence and Co-ordination) 8. Shri M D Appannavar, Assistant Commissioner of Commercial Taxes, (Policy and Law)
DGGSTI	1. Ms Vinuta Malleshappa, Deputy Director, DGGI, Bengaluru Zonal Unit 2. Shri Tandale Kishore Tukaram, Deputy Director, DGGI, Belagavi Zonal Unit
DGGST	Shri Tagadi Manjunath, Additional Director, DGGST (HQRS), New Delhi
GST Council Secretariat	Shri Anil Kumar, Deputy Secretary, GST Council Secretariat, New Delhi

<u>Agenda points:</u>

i. Audit proceedings by State GST against Centre Taxpayers

ii. Cases booked on mis-classification of goods

iii. Investigation on fake entities

iv. Joint audit / scrutiny of units (sectorwise) by CGST and SGST authorities

v. GSTN BO transition

vi. Comments / suggestions from GST Council Secretariat

<u>Discussion Points:</u>

1. Audit proceedings by State GST against Centre Taxpayers

Discussion was held on cross-empowerment in audit proceedings by State and Centre GST Audit authorities. It was agreed by the Co-chairs that cross empowerment between Centre and State may be restricted to enforcement action and not in audit proceedings.

<u>Action to be taken</u>

It was agreed that in cases where audit proceedings have been initiated or audit notice / ADT-01 issued by SGST authorities would be transferred to the jurisdictional CGST authorities. In cases, where Show Cause Notices were issued, necessary corrigendum would be issued by the SGST / CGST authorities.

It was decided to put a nodal officer on each side i.e. by CGST & SGST to co-ordinate regarding any action which is initiated by CGST in SGST jurisdiction and vice-versa. In case any investigation is taken up, ADT-01 should not be issued by the investigating authority.

2. Cases booked on mis-classification of goods

Discussion was conducted on the cases booked on the issue of mis-classification of certain products. Case of mis-classification of Deepam Oil was discussed in detail by both SGST and CGST officers.

Deepam Oil is an oil prepared by way of mixing/blending two or more oils viz., Rice Bran Oil, Gingelly Oil, Palmolein Oil, etc. and a perfume is added to it, the oil units are accepting the fact that they are inedible and chargeable to 12% GST. This stand is being taken after the Order of the Appellate Authority for Advanced Ruling issued in respect of appeal filed by M/s S.K.Aagro

Tech w.r.t. classification of 'OM SHANTHI' brand of perfumed blended deepam oils.

Oil units who are manufacturing and supplying Deepam/Lamp oil (an inedible oil not for cooking purpose and that the said oils are for "lamp use only" "Not for cooking purpose") have mis-classified the same under HSN 1515-"other fixed vegetable fats and oils (including jojoba oil) and their fractions, whether or not refined, but not chemically modified", and 1511-Palmolein Oil, both of which attract GST @ 5% instead of HSN 1518 which attracts GST @ 12% thereby resulting in short payment of GST.

Ms Annies Kanmani Joy, Addl. Commissioner shared modus-operandi of Deepam Oil. SGST officers gathered intelligence and did back-end analysis on Deepam Oil case and found that the Deepam Oil is registered as supplier of Edible oil under license from FSSAI. As per Advance ruling Karnataka Advance Ruling No. KAR ADRG 11 / 2019 Dated : 25 June 2019 Deepam oil comes under HSN Code 15180040 taxable at 12% & not an edible oil under HSN code 15159040. SGST officers conducted Joint operation with Food Security Department of State and on lab reports from FSSAI, found that iron content is very high and unsafe for human consumption.

Pr. Chief Commissioner, referred to the Supreme Court judgement in classification dispute in case of Parachute Oil that whether parachute oil can be classified as Hair oil or edible oil. Department contested that Parachute oil should be classified as cosmetics but lost case in Apex Court.

Ms Akshatha Shrinivas, Deputy Commissioner, mentioned one case of M/s Recon Oil Industries Pvt. Ltd. where SCN is issued in case of misclassification of Lamp oil (Deepam Oil – HSN 1518 and GST chargeable at 12%) by DGGI, Mangaluru Regional Unit and demand has been confirmed vide Adjudication Order.

Action to be taken

Conclusion of Deepam Oil case - It was decided to review all classification cases and take necessary action in similar cases.

3. Investigation on fake entities

Pr. Chief Commissioner of Central Tax, brought out the outcome on investigation of fake taxpayer networks that most of such fake taxpayers are AADHAAR authenticated and discussed possible requirements of change in policy and system.

Commissioner of Commercial Taxes shared similar experience on fake units investigation.

Shri Krishan Kumar, Joint Commissioner of Commercial Taxes, (Vigilance), Bengaluru shared one case of Fake ITC in Bill trading in Mild Steel Scrap (MS Scrap) Sector. SGST authorities intercepted MS Scrap Vehicle, did analysis of Inward supply chain which revealed that the suppliers to the ultimate recipients were non-existent. Multiple inspections were conducted in Karnataka and Kerala and 100 fake registrations with 1008 Crore turnover involving tax evasion of Rs 180 Cr tax was detected and four master minds were arrested.

These fake entities took registrations as recycling companies (MS Scrap Sector) and such bogus cartel is involved in money transactions through Distributor / Business Correspondences (BCs) collecting cash from retailers in return of wallet top-up of such retailers. Cash , so held by BCs are handed over to third parties in consideration of bank transfer to the BC's wallet. Wallet services are provided by selected companies and Banks such as Airtel payment system, Spice money, SBI, Canara Bank etc. BCs are authorized to collect from selected groups only. It is noticed that all these fake entities have taken registration properly and all are AADHAAR authenticated. Reference was made to RBI on this issue of fake entities as third parties involved in money transaction. State GST communicated with Banks and as a result, CANARA Bank and SBI stopped disbursement to third parties payment from BCs (wallet topup and RTGS).

Pr. Chief Commissioner, mentioned that the issue of registration of fake entities and AADHAAR authentication is a matter of concern. AADHAAR details are not available with GST department. OTP for AADHAAR authentication during registration, goes to AADHAAR linked mobile number. This makes it possible for fraudsters to obtain the AADHAR registration and then keep on filing returns through some other number. It would be advisable, considering the number of fake unites registered by using the AADHAAR authentication module, to cast some regular way of verification that the said registration is being used by the AADHAR holder only.

Pr. Chief Commissioner proposed that apart from registrations, for subsequent actions after registration such as filing returns GSTR-3B, GSTR 1, GSTR-9 etc, OTP should go to AADHAAR linked mobile number of the registrant. He suggested that if it is found that unit is not existent, at least address on the AADHAAR of the registrant should be shared from UIDAI to the GST Department.

Bengaluru CGST Zone has also made reference to GST Policy Wing vide letter dated 17.04.2024 on fake entities taking registration by AADHAAR authentication (Copy enclosed). He suggested that such registration by fake entities should be checked at the initial stages only.

Action to be taken

It was agreed that both CGST and SGST authorities have to co-ordinate on such investigation and follow SOP. Special focus to be given on commodities such as Iron & Steel and Iron & Steel scrap.

On fake ITC cases involving fintech companies, Pr. Chief Commissioner suggested CGST Commissionerates to be alert on such activities and take note of modus-operandi as well as the line of investigation adopted by the SGST officers.

Further, discussion was held on digital trail of money and IP address analysis for such fake entities. It was discussed that effort should be made to locate the master mind behind such fake ITC networks.

4. Ms Akshatha Shrinivas, Deputy Commissioner shared some case laws of High Court Judgements which are pertinent to applicability and validity of GST law / provisions.

Case laws

(i) Madras HC Order in case of Tvl. Vardhan Infrastructure (W.P. No. 34792 of 2019)

– Held that actions by counterparts (CGST and SGST authorities) lack jurisdiction without cross-empowerment notification

(ii) Patna HC Order in case of Gobinda Construction (Civil W.P. No. 9108 of 2021)

– Upheld Constitutional validity of Section 16(4) of CGST/SGST Act, 2017

(iii) Kerala HC Order in case of N S Metals (W.A. No. 1853 of 2023)

– Upheld Constitutional validity of Sectio 16(2)(c) of CGST Act and Rule 36(4) of CGST Rules, 2017.

(iv) Andhra Pradesh HC Order in case of Thirumalakonda Plywoods (W.P. 24235 of 2022)

– Upheld Constitutional validity of Section 16 (4) of CGST/SGST Act, 2017

(v) Bombay HC Order in case of Fomento Resorts and Hotels (W.P. 662/2023)

– Upheld Constitutional validity of circulars issued by CBIC assigning functions of proper officers

5. Further discussion was held on scrutiny of GST returns. State GST officers stated that after shifting to Model – 2 GSTN BO, speed of disposal / completion of return scrutiny has gone up significantly. CGST Department is also shifting to GSTN BO and transition is in progress. In this regard, there have been multiple interactions between State and Centre GST officers for ease of transition into GSTN BO Model 2 since January 2024. Proof of concept testing by State GST officers using CBIC AIOs was conducted on 04.01.2024.

6. Joint audit / scrutiny of units (sectorwise) by CGST and SGST authorities

It was agreed by co-chairs that both CGST and SGST through a Nodal Officer, can have a look sectorwise of all the units across the state and share enforcement cases booked against units in a particular sector along with comparative revenue figures such as ratios of revenue collection in Cash / ITC. Once such comparison is done, units can be selected for audit and scrutiny.

<u>Action to be taken</u>

A co-ordination committee on such sector wise analysis can be set up between SGST and CGST department and quarterly meeting can be held. New sectors can be taken up for analysis / investigation such as Betting Sector, Gaming sector where still many are unregistered.

7. Principal Chief Commissioner of Central Tax and Commissioner of State Taxes discussed the possibility of conducting co-ordinated mobile checks, encircling particularly sensitive areas where CGST & SGST can be mobilized at the same time.

8. Shri Anil Kumar, Deputy Secretary of GST Council secretariat suggested three points in the meeting

i. Mentioned Freight marketing Circular No. 07 of 2024 OM dated 23.02.2024 issued on marketing of parcel traffic by rail and suggested to discuss with Railway officers to streamline investigation of anti-evasion cases involving railway transport. As per the Circular, nodal committee is to be formed with Senior Divisional Commercial Manager (Sr DCM)/ Divisional Commercial Manager (DCM) of railways as State level nodal officer for co-ordination with CGST/SGST authorities. One officer not below the rank of Additional / Joint Commissioners, each from SGST and CGST departments need to be nominated as nodal officers to co-ordinate with Railway Authorities. Accordingly, process of nomination may be taken up. Also for quarterly State Co-ordination meeting, Senior DCM of railways to be invited. In the upcoming National Co-ordination Committee to be held in Delhi, Railway department may be informed to nominate one senior officer to participate in State Co-ordination meetings

   It was informed that DCM, Railways had to attend, however he had to step out at the last moment.

ii. Two GSTAT benches will be set up in Bengaluru. Any progress in identification of space, Office / Staff may be communicated to DoR and GST Council Secretariat.

   However, Shri Anil Kumar was informed that one Government and one private property has been shortlisted by Pr. Chief Commissioner of Central Tax and Commissioner of State Taxes and accordingly a proposal will be sent.

Meeting ended with vote of thanks by Deputy Commissioner of Central Tax, Bengaluru Zone.

This issues with the approval of Pr. Chief Commissioner of Central Tax, Bengaluru CGST Zone and Commissioner of Commercial Taxes, Bengaluru, Karnataka (Co-chairs).

Signed by
Akshatha Shrinivas
Date: 02-05-2024 13:31:33

(AKSHATHA SHRINIVAS)
Deputy Commissioner,
PCCO, Central Tax, Bengaluru