



माल एवं सेवा कर आसूचना महानिदेशालय
DIRECTORATE GENERAL OF GST INTELLIGENCE

पश्चिम खण्ड-8, विंग सं. 6, द्वितीय तल, आर. के. पुरम नई, दिल्ली-110 066
दूरभाष : 011-26108779, 20863683

WEST BLOCK - 8, WING NO. 6, 2nd FLOOR, R. K. PURAM, NEW DELHI-110 066
Phone : 011-26108779, 20863683

F.No.DGGI/17/2023-INV-O/o Pr DG-DGGI-HQ-DELHI-Part(1)/ Dated 08.02.2024

To

The Director General (all SNU's)
The Pr. ADG/ADG (all Zonal Units)
DGGI.

Sir/Madam,

Subject: Guidelines for conducting investigation in certain cases – DGGI reg.

It may be recalled that during the discussion in DGGI Annual Conference, held in Goa on 28th and 29th November, 2023, it was decided to also have an operating procedure for investigation that keeps in view ease of doing business (EODB), especially with regular taxpayers. Now the Board vide letter F.No. GST/INV/DGGI Annual Conference/20/2023-24/170 dated 08.02.2024 issued by Commissioner (GST-Investigation), CBIC, have approved the following consolidated guidelines for conducting investigation by DGGI units in certain cases.

1. The officers of DGGI across the country at its Headquarter, the 26 Zonal Units (ZU) and 40 Regional Units (RU) have all-India jurisdiction for the purposes of their role in the compliance management framework of Goods and Services tax (GST) and Central Excise. Under GST, investigation may be made by DGGI or jurisdictional CGST formations or the States. In GST, a person is to register in each respective State where he is making supply and as a result, may have multiple GSTINs on the same PAN.

2. The above eco-system presents the need to nurture uniformity and optimum resource use, and at the same time keep the balance of ease of doing business in enforcement activities, which has also been deliberated in the DGGI Annual Conference in November, 2023. Keeping relevant aspects in view, the guidelines issued from file No. DGGI/17-2023-Inv-0/o Pr-DG-DGGI-HQ-Delhi-Part (1) dated 18.09.2023 (as amended on 08.12.2023) are superseded by these wider guidelines that are, henceforth, to be followed in the DGGI while engaging in investigation, subject to legal provisions or instructions issued in this behalf.

Initiation of investigation and follow-up

3.While DGGI officers have all India jurisdiction, the following operating procedures shall be followed in initiation or conduct of investigations —

(a)The nature of investigation being taken up by DGGI should not take up a role not assigned in DGGI charter. ZU shall avoid taking up such functions, under provisions of law/rules, that more appropriately fall in the purview of return scrutiny or audit, etc.

(b)The Pr. ADG/ADG of a ZU shall be responsible for approving, developing any intelligence, conducting search and completing the investigation in a case and the relevant subsequent action, including in the RUs etc.

(c) A ZU shall normally not initiate investigation related to an aspect leading to tax demand notice on a taxpayer/GSTIN located outside jurisdiction allocated to it in geographical terms. Forwarding any information or intelligence which pertains to another ZU, that may have been generated /collected /received /recorded by a ZU, to the concerned jurisdictional ZU for implementation is encouraged as a good practice to be adopted.

(d)In the situation under GST framework, a taxpayer/an entity may be registered in more than one State. Where a ZU has, on a particular issue, initiated investigation against a taxpayer within its own jurisdiction, the investigation on the same issue with respect to registrations (GSTINs) of the same taxpayer (single PAN) in other State(s) can be conducted without seeking approval for inter-ZU investigation.

However, especially in the matter of record-based investigations, the convenience of such taxpayer/entity in terms of location of its head/registered office or accounting office etc. should be considered, and therefore, as and when necessary or relevant, and at the earliest, one of the ZUs may be designated for conducting such investigation by the DG (or Pr. DG if more than one SNU is involved).

(e) In the case of record-based investigations, only a ZU which has the entity registered in its geographical jurisdiction is to initiate the investigation.

(f) Each investigation must be initiated only after approval of Pr. ADG/ADG of ZU, except in following situations where prior approval of higher officer, shall be required -

(I) Prior written approval of the DG of SNU if investigation is to be initiated and action to be taken in a case falling under the following four categories, namely case involving (i) matters of interpretation seeking to levy tax/ duty on any sector/ commodity/ service for the first time, whether in Central Excise or GST; or (ii) big industrial house and major multinational corporations; or (iii) sensitive matters or matters with national implications; or (iv) matters which are already before GST Council. Moreover, for cases of the category (iii) or (iv), before any precipitative action is taken in investigation, the respective DG SNU shall necessarily bring the matter to the notice of the Pr. DG.

In all of above category of cases, the concerned Zonal Head should collect details regarding the prevalent trade practices and nature of transactions carried out from the stakeholders. The implications / impact of such matter should be studied so as to have adequate justification for initiating investigation and taking action.

(II) Initiating investigation related to an aspect leading to tax demand notice on a taxpayer/GSTIN located outside jurisdiction allocated to a ZU. In such cases, the ZU seeking such approval is required to make a proposal (with adequate justification of its reasoned circumstances) to/via its DG, SNU. If the matter is in the jurisdiction of the SNU in which such ZU is located, the approval shall be accorded by the concerned DG, SNU. If it is outside jurisdiction of the said SNU, approval shall be of the Pr. DG.

With respect to taxable person / entities falling within National Capital Region (NCR), the Zonal Units at Delhi, Gurugram and Meerut shall have concurrent jurisdiction, in addition their respective geographical jurisdiction. Similarly, Chandigarh Zonal Unit may initiate inquiry or investigation in Mohali and Panchkula Districts, in addition to its own geographical jurisdiction. In such cases, the permission from DG SNU may not be necessary solely for the purposes of para 3 (f) (II) above. However, such concurrent jurisdiction must be exercised only at the Zonal Unit level.

(g) A ZU can continue to undertake follow-up action in an ongoing investigation in jurisdictions of other ZUs without referring the matter to the DG or Pr. DG. The situation described in sub-para(h) is not to be treated as follow-up action in an ongoing investigation.

(h1) Situations have been noticed where, while chasing ITC chains in the course of various on-going inquiries, a Zonal Unit identifies an established business/GST taxpayer as being the potential end-availer of ITC in relation to a particular set of short-listed fake invoices or suppliers. Normally, the end-availer of ITC is not the taxpayer/assessee with respect to whom inquiry was initiated in the first instance. Usually, the circumstance is that an on-going/previous/existing inquiry with respect to certain GSTIN(s) is providing reason to institute a fresh inquiry with respect to that end-availer of ITC.

(h2) In view of this, and the Board's Circular No. 171/03/2022-GST dated 06.07.2022 which requires that only the end/final ITC availer (not the intermediaries) is to be issued the show cause notice for the demand of GST amount, the norm to be followed is that the Zonal Unit which identifies (such end-availer of ITC) shall pass on the relevant intelligence/information along with all the supporting material to the jurisdictional SNU/ZU of such end-availer of ITC for purposes of inquiry/investigation and further necessary action.

(h3) Only in exceptional cases, where circumstances so warrant and there is a reasoned compelling necessity, the concerned ZU may, with prior approval of its DG SNU, institute such fresh inquiry with the said end-availer of ITC located outside its own jurisdiction. In case of the end-availer of the ITC falling outside the geographical jurisdiction of that SNU, such approval shall also be intimated by this DG to the Pr. DG.

- (i) Which ZU/RU/team investigates, must not be at the behest of an informer.
- (j) The above aspects should be read harmoniously with each other.

Summons

4. In initiating investigation with respect to a listed company or PSU or Corporation or Govt Dept./agency or an Authority established by law, or seeking details (that are record-based and/or are reflected in statutory books of account or filings) from them, the practice to be adopted by DGGI should be of initially addressing official letters (instead of summons) to the designated officer of such entity (detailing the reasons for investigation, and the legal provisions therefore) and requesting the submission of the relevant specified details in a reasonable time period which should be mentioned in the letter. Divergence from this practice at initial stage must be backed by written reasons.

5. In a letter/summons issued for seeking information/documents from regular taxpayer, instead of referring to inquiry "against" an entity, the reference can be to inquiry "with respect to that entity. Further, a summons should not be used as means to seek information filled in formats or proforma (specified by investigation).

6. Vague (or general) expressions, such as that the officer is making inquiry in connection with "GST enquiry" or "evasion of GST" or "GST evasion" etc. must not be mentioned in the letter/summons to a regular taxpayer. Rather, such letter/summons should disclose the specific nature of the inquiry being initiated/undertaken.

7. Information available digitally/online on GST portal should not be called for under letter/summons from a regular taxpayer.

8. The summons in conduct of investigation must not convey requests outside the scope defined for a summons, e.g. under section 70 of CGST Act. Further, if a taxpayer has utilized ITC towards payment of GST on its outward supplies, it is not acceptable to seek via summons/letter aspects such as - *'please clarify whether ITC availed and utilized was proper.'*

9. Addressing letter/summons with context or content akin to a fishing inquiry is not acceptable.

10.1 In issuing summons, the norm shall be of prior reasoned approval (of officer not below Dy/Asst. Director level) of the content of the summons to be printed by the summoning officer, including in terms of what is being sought and the time frame to be provided being reasonable for its compliance.

10.2 Where, for strictly operational reasons, it is not possible to obtain such prior written permission, the approval by such an officer can be verbal, however this all must be confirmed in writing at the earliest opportunity.

10.3 Before summoning any information or 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 result of preparation, so as not to have repeated issuance of summons seeking piecemeal information.

11. Scanned copy of a statement (recorded under summons) be uploaded in the same e-office file in which approval was obtained to issue summons. Outcome of search/inspection conducted, including panchnama (if any), be also so uploaded. The time schedule for uploading these documents and submitting the e-file for information to Addl./Jt. Director should not be more than 4 working days from date of statement, completion of search/inspection.

Precautions/other aspects in investigation

12. For obtaining approval to initiate investigation with respect to a taxpayer, the fact of initiation of inquiry, if any, already on same subject matter with respect to the same taxpayer/GSTIN by another investigating office or tax administration must be ascertained. The position must be placed before the approving authority.

13.1 An investigation initiated must reach the earliest conclusion which is not more than one year. It is not necessary to keep investigation pending till limitation in law approaches. Show cause notice should not be delayed after conclusion of investigation. The closure report consequent to the appropriate payment of government dues by the person concerned should also not be delayed and should have a brief self-explanatory narration of the issue and the period involved. Expeditious actions without delay at these stages are part of preventive vigilance ensuring that no room remains for malpractices.

13.2 Conclusion of investigation may also take the form of recording that investigation is not being pursued further as nothing objectionable was found in terms of matter investigated.

14.1 There may be situation where there is simultaneous record-based investigation of a taxpayer by more than one office on different subject matters. It is relevant that a GST amount, if any, involved, can be collected only once and often such investigations may call for substantially the same set (or subset) of underlying information/documents.

14.2 Therefore, when, in a case initiated by DGGI, it comes to notice that CGST Zone and/or State GST are also looking at the taxpayer, then the Zonal Unit must dialogue with other investigating office(s) and consider feasibility of one of the offices pursuing all these subject matters with respect to the taxpayer. If this outcome is not feasible, the reasons therefor should be confirmed by DG of the SNU.

15. . A similar/same/like topic or issue can give rise to investigations with numerous GSTINs having different PANs. These would be across various CGST Zones. Such instances must be highlighted by Zonal Units to the DG SNU and in turn the

Headquarter shall bring it to notice of Pr.DG. The Pr. DG/DG shall consider whether it is more optimal that concerned jurisdictional CGST formations investigate the matter. In case, in consonance with DGGI charter, it is decided that DGGI take up some of such investigations, these shall be coordinated by DG SNUs so that they are carried out by jurisdictional ZUs in a uniform manner. It shall be put up to Pr. DG/DG to consider the preferability of one of the ZUs being designated as lead ZU which coordinates inputs and prepares questionnaire to be adopted in investigation by all the other ZUs.

16.1 In terms of sub-para (f) (I) of para 3 above, or otherwise, the scenario may arise where an issue investigated by DGGI is based on an interpretation of CGST Act/ Rules, notifications, circulars etc, and it is in the direction of proposing non-payment or short payment of tax, however, the background is that the taxpayer(s) is/ are following, or have followed, a prevalent trade practice based on particular interpretation that is followed on that issue in the sector/industry. This scenario results in more than one interpretation and likelihood of litigation, change in practice, etc.

16.2 Therefore, it is desirable that the concerned DG make a self-contained reference, after suitable consultation with other SNUs and with approval of the Pr. DG, to the relevant policy wing of the Board i.e. the GST Policy or TRU. The endeavour, to make such reference before concluding investigation, and as much in advance, as is feasible, of the earliest due date for issuing of show cause notice, may be useful in promoting uniformity or avoiding litigation if the matter, after being processed, is amongst those that also gets placed before the GST Council.

Grievance redressal

17. The Pr. ADG/ADG of ZU is to be proactive in a manner that prevents complaints from arising in respect of the investigation and related work being undertaken by the ZU or RU.

18. The Additional/Joint Director (Admn.) of ZU is Grievance Officer whom taxpayer may approach (through letter, email or by appointment) with grievance, if any, related to an ongoing investigation, for appropriate redress. In case the reasonable grievance persists, the Pr. ADG/ADG of ZU may consider meeting, by appointment, the taxpayer.

This issued with the approval of Pr. DG, DGGI

Yours faithfully

(Rajesh Jindal)
Pr. ADG, DGGI (Hqrs.)