



## The Institute of Chartered Accountants of India GST & Indirect Taxes Committee

### GOODS & SERVICES TAX UPDATE-218

#### Guidelines to be followed in the CGST Zones while engaging in Investigation.

[Instruction No. 01/2023-24-GST \(Inv.\) dt. 30.03.2024](#) has been issued prescribing guidelines for maintaining ease of doing business while engaging in investigation with regular taxpayers:

- a) As per *Notification No. 02/2017-CT dt. 19.06.2017*, the (Pr.) Commissioner is responsible for developing and approving any intelligence, conducting search, and completing investigation in a case and the relevant subsequent action, including in the divisional formations, etc. within the allocated jurisdiction of Commissionerate.  
Any information or intelligence which pertains to another CGST field formation, that may have been generated /collected /received /recorded by such field formation shall be forwarded by the (Pr.) Commissioner to the concerned CGST field formation or DGGI, as the case may be.
- b) Each investigation must be initiated only after the approval of the (Pr.) Commissioner. However, the prior written approval of the zonal (Pr.) Chief Commissioner shall be required in the following four categories-
  - i) matters of interpretation seeking to levy tax/ duty on any sector/ commodity/ service for the first time, whether in Central Excise or GST
  - ii) big industrial house and major multinational corporations
  - iii) sensitive matters or matters with national implications
  - iv) matters which are already before GST Council.

In all the above four categories of cases, the concerned CGST field formation should also collect details regarding the prevalent trade practices and nature of transactions carried out from the stakeholders and study the implications / impact so as to have adequate justification for initiating investigation and taking action.

- c) The fact of initiation of inquiry, if any, already on the same subject matter with respect to the same taxpayer/ GSTIN by another investigating office/ tax administration must be ascertained and placed before the approving authority, before initiating any inquiry.
- d) During the investigation, the Commissioner may come across the below mentioned situations-

S. No.	Situations	Report of Action
1.	Where it comes to the Commissionerate's notice that either the DGGI or the State GST department is also simultaneously undertaking record-based investigation of the same taxpayer on different subject matters.	The (Pr.) Commissioner must engage in dialogue with the other investigating office(s) to consider the feasibility of only one of the offices pursuing all these subject matters with respect to the taxpayer, and the other offices consolidating their material with that office. If this outcome is not feasible, the reasons therefor should be confirmed on file by such (Pr.) Commissioner.
2.	Where the (Pr.) Commissioner has initiated an investigation with respect to a GSTIN in its jurisdiction and the issue is relevant to-	
i)	some or all of that taxpayers' GSTINs registered (under the same PAN) in multiple jurisdictions. If the matter also falls in the charter of DGGI and is not such that DGGI avoids taking up (as it is more appropriately in the purview of return scrutiny or audit etc)	The (Pr.) Commissioner shall expeditiously make a self-contained reference to its zonal (Pr.) Chief Commissioner who shall request the Pr. DG, DGGI to take up the matter in accordance with DGGI guidelines.
ii)	other taxpayers' GSTINs registered (under multiple PANs) across various CGST jurisdictions.	The (Pr.) Commissioner shall within 30 days of initiation of investigation take either of the following two actions with the approval of zonal (Pr.) Chief Commissioner – i) 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 shall be shared with each concerned Zone or all the Zones. ii) In other situations, Pr. DG DGGI shall be requested to issue suitable alert.

3.	Where an issue investigated by one of the (Pr.) Commissioners 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 on that issue in the sector/industry.	In such a case, it is desirable that the zonal (Pr.) Chief Commissioner make a self-contained reference to the relevant policy wing of the Board i.e., the GST Policy or TRU. The endeavor, to make such reference before concluding investigation, as early as possible 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.
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- e) 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 from them, the CGST officials should initially address official letters (instead of summons) to the designated officer of such entity (detailing the reasons for investigation, and the legal provisions) and requesting the submission of the relevant specified details in a reasonable time period as mentioned in the letter. Divergence from this practice at the initial stage must be backed by written reasons.
- f) The letter issued for seeking information/ documents from regular taxpayer should not contain vague (or general) expressions such as making inquiry in connection with “GST enquiry” or “evasion of GST”. The reference can be to inquiry “with respect to” or “in connection with” that entity.
- g) The information available digitally/online on GST portal cannot be called for under letters/summons. Further, a letter or summons should not be used as a means to seek information filled in formats or proforma (specified by investigation). The summons in conduct of investigation must not convey requests outside the scope defined for summons.
- h) 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 should have a prior reasoned approval (of officer not below Dy/Asst. Commissioner level).
- i) 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.
- j) Scanned copy of a statement (recorded under summons) along with the outcome of

search/inspection conducted, including panchnama (if any) needs to be uploaded in the same e-office file in which approval was obtained to issue summons. The e-file should be submitted for information to Addl./Jt. Commissioner in not more than 4 working days from date of statement, completion of search/inspection.

- k) 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 and the closure report consequent to the appropriate payment of government dues by the person concerned should not be delayed and should have a brief self-explanatory narration of the issue and the period involved.
- l) 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.

### **Grievance Redressal**

- Commissioner is to be proactive in a manner that prevents complaints from arising in respect of the investigation and related work being undertaken within the jurisdiction.
- Taxpayer may approach with grievance, if any, related to an ongoing investigation, for appropriate redress to the Addl./Jt. Commissioner in-charge of investigation through letter, email or by appointment. In case the reasonable grievance persists, the (Pr.) Commissioner may consider meeting, by appointment, with the taxpayer.

*Vice - Chairman*  
*GST & Indirect Taxes Committee*

*Chairman*  
*GST & Indirect Taxes Committee*

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