



SUGGESTIONS TO ENHANCE EFFICACY OF GST ADJUDICATION

In the recent past, judicial pronouncements as well as feedback from stakeholders – including taxpayers and professionals – have highlighted several recurring issues in the issuance of show cause notices (SCNs) and in adjudication proceedings under the GST regime. These concerns point to challenges that affect the credibility, fairness, and legal sustainability of departmental proceedings. The following consolidated note presents key issues and actionable suggestions for consideration of the Department:

Issues & Concerns

1. Concerns regarding closure of investigations and timing of issue of SCNs

It is often observed that although investigations are carried out well before the due date for issuing an SCN under section 74, the notices are frequently issued in bulk, especially close to the limitation deadline. Investigations that begin in a well-planned manner often end up in disarray, lacking adequate articulation of facts or legal reasoning. The last-minute closure of investigations compromises not only the SCNs but also leaves insufficient time for proper hearings, as all such bulk SCNs must be adjudicated within six months.

2. Concerns regarding drafting and speaking nature of SCNs

SCNs are often issued in a manner which fails to clearly bring out the specific contravention by the taxpayer; the allegations are either vague or framed in a templated manner. Sometimes, SCNs contain inherent contradictions in the allegations, causing confusion and making it difficult for taxpayers to furnish an appropriate reply. In many instances, even the basis for invoking the extended period under section 74 (intent to evade tax) is not substantiated in the notice. Courts have repeatedly held that such SCNs do not meet the standards of natural justice.

3. Multi-party SCNs with presumptive liability

SCNs issued to multiple noticees often contain collective allegations, without clearly attributing the role of each party in the alleged contravention.



4. Portal-only service of SCNs

Section 169 of the CGST Act, 2017 provides six options for serving any decision, order, summons, notice or other communication. Taxpayers often miss important notices as they are only uploaded on the portal with no parallel communication through physical mail or real-time alerts. This particularly affects small-scale traders, senior citizens, rural business operators, and other digitally marginalized segments who may not log into the portal regularly or may lack email access.

5. Bunching of notices for multiple years

Often a single consolidated notice covering multiple financial years is issued. This practice restricts the taxpayer's ability to respond adequately, merges distinct issues and timelines of different years.

6. No time limit for replying to Intimation in Form DRC-01A

As per rule 142 of the CGST Rules, 2017, the proper officer may before service of SCN communicate the details of tax, interest and penalty as ascertained by him in Part A of Form GSTR-DRC-01A. However, there is no time limit defined for replying to the intimation communicated in Form GSTR-DRC-01A before service of SCN. Practically, only 1-2 days are given to reply to the intimation which causes hardship to the taxpayers.

7. Concerns regarding personal hearing process

Personal hearings are often granted with short notice, no opportunity to peruse case records, and no summary of the hearing issued thereafter. In cases where such notes are issued, they are often deficient. Though the law permits three adjournments, requests are frequently declined, and orders are passed for want of documents etc. even when the same could have been submitted in the next hearing.

As per *Instruction No. F. No. 390/Misc/3/2019-JC*, all departmental quasi-judicial and appellate authorities are mandated to conduct personal hearings through video conferencing. Physical hearings are to be allowed only upon a specific request from the concerned party, with reasons for such request duly recorded in writing. However, in practice, physical hearings are often conducted routinely, and requests for virtual hearings are frequently denied without any reasoned order.

Despite the GST system being digital, many State GST departments still insist on physical copies of documents – returns, challans, invoices, appeals, and replies – during personal hearings, even though these are already available on the portal.



This undermines the digital-first approach, imposes unnecessary burden on taxpayers, particularly small and medium enterprises, and reflects procedural inefficiencies and lack of system integration.

In many cases, especially involving third-party statements, the request for cross-examination is often rejected without any grounds. This deprives taxpayers of a key principle of natural justice.

8. Concerns regarding adjudication orders

In a large number of cases, adjudication orders do not address the submissions made by the noticee or provide reasons for rejecting them. There is often no reference to the documents relied upon, legal reasoning is cursory, and the orders lack structure around framed issues. In some cases, the orders contain internal inconsistencies—for instance, the observations may support one view, while the conclusion reflects another.

Recently, the Supreme Court in *M/s ASP Traders v. State of U.P. & Ors.* (2025) categorically held that even if a taxpayer deposits the amount under protest or "voluntarily," the proper officer is duty-bound to issue a speaking order under section 129(3). The Court emphasized that failure to issue a final order deprives the taxpayer of their right to appeal under section 107 of the CGST Act. This judgment reinforces the constitutional principle that no tax liability can be imposed without due process.

Certain issues have been noticed in respect of Form GST DRC-07, such as non-uploading, delayed uploading, or incorrect uploading which leads to uncertainty and confusion in payment of liability/filing appeals. In *K.P. Shaneez vs. Joint Commissioner (Appeals)*, the Hon'ble Kerala High Court directed that if the appeals were filed within the limitation period reckoned from the date of uploading of Form GST DRC-07, the same should be heard and decided on merits.

9. Adjudication orders going beyond allegations in SCN

It has been observed that adjudicating authorities frequently confirm demands or impose penalties on grounds not forming part of the SCN, which vitiates the proceedings. Courts have held this to be a violation of the principles of natural justice.



Suggestions and Measures for Improvement

1. Issue of Instructions

To strengthen the quality and consistency of adjudication, appropriate instructions may be issued, setting out the best practices to be followed by adjudicating authorities. While the guiding principles for fair and transparent adjudication are already embedded in the Statute, officers may be reminded of these through consolidated instructions. Such instructions may reiterate these principles and incorporate specific measures across the following areas:

(i) Investigations to conclude in a time bound manner

Although the GST law does not prescribe a specific timeline for the closure of investigation proceedings, it provides timelines for related actions such as returning documents and relaxing seizures etc. These provisions, in effect, establish an inherent timeframe for completing investigations. In view of these statutory requirements, well-planned investigations should also have their closure actively monitored, with each investigating team handling only a prescribed number of pending cases at a time. This will facilitate staggered issuance of SCNs that meet statutory standards and the principles of natural justice, enabling personal hearings to be spread over time and ensuring proper adjudication. To achieve this, anti-evasion/investigation wings may adopt a Monthly Case Monitoring (MCM) system, similar to that followed in audit proceedings.

(ii) Minimum 7 working days for reply to Form DRC-01A

At least 7 working days be granted for responding to intimation to ensure natural justice, transparency and effective compliance under GST law. Further, where there are preliminary objections by the taxpayers against the demand, in the interest of natural justice, pre-decisional hearing may also be given.

(iii) Streamlining SCNs

- A structured template may be developed for SCNs, with a checklist to ensure that each notice includes factual background, relevant legal provisions, evidence relied upon, and grounds for invoking the extended period, where applicable.
- The template should be developed as an online module where stating reasons is mandatory. Integration of AI tools may be explored to ensure that the reasons are meaningful and not merely a reproduction of statutory text or factual narration.



- In multi-party SCNs, the roles and responsibilities of each noticee must be clearly delineated to avoid presumptive liability.
- Notices should be served both electronically and physically unless the taxpayer has opted for digital-only service. For physical service, speed post may be used and for digital service, SMS, E-Mail and uploading on the portal should suffice. This will significantly reduce *ex parte* orders. The Madras High Court in *M/s. Pioneer Products vs. State Tax Officer* held that, before passing an *ex parte* order, at least one reminder notice should be served through RPAD or another mode under section 169.
- A pop-up on the GST portal and prominent dashboard visibility with color-coded status indicators (e.g., unread, pending, closed) be made available to ensure immediate and accessible communication mechanism.
- Separate notices may be issued for each financial year, with specific issues pertaining only to that year clearly mentioned.
- Notices may be uploaded on the dedicated “Notices” section on the GST portal and the misclassification under “Additional Notices” or other unrelated headings be avoided.

(iv) Structured Personal Hearing Protocol

- A minimum of 7 days' advance notice for hearings should be mandated.
- Taxpayers must be allowed to inspect the case files and must be provided a summary of hearing notes.
- Requests for up to three adjournments should be accommodated where reasonable.
- Virtual hearings should be permitted by default. If denied, the reasons must be recorded in writing.
- Personal hearings may be conducted based on the digital records submitted by taxpayers through the portal. Only when a document is not traceable online, the officer may specifically request a physical copy with recorded reasons.
- Personal hearing should be provided after the taxpayer has uploaded his final submissions and not before it.
- Request for cross-examination, where statements are relied upon for demand, must be decided through detailed reasoning stated in the notice/order for rejecting the request before/at the time of the final adjudication.



(v) Mandating Detailed and Speaking Orders

- Orders must systematically summarise the taxpayer's submissions, discuss relevant evidence, and provide a reasoned conclusion.
- As with SCNs, the adjudication order template should also be online with mandatory fields for recording reasons. AI-based tools may be used to check if the reasons are comprehensive and not merely copy-pasted content.
- Introduction of a checklist for adjudicating authorities may be considered.
- Form GST DRC-07 be uploaded concurrently with the adjudication order and the content thereof should be in alignment with the order.
- Field officers must be instructed that payment under protest does not eliminate the requirement to pass an adjudication order under section 129(3).

2. Capacity Building and Institutional Feedback Mechanism

- A specialised training module may be developed on SCN drafting, legal reasoning, conduct of personal hearings, and order-writing techniques. The module should include detailed study of sections 75 and 126, which lay down guiding principles for fair and transparent adjudication. The officers involved in adjudication may mandatorily undergo the said training module.

Periodic refresher courses and legal drafting workshops may be organised in the Commissionerates as well.
- Key case laws may be compiled, and a quarterly legal bulletin shared across zones. The bulletin may provide clear interpretative directions on provisions, procedural requirements, and evidentiary standards, ensuring consistent application of law across all jurisdictions.
- A review mechanism may be introduced to analyse quashed or criticised orders, with the objective of drawing systemic learnings and identifying areas for capacity enhancement.