

Office of the:
Commissioner of State Tax,
Maharashtra.
8th Floor, GST Bhavan, Mazgaon,
Mumbai-10

Trade Circular

No. JC(HQ-5)/GST/Recurrent SCN/22-23/ADM-8 B-74, Mumbai, Date: 17/11/2022

Trade Circular No. 12 T of 2022.

Sub. : Authority regarding action consequential to issuance of Show Cause Notice and for issuance of recurring SCN in case of an enforcement action initiated by the State authorities against a taxpayer assigned to Centre and vice versa.

Ref. : Office Memorandum of the office of GST Council No. B. 8198, dated 19/10/2022.

Investigations are conducted by the State Investigation officers in case of taxpayers assigned to State as well as Centre jurisdiction. Show Cause Notices (SCNs) are being issued by the investigation officers for the issues identified during the investigation periods. However, same issues may recur during the subsequent periods and for such periods recurring SCN is required to be issued for further adjudication.

2. Varied practices are being followed by the field formations regarding the issuance of recurring SCNs as well as other consequential actions in cases where investigation has been initiated and finalized by Central Tax authorities in respect of the taxpayers under administration of State Tax officer and vice versa. In some cases, the authority which initiates the investigation is also issuing recurring SCN whereas in some other cases, it is being left to the concerned jurisdictional Tax authority, who is administrating the taxpayer, to issue recurring SCN.

3. This may create confusion and may lead to a situation in which none of the authorities would issue the recurring SCN in timely manner and therefore, there is a need to have a uniform practice in such matters. As per the deliberation in the 47th meeting of GST Council, necessary guidelines have already been issued by GST Council vide above referred Office Memorandum. Hence, in this regard following guidelines are being issued to the field formations of State Tax-

a) A taxpayer located within a State irrespective of its administrative jurisdiction is open to enforcement action by both State & Centre Tax authorities. For example, an enforcement action against a taxpayer, assigned in CBIC jurisdiction, can be initiated by the State Tax Authorities (and vice versa). In such cases, all the consequential action relating to the case including, but not limited to, appeal, review, adjudication, rectification, revision will lie with the authority which had initiated the enforcement action i.e. the State Tax Authorities in the instant case.

b) The grant of refund is an independent process, hence the refund in such cases may be granted only by jurisdictional tax authority, administering the taxpayer. However, while processing such refund claims the specific finding, if any, informed by CBIC should be considered.

c) Issuance of recurring SCNs does not involve any fresh investigation as the subject matter as well as ground of SCN remain the same. Besides, if the same authority, who has taken enforcement based action (but does not administer the said taxpayer), is mandated to issue recurring SCN also, it will put unnecessary burden on the investigating tax authority to keep a track on subsequent practice of the taxpayer after conclusion of investigation and to collect all the data and records for issuance of recurring SCN. Therefore, it may be desirable that such further/ recurring SCNs are to be issued by the actual jurisdictional authorities (which is responsible for assessment of returns of the taxpayer), as they will be in a position to access the records and returns of the taxpayers, and to check whether the grounds of SCN still exist or not and take a view/ action for issuance of recurring SCN, based on facts in the said period i.e. CBIC authority in the instant example.

This Trade Circular is clarificatory in nature. Difficulty if any, in the implementation of this Circular may be brought to the notice of the office of the Commissioner of State Tax, Maharashtra.

Yours faithfully,



(RAJEEV KUMAR MITAL)
Commissioner of State Tax,
Maharashtra State, Mumbai

No. JC(HQ-5)/GST/Recurrent SCN/22-23/ADM-8 B. 74, Mumbai Date/7/11/2022.

Trade Circular No. 12 T of 2022.

Copy forwarded to:

1. The Special commissioner of State Tax, Maharashtra State.
2. All Addl. Commissioners of State Tax in the State.
3. All Joint Commissioners of State Tax in the State.
4. The concerned desk of Mahavikas with the request to upload this Internal Circular on Employee corner.

Copy forwarded with compliments for information to.

1. The Officer on Special Duty, Finance Department, Mantralaya, Mumbai.

2. The Under Secretary, Finance Department, Mantralaya, Mumbai.

Copy to all the Desks and Desk Officers in the office of the Commissioner of State Tax, Maharashtra State, Mumbai.



(VISHAKHA BORSE)
Joint Commissioner of State Tax (HQ-5),
Maharashtra State, Mumbai.