

F. NO. GST/INV/DISPUTE RESOLUTION /03/21-22

**Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST-Investigation Wing**

Room No.01, 10th Floor,
Tower-2, 124, Jeevan Bharti Building,
Connaught Circus, New Delhi- 110001.

Dated the 22nd September, 2021

INSTRUCTION NO. 02/2021-22 [GST-Investigation]

SUBJECT –ISSUANCE OF SCNS IN TIME BOUND MANNER– REGARDING.

A detailed analysis to pursue trends in cases of GST evasion & fraudulent ITC availment booked viz-a-viz number of SCNs issued against for the FY 2017-18 [w.e.f. July, 2017], 2018-19 & 2019-20, have been made and it is observed that in GST evasion cases booked and in the Fraudulent ITC cases booked, during the above mentioned period, SCNs have been issued only in few cases.

2.1 Apparently, cases of ITC frauds or GST evasion are covered under the provisions of Section 74 of CGST Act, 2017 [**the extended period clause**], However, there may be certain other situations where issuance of a notice under Section 73 of the CGST Act, 2017, is intended.

2.2 Kind attention is invited to sub-section (2) & sub-section (10) of the Section 73 of the CGST Act, 2017, which read as under:

(2) The proper officer shall issue the notice under sub-section (1) at least three months prior to the time limit specified in sub-section (10) for issuance of order.

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(10) The proper officer shall issue the order under sub-section (9) within three years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund.

2.3 Attention is also invited to sub-section (2) & sub-section (10) of the Section 74 of the CGST Act, 2017, which read as under:

(2) The proper officer shall issue the notice under sub-section (1) at least six months prior to the time limit specified in sub-section (10) for issuance of order.

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(10) The proper officer shall issue the order under sub-section (9) within a period of five years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous refund.

3. Further, the last dates of filing of the "Annual Return" under Section 44 of the CGST Act, 2017, for the Financial Years 2017-18, 2018-19 & 2019-20 are as below:

Sr. No.	Period	Last date to file Annual Return
1	2017-18	05 th & 7 th February, 2020 (Notification no. 06/2020- Central Tax) dated 03.02.2020
2	2018-19	31 st December, 2020 (Notification no. 80/2020- Central Tax) dated 28.10.2020
3	2019-20	31 st March, 2021 (Notification no. 04/2021- Central Tax) dated 28.02.2021

4. Board has examined the matter in the background of issuance of SCNs in meagre number of cases booked/detected as mentioned above. It may be seen that the last date for filing the Annual Returns for the FYs of 2017-18, 2018-19 & 2019-20 is already over. As a result, the time limit of three years/five years for issuance of orders under Section 73 & Section 74 of the CGST Act, 2017 has already kicked in. If the issuance of SCNs is pushed to close proximity of the end dates/last dates, it may leave very little time with the adjudicating authority to pass orders within stipulated period mentioned in sub-section (10) of Section 73/ Section 74. This might result in a situation where either the adjudicating authority is not able to pass orders within prescribed time period or quality of adjudication suffers. It is felt that the present situation warrants for extra efforts on the part of field formations and strict monitoring at supervisory level.

5. Accordingly, Board desires that Principal Director General / Director General(s)/Principal Chief Commissioner(s)/Chief Commissioner(s) within their jurisdiction may take stock of the pending investigation cases/other cases which warrant issuance of show cause notices and take appropriate action to ensure timely completion of investigation(s) and **issuance of SCNs well before the last date**. The respective Pr. Chief Commissioners/Chief Commissioners may draw an action plan so that no case is pending investigation beyond one year. Needless to mention that once SCN is issued, timely adjudication must follow.



(Vijay Mohan Jain)
Commissioner (GST-Inv.), CBIC

To
Principal Director General [DGGI], New Delhi
Principal Chief Commissioner(s) / Chief Commissioner(s) of CGST, All Zones.