

कार्यालय: कमिश्नर, वाणिज्य कर, उ०प्र०
(एण्टी प्रोफिटियरिंग)

लखनऊ: दिनांक- 13 दिसम्बर, 2019

समस्त

जोनल एडीशनल कमिश्नर गेड-1 एवं गेड-2, (वि०अनु०शा०)

वाणिज्य कर, उत्तर प्रदेश।

कृपया जीएसटी काउन्सिल द्वारा प्रेषित एण्टी प्रोफिटियरिंग से सम्बन्धित कार्यों के निष्पादन एवं अनुश्रवण हेतु Standard Operating Procedure (SOP) आपको इस निर्देश के साथ प्रेषित किया जा रहा है कि आपके अधीनस्थ अधिकारियों द्वारा सम्पादित किए जा रहे कर निर्धारण, स्कूटनी, प्रवर्तन तथा अन्य विधिक कार्यों में उक्त SOP में उल्लिखित निर्देशित कार्य भी कराना सुनिश्चित करें।

अपने अधीनस्थ अधिकारियों को निर्देशित करना सुनिश्चित करें कि यदि एण्टी प्रोफिटियरिंग से सम्बन्धित कोई मामला प्रकाश में आता है तो एण्टी प्रोफिटियरिंग अनुभाग को प्रारूप-APAF-I में साक्ष्यों सहित प्रेषित कराना सुनिश्चित करें, जिससे अग्रिम कार्यवाही सम्पादित की जा सके। तदनुसार कार्यवाही सुनिश्चित करें।

संलग्नक:-1. Standard Operating Procedure (SOP)

2. APAF-I

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(अमृता सोनी)
कमिश्नर, वाणिज्य कर,
उ०प्र०, लखनऊ

पू०प०सं०/दिनांक:- उक्त।

प्रतिलिपि:- निम्नलिखित को सादर सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित।

1. सुश्री सुधा वर्मा, एडीशनल कमिश्नर, वाणिज्य कर, उत्तर प्रदेश।
2. ज्वाइंट कमिश्नर (एण्टी प्रोफिटियरिंग), वाणिज्य कर, मुख्यालय, लखनऊ।
3. ज्वाइंट कमिश्नर (आई टी), वाणिज्य कर, मुख्यालय, लखनऊ को इस आशय के साथ प्रेषित कि विभागीय वेबसाइट पर नोटिस बोर्ड पर प्रकाशित कराना सुनिश्चित करें।

(रंजन सक्सेना)
ज्वाइंट कमिश्नर (एण्टी प्रोफिटियरिंग), वाणिज्य कर,
मुख्यालय, लखनऊ।

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Anti-Profiteering Standard Operating Procedure (SOP) for CGST and SGST field formations

I. Role to be played by officers posted in CGST & SGST field formations as soon as any GST-rate reduction/ additional ITC benefit is announced:-

A. Record Keeping:-

All executive Commissioners of CGST and SGST may utilise all available resources, including human resources, at their disposal to maintain a list of Notifications allowing change in tax rate or any additional ITC benefit, with effective date thereof, and identify, within their jurisdiction, the specific goods along with HSN codes and services which are going to be affected.

B. Identification of Suppliers:-

Commissioners shall identify top twenty suppliers under their jurisdiction (manufacturers/ distributors/ and service providers) in respect of which the prices/ MRP and availability of Input Tax Credit are likely to be impacted by change in tax rate or any additional ITC benefit. The first B2B invoices of these suppliers' value chains, for the relevant period, may be checked, for any prima facie violations of anti-profiteering provisions.

C. Data Collection:-

Commissioners shall get the data collected, from such suppliers across all levels of the supply chain and collect pre-rate-reduction evidences, such as invoices, which would help them to establish the facts of the case. For this purpose, Commissioners may either use the jurisdictional field functionaries or set up specialised anti-profiteering cell for the purpose of operationalizing and coordinating the anti-profiteering work in their jurisdictions and to help increase awareness regarding the anti-profiteering provisions amongst consumers and other stakeholders.

D. Mock Purchases:-

Commissioners may also cause purchase of any goods or services affected by a rate change. Section 67(12) of the Central Goods and Services Tax Act, 2017, which is reproduced below, authorises the Commissioners to make mock-purchases so as to gather invoices for evidence.

"67(12) The Commissioner or an officer authorised by him may cause purchase of any goods or services or both by any person authorised by him from the business premises of any taxable person, to check the issue of tax invoices or bills of supply by such taxable person, and on return of goods so purchased by such officer, such taxable person or any person in charge of the business premises shall refund the amount so paid towards the goods after cancelling any tax invoice or bill of supply issued earlier."

This provision of the Act may be proactively used to collect the evidence for profiteering made by any such supplier.

II. Role to be played by officers posted in CGST & SGST field formations after any GST-rate reduction/ additional ITC benefit is implemented:-

A. Verification of first B2B invoices:-

Commissioners shall identify top 20 suppliers under their jurisdiction (manufacturers/ distributors/ retailers /job workers and service providers) in respect of which the prices/ MRP and availability of Input Tax Credit got actually impacted by change in tax rate. The first B2B invoices of these suppliers' value chain, for the relevant period, may be checked, for any prima facie violation of any anti-profiteering provisions, within a reasonable time. Commissioners and jurisdictional officers may supply the details of any such prima facie violation, along with prima facie estimation, of the profiteering amount involved, if any, to the State-level Screening Committee for further action thereon.

B. Documentation to be checked for Identification of Potential Cases of Profiteering:-

Commissioners shall get the possible cases of profiteering identified, by study of the following data depending on the requirement-

- changes in prices/ MRPs before and after any reduction in tax rates/ increase
- changes in the availability of input tax credit.

Also, they may get specific cases of profiteering identified by studying the changes in cases of increase in tax credit of inputs of suppliers. Scope of these documents may inter alia include:

- i) Sale price lists/ MRP Lists of each product / SKU/ Service – pre and post GST change/reduction of rate
- ii) Invoice data, GSTR-1 Invoices (Pre & Post)
- iii) New MRP stickers with reduced rates affixed (Both Pre & Post)
- iv) GSTR-2A to check for pre and post rate changes on inputs
- v) ITC ledger of the taxpayer.

C. Checking the fixation of stickers with revised MRPs:-

Commissioners shall get it checked that the sale prices/MRPs have been revised / MRP stickers fixed, in cases of reduction of tax rate at all levels of the supply chain, and ascertained as to whether such change in MRP/ prices is prima-facie commensurate with the change in tax rates.

D. **Premise Visits by field officers:-**

In case of any probable profiteering, the field officers, whenever they find any such eventuality, may visit the GST registrant/taxpayer, after approval by competent authority, to collect specific prima facie evidences.

E. **Centralized Public Grievance Redress And Monitoring System (CPGRAMS)/ Other Complaints:-**

Any CPGRAM or other complaints of the nature of the non-reduction of products' prices even after a GST rate reduction shall be duly forwarded to the Standing Committee on Anti-Profitteering, or to the State Screening Committee on Anti-Profitteering, as the case may be.

F. **Role of Investigative Agencies/ Verification Teams and Audit:-**

GST officers conducting anti-evasion verifications, audits and similar checks, including inspections and search operations, in respect of taxpayers may also include checks from the perspective of identification of cases of profiteering within the scope of Section 171 of the CGST Act, 2017. Necessary instructions may be issued by the CBIC and Commissioners of SGST to the field functionaries in this regard.

While such checks could include scrutiny of multifarious records and returns of the taxpayer, especially the books of accounts, selling price/MRP Lists of each SKU before and after announcement of any tax rate changes, Invoice Data (GSTR-1) and Input data (GSTR-2 or GSTR-2A), officers may actually look for the following pointers -

- a. sudden swelling up of the ITC for the quarters immediately succeeding any GST rate-reduction or changes in tax structure of inputs.
- b. abrupt increase in the net profits for the quarters immediately succeeding any GST rate-reduction or changes in tax structure of inputs.
- c. any enhancement of the base price of any product (at the SKU level) immediately after announcement of a GST rate reduction/ additional ITC availability, in a manner that the final price/ MRP of the product, being paid by the recipient/ consumer is not reduced commensurately at any level of the supply chain and the ultimate consumers is denied the benefit.

G. **Role of field functionaries at the local/Range/Circle Level:-**

Local field officers shall also identify possible cases of profiteering through study of the periodic returns, specifically price data, Input Tax Credit, etc. filed by the GST registrants and through interaction with trade and industry.

H. **Complaint Filing by Jurisdictional Office, as per Rule 128:-**

In case of a prima-facie detection of a case of profiteering by any taxpayer, the concerned jurisdictional Commissioner or any officer authorized by the Commissioner, may file, at the earliest and preferably within a reasonable period of one month of such detection, an application under Rule 128 of CGST Rules along with necessary details and evidence, with the concerned State level Screening Committee.

III. Role to be played by Senior Officers Monitoring the Performance of Field Functionaries

Officers conducting inspections and monitoring performance of field functionaries/ offices may also monitor and review/ inspect the performance of the field functionaries from the perspective of anti-profiteering work.

Anti-Profitsteering Application Form (APAF - I)

[To be filed before Standing Committee/State level Screening Committee in terms of Rule 128 of CGST Rules, 2017]
Please follow the accompanying instructions for filling up the form. Fields marked with asterisk (*) are mandatory.

General information about the Applicant			
A.1*	Name		
A.2*	Category (Provide code)		
A.3*	GST Registration No. (GSTIN)		
A.4*	Address		
A.5*	Contact Number		
A.6	E-mail ID		
A.7*	Proof of identity (Provide code)		
B. General information about the Supplier who has not passed on the benefit			
B.1*	Name		
B.2*	Category (Provide code)		
B.3*	Address		
B.4*	GST Registration No. (GSTIN)		
B.5	Contact Number		
B.6	Email ID		
B.7	Website address		
C. Particulars of Goods/Services			
C.1*	Description		
C.2	HSN/SAC		
C.3*	Actual Price/Value charged per unit Pre-GST	₹	
C.4*	Actual Price/Value charged per unit Post-GST	₹	
C.5	If Goods are covered under MRP Provisions		
C.5a	MRP Pre-GST	₹	
C.5b	MRP Post-GST	₹	
C.6	Comparative per unit actual Price/Value of like Goods/Services charged by other supplier	Name	
C.6a	Pre-GST	GSTIN	
C.6b	Post-GST		
D. Details of reduction in Tax rate/benefit of Input Tax Credit			
D.1	Particulars of Taxes on output Goods/ Services	Rate of Tax (%)	Per Unit value for Tax (in ₹)
D.2*	Taxes - Pre GST/Earlier Rate	[1]	[2]
D.2a	Excise Duty		
D.2b	Value Added Tax (VAT)/Central Sales Tax (CST)		
D.2c	Service Tax		
D.2d	Luxury Tax		
D.2e	Others including Cesses (Specify)		
D.2f	Earlier GST Rate (Including compensation cess)		
D.3*	Total Tax per unit [Total of D.2a to D.2e] or [D.2f]		
D.4*	Taxes - Post GST/Later Rate		₹
D.4a	CGST		
D.4b	SGST/UTGST		
D.4c	IGST		
D.4d	Compensation Cess		
D.4e	Others including Cesses (Specify)		
D.5*	Total Tax per unit [Total of D.4a to D.4e]		₹
D.6*	Post-GST reduction in amount of Tax per unit (D.3 - D.5)		₹
D.7	Benefit of Input Tax Credit		
D.7	Input Taxes/Duties Pre-GST per unit, credit of which was not available (out of the Taxes/Duties subsumed in GST) and Transitional Input Tax Credit, if any. Attach working sheets.		₹
D.8	Difference (+/-) between Post-GST and Pre-GST actual price/value charged per unit [C.4 - C.3]		₹
D.9	Amount of benefit not passed on after adjusting difference between Post-GST and Pre-GST actual price/value [D.6 + D.7 + D.8]		₹
D.10	GST on amount of benefit not passed on [D.9 x Rate of GST (including compensation cess, if any)]		₹
D.11	Post-GST per unit price/value to be reduced by [D.9+D.10]		₹
D.12	Additional information, if any		

Note-1: Self-attested copies of all documentary evidences like proof of identity, invoice, Price List, detailed working sheet etc. are to be attached.
Note-2: Pre-GST includes earlier GST Rates and Post-GST includes later GST Rates after implementation of Goods & Services Tax.

Declaration:

I hereby declare that the information furnished above is true to the best of my knowledge and that I have exercised due diligence in submitting such information. I understand that providing incomplete or incorrect information in this application form will make the application invalid.

Date:
Place:

Signature of the Applicant

Instruction for filling Anti-Profitteering application form

The table below provides row-wise detailed instruction for filling up the application form. The fields marked with asterisk (*) are mandatory.

Sl. No.	Field Name	Instruction
General Instruction		
Fill up the application form legibly in BLOCK LETTERS only.		
Terms used in application form:		
GSTIN	Goods and Services Tax Identification Number	
CGST	Central Goods and Services Tax	
SGST	State Goods and Services Tax	
UTGST	Union Territory Goods and Services Tax	
IGST	Integrated Goods and Services Tax	
HSN	Harmonized System Nomenclature	
SAC	Services Accounting Code	
This application form is with reference to a single Good/Service. In case of application for multiple Goods/Services, please make separate application for each Good/Service.		
After admitting the application, applicant may be asked to furnish any additional details as deemed necessary.		
Application filled without attaching required documents/working sheets will not be treated as a valid application.		
Filled application form must be send to State level Screening Committee (in case issues is of local nature) or to Standing Committee.		
Contact details of Central Standing Committee on Anti-profitteering: 2nd Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, Gole Market, New Delhi-110 001. Tel No.: 011-23741537 Fax. No.: 23741542, E-mail: anti-profitteering@gov.in Contact details of State Screening Committee on Anti-profitteering: Contact details of State Screening Committee on Anti-profitteering are available at URL: goo.gl/eYJXnK		
A General information about the Applicant		
A.1*	Name	Enter name as recorded on proof of identity submitted with this application form.
A.2*	Code of Applicant	01 Interested party*
		02 Commissioner
		03 Any other person
*Interested Party includes suppliers or recipients of goods or services under this application.		
A.3	GST Registration No.	Enter the 15 digit alphanumeric GSTIN of the applicant. Eg. 07ABCPM1234R1ZF.
A.7*	Proof of identity	Attach a copy of any one proof of identity listed below:
		Code Proof of Identity
		01 Aadhaar Card issued by the Unique Identification Authority of India
		02 Voter ID
		03 Permanent Account Number (PAN) card
		04 Driving Licence
		05 Passport
		06 Ration card having photograph of the applicant
07 Any other proof of Identity (Specify)		
B General information about the Supplier who has not passed on the benefit		
B.1*	Name	Enter name of supplier as mentioned on the supporting documents like Invoice etc.
B.2*	Code of Supplier	01 Manufacturer
		02 Service Provider
		03 Trader
		04 Others (Specify)
C Particulars of Goods/Services		
C.1*	Description	Specify the nature of goods/services as mentioned in invoice/price list etc.
C.2	HSN/SAC	Specify HSN/SAC of goods/services as mentioned in invoice/price list/GST rate list etc.
C.3*	Actual Price/Value charged per unit Pre-GST	Provide Pre-GST actual price/value and Post-GST (current) actual price/value charged per unit of goods/service (of the same quantity) after considering any discount/rebate given by the supplier.
C.4*	Actual Price/Value charged per unit Post-GST	
C.5	If Goods are covered under MRP Provisions	Provide Pre-GST MRP and Post-GST (current) MRP of the goods printed on the pack of the goods of same quantity.
C.5a	MRP Pre-GST	
C.5b	MRP Post-GST	
C.6	Comparative per unit actual Price/Value of like Goods/Services charged by other supplier	Mention name and GSTIN of other supplier.
C.6a	Pre-GST	Provide Pre-GST and Post-GST (current) actual price/value charged per unit of the like goods/service considering any discount/rebate given by other supplier.
C.6b	Post-GST	

Details of reduction in Tax rate/ benefit of Input Tax Credit		
2*	Taxes - Pre GST/Earlier GST Rate	Specify the Rate of Pre-GST Indirect Taxes (Such as Excise Duty, Value Added Tax, Central Sales Tax, Luxury Tax, Service Tax etc.) or earlier Goods & Service Tax (Including compensation cess) applicable on the goods/services and the assessable/taxable/base amount per unit to the extent possible on which such rate of Indirect Taxes were applied in arriving at effective Pre-GST amount of Tax per unit or earlier GST (Including compensation cess) amount of Tax per unit.
4*	Taxes - Post GST/Later GST Rate	Specify the GST Rates viz. CGST, SGST/UTGST, IGST, Compensation Cess and other indirect taxes effective after change in Rates, if any by Central Government on recommendation of Goods & Services Tax Council after GST implementation applicable on the goods/services and the assessable/taxable/base amount per unit on which such rate of Indirect Taxes are applied in arriving effective Post-GST/later GST amount of Tax per unit.
5*	Post-GST reduction in amount of Tax per unit.	Specify the Post GST reduction in Tax per unit by deducting Post-GST tax amount per unit from Pre-GST amount per unit as calculated above.
D.7	Input Taxes/Duties Pre-GST per unit, credit of which was not available (out of the Taxes/Duties subsumed in GST). Attach working sheets.	<p>Specify and attach working sheets for computation of the Input Taxes/Duties Pre-GST per unit, credit of which was not available to the supplier before implementation of GST (out of the Taxes/Duties subsumed in GST, Illustrative list is given below):</p> <ol style="list-style-type: none"> Central Excise duty Duties of Excise (Medicinal and Toilet Preparations) Additional Duties of Excise (Goods of Special Importance) Additional Duties of Excise (Textiles and Textile Products) Additional Duties of Customs (commonly known as CVD) Special Additional Duty of Customs (SAD) Service Tax Central Surcharges and Cesses so far as they relate to supply of goods and services State VAT Central Sales Tax Luxury Tax Entry Tax (all forms) Entertainment and Amusement Tax (except when levied by the local bodies) Taxes on advertisements Purchase Tax Taxes on lotteries, betting and gambling State Surcharges and Cesses so far as they relate to supply of goods and services. <p>Do not include details of Taxes/Duties, credit of which was available prior to GST and provide info only in respect of Input Taxes/Duties, credit of which was not available to the supplier before implementation of GST.</p> <p>Also specify Transitional Input Tax Credit availed in terms of Section 140(3) of CGST Act, 2017 Rule 117 of CGST Rules, 2017 which is not passed on to the recipient.</p>
D.8	Difference (+/-) between Post-GST and Pre-GST actual price/value charged per unit	Specify the change in actual price/value charged per unit by deducting Actual price/value charged Pre-GST (C.3) from Actual price/value charged per unit Post-GST (C.4).
D.9	Amount of benefit not passed on after adjusting difference between Post-GST and Pre-GST actual price/value	Specify the total amount of benefit not passed on by adding Post-GST reduction in amount of Tax (D.6) + Post-GST benefit of Input Tax Credit per unit on inputs (D.7) + Difference (+/-) between Post-GST and Pre-GST actual price/value charged per unit (D.8).
D.10	GST on amount of benefit not passed on	Specify the 'GST on amount of benefit not passed on' by multiplying amount of benefit not passed on calculated in D.9 and total GST rate (in percentage) calculated in D.5.
D.11	Post GST per unit price/value to be reduced by	Specify the Post-GST per unit price/value to be reduced from actual price/value charged per unit by adding D.9 & D.10 as calculated above.