



Office of the Commissioner,
Commercial Tax, Uttar Pradesh,
(GST Section)

Letter No. GST/2020-21/ 25 /Commercial Tax

Lucknow: Dated: 13, October 2021

To

All Zonal Additional Commissioner, Grade -1,
Additional Commissioner, Grade -2, (S.I.B.)
Joint Commissioner, (Executive/Corporate Circle/ S.I.B/Tax Audit)
Commercial Tax, Uttar Pradesh.

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/UPSGST Act, 2017 [the extended period clause], However, there may be certain situations where issuance of a notice under Section 73 of the CGST/UPSGST Act, 2017, is intended.

2.2 Kind attention is invited to sub-section (2) & sub-section (10) of the Section 73 of the CGST/UPSGST 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.

(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/UPSGST 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.

(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.

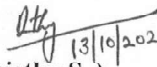
3. Further, the last dates of filing of the "Annual Return" under Section 44 of the CGST/UPSGST Act, 2017, for the Financial Years 2017-18, 2018-19 & 2019-20 are as below:

Sr.No.	Period	Last date to file Annual Return
1	2017-18	05th February, 2020 (Notification no. 06/2020- Central Tax) dated 03.02.2020 & GST-2019-20/F.No.-509/45/Dated 05.02.2020 (State tax).
2	2018-19	31st December, 2020 (Notification no. 80/2020- Central Tax) dated 28. 10.2020 & GST-2020-21/F.No.-509/56/Commercial tax Dated 09.11.2020 (State tax).
3	2019-20	31st March, 2021 (Notification no. 04/2021-Central Tax) dated 28.02.2021 & GST-2020-21/F.No.-509/60/Commercial Tax Dated 05.03.2021 (State tax).

4. Commissioner has examined the matter in the background of issuance of SCNs in number meagre 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/UPSGST 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.

Accordingly, Commissioner desires that Additional Commissioner Gr.I, Additional Commissioner Gr.II (S.I.B.), Joint Commissioner (Executive), Joint Commissioner (S.I.B.) and Joint Commissioner (Tax Audit) 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. Additional Commissioner Gr.I./ Joint Commissioner (Executive), 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. Strict compliance of the above should be ensured by above mentioned officers and their subordinates.

By Order,


(Ministhy S.)

13/10/2021
Commissioner, Commercial Tax,
Uttar Pradesh