



Office of the Goods and Service Tax Council

5th Floor, Tower-II, Jeevan Bharti Bldg.
Connaught Circus, New Delhi

F.No.757/Follow-up/GSTC/2018 / 8198 - 19/10/22

New Delhi, dated 19th October ,2022

OFFICE MEMORANDUM

Subject: 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 Central authorities against a taxpayer assigned to State and vice versa” -reg.

Varied practices are being followed by the field formations regarding the issuance of recurring Show Cause Notices (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 State tax Administration 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 for the concerned jurisdictional Tax authority, who is administrating the taxpayer, to issue recurring SCN. This may create confusion and may lead to a situation in which none of the authorities issue the recurring SCN in timely manner and therefore, there is a need to have a uniform practice in such matters.

2. The matter was deliberated by the GST Council in its 47th meeting, where the Council recommended to clarify the issue as follows:

(i) A taxpayer located within a State is open to enforcement action by both authorities. For example, an enforcement action against a taxpayer, assigned to State tax authorities, can be initiated by the Central 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 Central tax authorities in the instant case.

Refund in such cases may, however, be granted only by jurisdictional tax authority, administering the taxpayer.

(ii) Issuance of recurring SCNs does not involve any fresh investigation as the subject matter as well as ground of SCN remain the same, and therefore, it may be desirable that such further/ recurring SCNs are 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. 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. Accordingly, the recurring SCNs may be issued by the concerned jurisdictional tax authorities administering the taxpayer, i.e. even if investigation is



conducted by Central tax authorities and initial SCN is issued by them, the recurring SCN may be issued only by the jurisdictional tax authority administering the taxpayer and if the such jurisdictional tax authority is State tax, the recurring SCN may be issued by the concerned State tax authority.

Ashima

(Ashima Bansal)
Joint Secretary

To,



The Commissioners of State Tax/ UT Tax of all States/UTs.

Copy to:

The Principal Commissioner, GST Policy Wing, CBIC, North Block with a request to circulate among the GST formations of CBIC.

Joint Secretary

1. Tax payer jurisdiction with Centre.
2. Enforcement action initiated by State.
3. Who shall issue SCN?

Ans: Enforcement authority of State shall issue SCN and all action related to this SCN like appeal, review etc shall also lie with Enforcement authority of State.

4. What about subsequent SCN of other periods?

Jurisdictional PO and all action related to this SCN like appeal, review etc shall lie with Centre.

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Ans: Jurisdictional PO and all action related to this SCN like appeal, review etc shall lie with State.