

## USISPF Update | DGGI Guidelines on GST investigation and summons

This is in continuation to our advocacy efforts on GST and with regards to constant feedback which we as a forum has been sharing with the CBIC on the need to release specific instructions for conducting GST investigation and issuance of notices. Delighted to share that the **DGGI** has formally issued the detailed internal instructions ([http://dggi.gov.in/img/Consolidated\\_Investigation.pdf](http://dggi.gov.in/img/Consolidated_Investigation.pdf)) (dated February 8, 2024 uploaded now) on **guidelines for conducting investigations and for issuance of summons**.

The guidelines address a lot of areas that taxpayers face in respect of challenges during DGGI investigations and it is expected that it will provide significant relief on challenges faced on ground.

### Summary of the guidelines

#### Approval of DG/ Pr. DG in specific instances (Para 3(f))

- The Instruction in Para 3(f) provides that approval is required to be sought from the DG in case of:
  - Matters **involving interpretation** seeking to levy tax/ duty on any sector/ commodity/ service for the first time, whether in Central Excise or GST; or
  - **Big industrial house** and **major multinational corporations**; or
  - **Sensitive matters** or **matters with national implications**; or
  - Matters which are already **before GST Council**.
- Moreover, for cases of the category (iii) or (iv), before any precipitative action is taken in investigation, the respective DG is required to necessarily bring the matter to the notice of the Pr. DG.

#### Home State of the taxpayer to be given consideration (Para 3(d) and (e))

- The Instruction in Para 3(d) provides that in case of **record-based investigations**, the **convenience of such taxpayer/entity** in terms of location of its head/registered office or accounting office etc. should be considered, and as and when necessary or relevant **one of the zonal units of the DGGI is to be designated for conducting such investigations**.
- Further, it also clarifies that in case of record-based investigations, only the **zonal unit which has the entity registered in its geographical jurisdiction can initiate investigations**.

#### Manner of issuance of summons (Paras 5, 6, 7, 8 and 9)

- **Summons to not be used as means to seek information** filled in formats or proforma (specified by investigation)
- **Vague (or general) expressions**, such as that the officer is making inquiry in connection with "GST enquiry" or "evasion of GST" or "GST evasion" etc. must not be mentioned in the letter/summons. Rather, such letter/summons should disclose the specific nature of the inquiry being initiated/undertaken.
- **Information available digitally/online on GST portal** should not be called for under letter/summons.
- The summons in conduct of investigation **must not convey requests outside the scope defined for a summons**, e.g. under section 70 of CGST Act. Further, if a taxpayer has utilized ITC towards

payment of GST on its outward supplies, it is not acceptable to seek via summons/letter aspects such as - 'please clarify whether ITC availed and utilized was proper.'

- Addressing letter/summons with context or content akin to a **fishing inquiry** is not acceptable.

#### **Cognizance to trade practice (Para 16.1)**

- **Prevalent trade practice** based on interpretation that is followed on that issue in the sector/industry to be considered in investigations.

#### **Reference to GST policy wing (Para 16.2)**

- Reference to be made to **GST Policy/ TRU** before concluding investigations (as much in advance as feasible **before issuance of SCN**) where it would be useful in promoting uniformity or avoiding litigation on matters.

#### **Investigations cannot replace what would other be a routine matter of audit scrutiny (Para 3(a))**

- DGGI should not take up a role not assigned in DGGI charter. Zonal units to avoid taking up such functions, under provisions of law/rules, that more appropriately fall in the purview of return **scrutiny or audit**.

#### **Multiple/ parallel proceedings (Para 14)**

- Where the subject matter of investigation is also pending with CGST/ SGST zone, officers to dialogue with other investigating office(s) and **consider feasibility** of one of the offices pursuing all these subject matters with respect to the taxpayer. If this outcome is not feasible, the reasons therefor should be confirmed by DG.
- Pr. DG to decide on whether it would be more prudent for CGST formations to pursue matters which impact GSTINs PAN India.

#### **Grievance Redressal Mechanism (Para 18)**

- **Additional/Joint Director (Admn.)** of zonal units appointed as Grievance Officer whom taxpayer may approach (through letter, email or by appointment) with grievance, if any, related to an ongoing investigation, for appropriate redressal. In case the reasonable grievance persists, the Pr. ADG/ADG of zonal units to be approached.

We intend to continue our advocacy efforts to further share concerns raised by companies during tax investigations conducted by DGGI officials and help improve ease of doing business. In this regard, please feel free to share your suggestions on policy and procedural challenges, if any.