

# EY Tax Alert

## CBEC empowers Superintendents of Central tax and prescribes internal monetary limits for adjudication of cases under GST

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### Executive summary

Central Board of Excise and Customs has issued a circular<sup>1</sup> extending powers to the subordinate authority to issue show cause notices (SCNs) and orders under the Central Goods and Services Tax Act, 2017 (CGST Act) and the Integrated Goods and Services Tax Act, 2017 (IGST Act) and prescribe internal monetary limits across the hierarchy for optimal distribution of such work.

- ▶ Accordingly, Superintendents of Central Tax will also be empowered to issue SCNs and orders under section 74 of the CGST Act in cases involving loss to the government exchequer due to the fraudulent act of a taxable person.
- ▶ Also, the monetary limits for different levels of officers of Central Tax have been prescribed for optimal distribution of work regarding the issuance of SCNs and orders.

<sup>1</sup>Circular No. 31/05/2018 - GST dated 9 February 2018

## Background

- ▶ As per Circular No. 3/3/2017 - GST dated 5 July 2017, the Deputy or Assistant Commissioner of Central Tax was assigned as the proper officer under sub-sections (1), (2), (3), (5), (6), (7), (9) and (10) of section 74 of the Central Goods and Services Tax Act, 2017 (CGST Act). Similarly, the Superintendent of Central Tax was assigned as the proper officer under the said sub-sections of section 73 of the CGST Act.
- ▶ Section 74 contains provisions for determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized by reason of fraud or any willful-misstatement or suppression of facts whereas section 73 deals with determination of tax for non-fraudulent cases.
- ▶ As per earlier circular, only an officer with minimum rank of the Deputy or Assistant Commissioner of Central Tax could determine the tax not paid for fraudulent cases, whereas an officer with the rank of Superintendent of Central Tax could deal with non-fraud cases only.
- ▶ Vide the newly issued Circular dated 9 February 2018, Superintendents of Central Tax are also empowered to issue SCNs and orders under section 74 of the CGST Act.

## Summary of Circular

- ▶ All officers up to the rank of Additional/Joint Commissioner of Central Tax are assigned as the proper officer for issuance of SCNs and orders under the above referred sub-sections of sections 73 and 74 of the CGST Act and under the provisions of the IGST Act, as per section 3 read with section 20 of the said Act.
- ▶ Monetary limits of the officers have been prescribed by the appended table as under:

### Monetary limits

Sl No	Officer	Monetary limit of the amount of central tax	Monetary limit of the amount of integrated tax	Monetary limit of the amount of central tax and integrated tax
1	Superintendent of Central Tax	Upto 10 lakhs	Upto 20 lakhs	Upto 20 lakhs
2	Deputy or Assistant Commissioner of Central Tax	10 lakhs- 1 crore	20 lakhs- 2 crore	20 lakhs- 2 crore
3	Additional or Joint Commissioner of Central Tax	Above 1 crore	Above 2 crore	Above 2 crore

**Note:** Monetary limit is the amount of tax including cess.

## Further Clarifications

- ▶ The circular further clarifies that the central tax officers of Audit Commissionerates and Directorate General of Goods and Services Tax Intelligence (DGGSTI) will have powers only to issue SCNs and will not have powers to adjudicate. Any SCN issued by them will be adjudicated by the competent central tax officer of the Executive Commissionerate in whose jurisdiction the noticee is registered.
- ▶ If there are more than one noticees mentioned in the SCN with their principal places of business falling in multiple Commissionerates, then the SCN will be adjudicated by the competent central tax officer in whose jurisdiction, the principal place of business of the noticee with the highest demand of tax falls.
- ▶ If the amount involved is more than INR 5 crores then the SCN issued by DGGSTI will be adjudicated by an Additional Director/Additional Commissioner (as assigned by the Board), who shall not be on the strength of DGGSTI and working there at the time of adjudication.
- ▶ If the SCNs have been issued on similar issues to one or more noticees and made answerable to different levels of adjudicating authorities within a Commissionerate, then they will be adjudicated by the adjudicating authority competent to decide the case involving the highest amount of tax.

## Comments

While the move of the Government is aimed at easing out the tax administration, its effective implementation might be critical.

Confining the officials of DGGSTI to only issuance of SCNs is a deviation from the provisions empowering them to even adjudicate the cases under the erstwhile indirect tax regime.

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