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Office of the Commissioner of State Goods and Services Tax Department  
Government of Kerala, Thiruvananthapuram

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No. **CT/12281/2019-C1**

Dated **21/10/2019**

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**Circular No.9/2019**

Sub:- SGST Dept. – Goods and Service Tax – Action against Return Defaulters  
– Special Drive for Cancellation of Registration of Return Defaulters -  
instructions issued – reg.

Ref:- 1) Kerala Goods Service Tax Act, 2017.  
2) Central Goods and Service Tax Act, 2017.

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An analysis of the pending return defaulters shows that many such cases are related to tax payers who had migrated into GST and not having required turnover to continue in GST, tax payers who had taken GST registration but had not commenced business, Government Departments taken registration to pay tax on small transactions, tax payers who had stopped business but registration not cancelled etc.

In the interest of revenue, registration of all the return defaulters who had failed to file returns has to be cancelled to ensure that the non-filing of return will not cost the exchequer. Even in cases where assessments have already been completed also such an action is required. Section 29 (2) of CGST and SGST Act, 2017, empowers the proper officer to cancel the registration of a person from such date, including any retrospective date, in cases of Composition tax payers who had failed to file returns for three consecutive return periods (Section 29 (2) (b)) and in case of Regular tax payers who had failed to file returns for a continuous period of six months (Section 29 (2) (c)). The detailed procedure is covered in Rule 22 of CGST and SGST Rules, 2017. Hence the following instructions are issued for strict compliance:

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1. (a) In the case of tax payers who had migrated in to GST and never furnished any return from the date of introduction of GST i.e, 01.07.2017, notice to cancel registration has to be issued with retrospective effect from 01.07.2017.

(b) In the case of new registrants who had never furnished any return and satisfies the condition of Section 29 (2) (b) or (c), notice to cancel registration has to be issued with retrospective effect from the date of registration.

(c) In the case of tax payers who had defaulted returns and satisfies the condition of Section 29 (2) (b) or (c), notice to cancel registration has to be issued with retrospective effect from the date of defaulted return period.

2. In the case of Composition tax payers the notice has to be issued under Section 29 (2) (b) and in the case of Regular tax payers the notice has to be issued under Section 29 (2) (c) in Form REG – 17 , requiring him to show cause, within a period of seven working days from the date of the service of such notice, as to why his registration shall not be cancelled. The notice in Form REG – 17 should be issued from GST Back end System.

3. Since most of the tax payers are not active now, the notice for cancellation shall be communicated both in the registered email address and by registered post or served in person.

4. The reply to the show cause notice issued under sub-rule (1) shall be furnished online in FORM REG–18 within the period seven working days from the date of service of the notice in Form REG - 17.

5. Where the person instead of replying to the notice served under sub rule (1) in Form REG – 17 for contravention of the provisions contained in clause (b) or clause (c) of sub-section (2) of section 29, furnishes all the pending returns and makes full payment of the tax dues along with applicable interest and late fee, the proper officer shall drop the proceedings and pass an order in FORM GST-REG 20.

6. If the tax payer fails to furnish all the pending returns and makes full payment of the amount due, the proper officer shall cancel the registration with retrospective effect as discussed in para 1 above and issue the order in

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Form REG – 19 from GST Back end system. A copy of the same also be communicated as discussed in para 3 above.

7. As per Section 30 of the CGST and SGST Act, 2017 a registered person, whose registration is cancelled by the proper officer on his own motion, may submit an online application for revocation of cancellation of registration, in FORM GST REG-21, to such proper officer, within a period of thirty days from the date of the service of the order of cancellation of registration at the common portal and shall be processed as per Rule 23 of CGST and SGST Rules, 2017.

8. In case of tax payers who have business and liability to remit tax during the period of default revealed through data available from the GSTN like e-way bill, GSTR 2A, GSTR 1, GSTR 7 or through business visit or local enquiry conducted or on the basis of verification of records, the notices issued under Section 63 in Form GSTR - 3A shall be completed by issuing Assessment Order in Form ASMT - 13 based on relevant materials available or gathered, even before or after the process of cancellation of registration.

9. In cases of tax payers who had no liability to remit tax during the period of default, the notices issued in Form GSTR – 3A relating to defaulted return periods has to be archived by the proper officer after cancellation of registration with retrospective effect.

10. As per Section 29 (5) of the CGST and SGST Act, 2017, every registered person whose registration is cancelled shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher, by filing Final Return as per Section 45 of CGST and SGST Act, 2017. The Final Return has to be filed within three months of the date of cancellation or date of order of cancellation, whichever is later, as prescribed in Rule 81 of the CGST and SGST Rules, 2017.

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11. As per Section 63 of the CGST and SGST Act, 2017, in cases where the tax payer whose registration has been cancelled fails to file Final Return in GSTR 10 within three months of the date of cancellation or date of order of cancellation, whichever is later, the proper officer may proceed to assess the tax liability of such taxable person to the best of his judgment for the relevant tax periods and issue an assessment order as prescribed under Rule 100 of the CGST and SGST Rules, 2017.

Sd/-  
COMMISSIONER OF STATE TAX