



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

No. CT/7533/2021-C1

Dated 07/11/2021

Circular No.6/2021

Sub:- Proper officer functions - scrutiny, assessment, detention,
seizure, release and refund- reg.

Ref: Report of the committee constituted by the Commissioner
of State GST as per Order No. CT/6453/2021-C3
dated 08.09.2021 & 09-09-2021

I. In exercise of the powers conferred by Clause (91) of section 2 read with sub-section (1) of section 5 of the Kerala State Goods and Services Tax Act, 2017 (20 of 2017) (hereinafter referred to as the Act) and subject to subsection (2) of section 5 of the said Act, and in partial modification of proceedings No. GSTC/24614/2017/CT, dated 06/07/2017 of the Commissioner, the Commissioner of State Tax, hereby assigns the officers mentioned in Column (2) of the Table below, the functions as the proper officers in relation to the various sections of the Kerala State Goods and Services Tax Act, 2017 or the rules made thereunder given in the corresponding entry in Column (3) of the said Table:-

Table

Sl. No.	Designation of the Officer	Functions assigned under the following sections of the Kerala State Goods and Services Tax Act, 2017 and the rules made thereunder.
(1)	(2)	(3)
1	Assistant State Tax Officer	<ol style="list-style-type: none"> 1. Sub-sections (1) and (3) of Section 61 2. Sub-section (1) of section 62 3. Section 63 4. Sub-section (1), (2), (3), (5), (6), (7), (9) and (10) of section 73 <p>Rules</p> <ol style="list-style-type: none"> 1. Sub-rules (1), (2), and (3) of rule 99 2. Sub-rule (2) of rule 100 3. Sub-rules (1), (2), (3) and (7) of rule 142

In light of sub-section (2) of section 5 of the Kerala State Goods and Services Tax Act, an officer of state tax may exercise the powers and discharge the duties conferred or imposed under the Kerala State Goods and Services Tax Act on any other officer of state tax who is subordinate to him.

In order to streamline the procedures with respect to scrutiny, assessment, detention, the release of Goods/conveyance, and Refund, the following guidelines are issued.

Different paras of this Circular shall come into force on such date as the Commissioner of State Tax may, by Circular, appoint.

II. Scrutiny of Returns

1. Presently, the scrutiny of annual returns for the year 2017-18 is being done. Since defect notices are given after a larger time span, the defects perpetually get accumulated. The dealers will find it challenging to remit the consequent taxes, penalties, and interest being substantially larger amounts. The tax compliance mechanism will thus get much complicated, and the dealers forced to pursue long-driven litigation.
2. If the monthly returns filed by the dealers are verified monthly, and errors immediately brought to their notice, the dealers can rectify those defects through their next return itself. The dealers would rather see it as an opportunity to rectify their defects since the pecuniary consequences for monthly returns would be much lesser than pecuniary consequences of accumulated defects detected in annual return scrutiny. To make it more effective, maximum risk-based monthly scrutiny shall be carried out by the concerned vertical.
3. Since the monthly return scrutiny is rather concerned about the mathematical accuracy and other technical aspects of that monthly return, the officers in the cadre of Assistant State Tax Officers are also assigned with the functions of scrutiny of monthly return.
4. The Assistant Commissioner or State Tax Officer in charge of an office shall assign the monthly returns that are to be scrutinised by Assistant State Tax Officer based on the availability of Assistant State Officer in that office.

III. Shifting of adjudication from Intelligence/Audit wing to assessment (taxpayer services and dispute resolution) vertical

1. At present, notices issued by the intelligence and audit wing are being adjudicated by the same verticals. As a result, the intelligence and audit systems have shifted from their core functions to adjudication, appellate proceedings, court proceedings and arrears recovery. This affects the professionalism of intelligence and audit systems.
2. The above problems will come to an end when the notices issued by the Intelligence vertical are adjudicated by the assessment verticals since this is part of their main function.
3. Henceforth all the show cause notice issued by the Proper Officer belonging to the Intelligence formation shall be transferred to the officer belonging to the respective jurisdictional assessment (taxpayer services and dispute resolution) vertical.
4. The annual return scrutiny shall be done exclusively by the Audit wing and the show cause notice issued by Audit wing shall also be transferred to the officer belonging to the respective jurisdictional assessment (taxpayer services and dispute resolution) vertical.
5. The GST Info shall make necessary arrangements for the implementation of such transmission.

IV. Adjudication under Section 73/74

1. In the present system, the issuance of notices to the taxpayer demanding tax amount and completing adjudication are not on the basis of the quantum of disputed tax amount. This will lead to the situation that adjudication of high tax amount cases will be done by the junior officer.
2. Hence it is decided that the adjudication system shall be rearranged in such a way that the adjudication of higher tax amounts shall be done by the senior officers.
3. It has also been decided that Assistant State Tax Officers shall also be assigned with the functions of issuance of show cause notices and orders under section 73 of the Kerala State Goods and Services Tax Act, 2017 and IGST Act, 2017 based on pecuniary jurisdiction of tax amount involved as detailed below. The Joint Commissioners of State Tax shall reallocate adjudications within the officers under their administrative control so as to optimize utilization of available human resources.

Pecuniary limits in respect of adjudication u/s 73 of the KSGST Act, 2017 and IGST Act, 2017

Sl. No.	Officer of the State Tax	Monetary limit of the amount of SGST (including cesses)/IGST (including cesses) not paid or short paid or erroneously refunded or input tax credit of state tax wrongly availed or utilized for issuance of show cause notices and passing of orders under section 73 of KSGST Act/IGST Act.
1	Assistant State Tax Officer	Not exceeding Rs. 2 lakhs
2	State Tax Officer/ Assistant Commissioner /Deputy Commissioner	Above Rs. 2 lakhs without any limit

4. The adjudication of notices issued u/s 74 of the Kerala SGST Act/IGST Act shall be done by the officers in the cadre of State Tax Officer /Assistant Commissioner/ Deputy Commissioner.

V. Issue of Notices and Adjudication under Section 129 and 130

1. The notice under Section 129 of the KSGST / CGST / IGST Act, 2017, shall be issued by the Assistant State Tax Officer, but the adjudication of the notices under section 129 shall be done by the Assistant State Tax Officer and State Tax Officer based on pecuniary jurisdiction of tax amount involved as detailed in the table below.

Table

Pecuniary limits	Authority
Tax or penalty under section (1) of section 129 is upto Rs.2 lakhs	Assistant State Tax Officer
Tax or penalty under section (1) of section 129 is above Rs. 2 lakhs.	State Tax Officer/ Assistant Commissioner

VI. REFUNDS

The refund application shall be settled in an effective & time-bound manner. The existing practice of processing the refund applications by the respective jurisdictional authority needs to be continued. But taking into consideration the time-limit aspects, a post-audit of refunds must be done. The pre-audit verification, if any done, must be limited to mere

arithmetic verification, and the legal aspects can be taken up in post-audit.

Para I, Para II (Scrutiny of Returns), **Para IV** (Adjudication under Section 73/74) and **Para V** of this circular shall come into force **at once**.

Sd/-
COMMISSIONER