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## **Circular No. 03/2024**

Sub : Kerala State Goods & Services Tax Act, 2017 – Exercising due diligence for issuance of notices under Section 73/74 of SGST Act and timely completion of adjudication thereof- instructions issued-reg:

Ref: Office Memorandum in File No. 220/Misc-Issues (States) GSTC/2021-Part (2) dated 01/03/2024 of GST Council Secretariat

- i. The GST Council Secretariat has noticed a large number of demand Show Cause Notices (Form DRC-01) under sections 73/74 of the CGST/SGST Act 2017 issued by proper officers across various States and Central Tax Administrations from January 2023 to December 2023. Analysis of data from GSTN reveals that certain state authorities have issued a considerable number of notices with exceptionally high demands. While it is crucial to issue demand notices in cases involving short payment, non-payment of tax, incorrect availment of input tax credit, tax evasion, etc., it is equally important to ensure that such notices are issued after a thorough examination of all relevant documents and explanations provided by taxpayers. Issuing demand notices without proper consideration of facts may not only result in avoidable litigation in the future, causing inconvenience to taxpayers, but may also result in increased burden on the adjudicating officers as well as the appellate authorities. It may also compromise the quality of subsequent adjudication and appellate orders.
- ii. Further, the time limits for issuance of adjudication orders u/s 73(10) for FY 2017-18, 2018-19, 2019-20 have expired/ are expiring on 31.12.2023,

30.04.2024 and 31.08.2024, respectively. Therefore, the adjudication orders in respect of demand notices issued for the said financial years are required to be mandatorily issued by the proper officer before the expiry of the said timelines. Considering large number of Show Cause Notices issued during the year 2023, especially for FY 2017-18, FY 2018-19 and FY 2019-20, the following instructions are issued to streamline the work and monitor the timely completion of proceedings by the field formations, on the basis of the advisory referred above issued by the GST Council Secretariat.

(1) The district/ zonal heads of each vertical (Intelligence & Enforcement/ Audit/ Taxpayer service) shall ensure that the issuance of Show Cause Notices u/s 73 of the SGST Act for the Financial Year 2019-20 are completed well in time (31<sup>st</sup> May 2024) and any decision to issue Show Cause Notice is taken only after providing an opportunity to the taxpayers to explain their case by giving sufficient time and after full appreciation of the facts of the case taking into consideration the explanation/response of the taxpayers, if any. The district/ zonal authorities of each vertical shall keep a close watch on the pending investigations, scrutiny, audit etc. to ensure the same. The demand notices, where ever required, for FY 2019-20 and subsequent financial years may be issued well in advance, so as to provide adequate time for adjudication of the said notices.

(2) The Joint Commissioners of Taxpayer Services vertical of each district are instructed to ensure the following;

(a) The time limits for issuance of adjudication orders u/s 73(10) for FY 2017-18, 2018-19, 2019-20 have expired/ are expiring on 31.12.2023, 30.04.2024 and 31.08.2024, respectively. Therefore, the adjudication orders in respect of Show Cause Notices issued for the said financial years are required to be mandatorily issued by the proper officer before the expiry of the said timelines.

(b) Considering large number of Show Cause Notices being issued during the year 2023, especially for FY 2017-18, FY 2018-19 and FY 2019-20, field officers need to be sensitized to dispose of these demand notices by way of issuance of adjudication orders in a timely manner.

(c) Principles of natural justice should be duly followed and quality of the adjudication orders should also be ensured so that they can sustain judicial review at the higher fora.

(3) The supervisory officers need to ensure timely issuance of adjudication orders, while at the same time, maintaining quality of orders with due adherence to the legal processes established by law.

Sd/-  
SPECIAL COMMISSIONER  
I/c COMMISSIONER

To  
All concerned

//Approved for issue//

State Tax Officer