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CHIEF COMMISSIONER

भारत सरकार  
वित्त मंत्रालय  
मुख्य आयुक्त कार्यालय  
सीजीएसटी एवं केन्द्रीय उत्पाद शुल्क  
जयपुर

GOVERNMENT OF INDIA  
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यह आम चुनाव का समय है। हमारा गणतंत्र उन देशों में से एक है जहां गुप्त मतदान के माध्यम से व्यक्त की गई लोगों की इच्छा के आधार पर सत्ता हस्तांतरण होता है। हमें अपने लोकतंत्र और अपनी महान परंपराओं पर गर्वान्वित होना चाहिए।

2. यह हमारे वार्षिक स्थानांतरण का भी समय है। हमें बहुत सारे अभ्यावेदन प्राप्त हुए हैं। अधिकांश अधिकारी जयपुर आना चाहते हैं। मेरे साथ अपनी व्यक्तिगत बातचीत में, काफी अधिकारियों ने उल्लेख किया है कि पिछले वर्ष के अनुभव के बाद उनकी उम्मीदें बढ़ गई हैं। पर हमें ध्यान रहना चाहिए कि तबादले की कवायद का भी एक गणित है। हमारे पास बाहर जाने के लिए भी उतने ही अधिकारी होने चाहिए जितने आना चाहते हैं। प्रथम दृष्टया, जयपुर में पदस्थापना की मांग उपलब्ध होने वाले रिक्त पदों की तुलना में काफी अधिक लगती है। हमारे प्रयास होंगे कि अधिकारियों की पोस्टिंग के कारण होने वाली किसी भी परेशानी को न्यूनतम रखा जाए। मुझे उम्मीद है कि अधिकारी जमीनी हकीकत पर ध्यान देंगे और अन्य स्थानों पर भी पदस्थापन के लिए तैयार रहेंगे। चूंकि अधिकांश स्थानों पर आवासीय सुविधा उपलब्ध हैं, अतः हमें जयपुर के बाहर भी पोस्टिंग का आनंद लेना चाहिए।

3. मेरे कार्यकाल के दौरान, मुझे सीसीओ द्वारा भरपूर सहयोग मिला है। टीम सीसीओ द्वारा इस दौरान किए गए ईमानदार प्रयासों की पिछले माह एक समारोह में स्वीकारोक्ति की गयी। गत वर्ष में उत्कृष्ट प्रदर्शन के लिए टीम सीसीओ के 12 अधिकारियों को प्रशस्ति पत्र प्रदान किए गए। श्री एस. वी. सिंह, मुख्य आयुक्त, सीमा शुल्क (निवारक), दिल्ली जोन ने भी समारोह की शोभा बढ़ाई।

4. जहां तक राजस्व का सवाल है, अप्रैल अच्छे नोट पर समाप्त हुआ। जोन ने 2528 करोड़ रुपये का संग्रह दर्ज किया, जो अब तक का सर्वाधिक है। पिछले वर्षों के दौरान अप्रैल में एकत्रित राजस्व को बाद के महीनों में छुआ नहीं जा सका है परन्तु मुझे उम्मीद है कि हम इस साल इस प्रवृत्ति को तोड़ देंगे।

5. आम चुनाव के लिए बोर्ड द्वारा जारी एसओपी के अनुपालना में, सड़क जांच (Road Petrolling) के लिए कुल 30 टीमों तैनात की गईं। इस दौरान 10.46 करोड़ रुपये मूल्य की जब्ती की गई और जुर्माने के रूप में

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अब तक 4.15 करोड़ रुपये का अतिरिक्त राजस्व वसूला गया है। अनुभव से पता चलता है कि लौह एवं इस्पात स्क्रेप, गुटखा/ पान मसाला, टाइल्स और कई अन्य वस्तुओं के मामले में कर अपवंचन की आशंका बनी रहती है। हमें इस पर ध्यान देने और इन क्षेत्रों में अपवंचन रोकने की आवश्यकता है।

6. मुझे खुशी है कि कई अधिकारियों के चुनाव ड्यूटी और प्रशिक्षण में होने के बावजूद हम अपनी निगरानी बनाए रख सके। हमारे क्षेत्रीय कार्यालय/ आयुक्तालय बेईमान तत्वों के कर अपवंचन के प्रयासों को विफल करते रहे। सीजीएसटी, अलवर द्वारा मैसर्स आलइनवन हैक्स (ओपीसी) प्राइवेट लिमिटेड, दौसा के खिलाफ 'ऑनलाइन मनी गेमिंग सर्विसेज' के संबंध में 14.93 करोड़ रुपये के कम जीएसटी भुगतान से जुड़ा एक महत्वपूर्ण मामला दर्ज किया गया और 10.00 करोड़ रुपये की जीएसटी राशि वसूल भी की गई। सीजीएसटी, जयपुर ने भी मैसर्स राकेश पंचोली (व्यापार नाम - मैसर्स समुराई ट्रेडेक्स), अजमेर से 4.03 करोड़ रुपये की जीएसटी राशि वसूली है। करदाता द्वारा माल की गुप्त निकासी की जा रही थी। करदाता द्वारा दायर रिफंड दावों की समीक्षा करने और ई-वे बिल आंकड़ों के माध्यम से वाहन की आवाजाही की पुष्टि करने के दौरान उक्त मामले का खुलासा हुआ। इसी मामले के अनुसरण में, मैसर्स समुराई ट्रेडेक्स से बिना बिल और बिना ई-वे बिल के माल प्राप्त करने पर कर का भुगतान न करने हेतु मैसर्स रावत इंडस्ट्रीज, जयपुर से 49.54 लाख रुपये की जीएसटी राशि भी वसूल की गई है।

7. सीजीएसटी, उदयपुर द्वारा मैसर्स सूरज सागर रिजॉर्ट प्राइवेट लिमिटेड (लाभगढ़ पैलेस), उदयपुर के खिलाफ रेस्तरां सेवा पर जीएसटी के कम भुगतान के लिए मामला दर्ज किया गया है। करदाता ने अधिसूचना संख्या 46/2017-CT दिनांक 14.11.2017 का गलत तरीके से लाभ उठाते हुए 18% की बजाय 5% की कम दर पर कर का भुगतान कर 1.64 करोड़ रुपये की कर चोरी की थी। इसके अतिरिक्त करदाता द्वारा अघोषित आय पर 1.50 करोड़ रुपये का जीएसटी भी नहीं चुकाया गया था। अन्वेषण के दौरान, करदाता ने स्वेच्छा से 30.00 लाख रुपये का भुगतान किया है। सीजीएसटी, जोधपुर ने छूट प्राप्त आपूर्ति के संबंध में सीजीएसटी नियम, 2017 के नियम 42 और 43 के तहत इनपुट टैक्स क्रेडिट को वापस न करने के दो मामलों का पता लगाया है और मैसर्स अदानी सोलर एनर्जी जैसलमेर टू प्राइवेट लिमिटेड, लूणकरणसर से 3.51 करोड़ रुपये और मैसर्स हार्दिक एग्रीट्रेड प्राइवेट लिमिटेड, श्रीगंगानगर से 0.75 लाख रुपये की वसूली की है।

8. बोर्ड द्वारा जीएसटी रेंजों को बड़े शहरों में कार्यात्मक आधार पर पुनर्गठित करने पर विचार किया जा रहा है। इस मॉडल में, संभाग और रेंज के सभी कार्यों का विलय संभाग कार्यालय में कर दिया जाता है। संभाग स्तर पर कार्य को मुख्य कार्य क्षेत्रों यथा ऑडिट, रिफंड, कर बकाया वसूली, गैर-फाइलर्स की निगरानी, सांख्यिकी, रिटर्न की जांच और कारण बताओ नोटिस जारी करना, न्यायनिर्णय, पंजीकरण (भौतिक सत्यापन / निरस्तीकरण / संशोधन / प्रतिसंहरण) में पुनर्गठित किया जाता है। इस प्रणाली में प्रत्येक अधिकारी को प्रत्येक रेंज के लिए रेंज अधिकारी के रूप में मैप किया जाता है। ज्ञात हुआ है कि चेन्नई (बाहरी) आयुक्तालय ने इस मॉडल को पहले ही अपना लिया है। इस प्रकार हमें भविष्य में एक हाइब्रिड मॉडल दिखने की संभावना है जिसमें बड़े शहरी क्षेत्रों में बहुक्रियाशील संभाग कार्यालय और ग्रामीण इलाकों के लिए क्षेत्रीय रेंज कार्यालय शामिल हैं। सिस्टम को और बेहतर बनाने के संदर्भ में आप सभी के सुझाव भी आमंत्रित हैं।

9. मैं अच्छी तरह से जानता हूँ कि कई समयबद्ध कार्यों के बीच, रेंज अधिकारी को भौतिक सत्यापन असाइनमेंट पूरा करने में कठिनाई हो रही है। कुछ समय से, सिस्टम अधिक भौतिक सत्यापन को चिह्नित कर रहा है। इस मामले पर **मंथन-अप्रैल, 2024** के दौरान भी विचार-विमर्श किया गया था। जिसमें प्रत्येक संभाग

कार्यालय में एक समर्पित भौतिक सत्यापन टीम स्थापित करने का निर्णय लिया गया है। हमें उम्मीद है कि इससे रैंज अधिकारियों के काम का बोझ कम होगा और भौतिक सत्यापन का कार्य अधिक कुशलता से करने में मदद मिलेगी।

10. बोर्ड ने हाल ही में राजस्व पक्ष के CESTAT मामलों का चौथा ई-संकलन जारी किया है। यह ई-संकलन अप्रत्यक्ष करों को नियंत्रित करने वाले कानूनी ढांचे को मजबूत करने और अधिकारियों की क्षमता निर्माण में काफी उपयोगी होगा। राजस्व के पक्ष में न्यायिक उदाहरणों को समेकित करने से, कर अधिकारियों को राजस्व दावों का प्रभावी ढंग से बचाव करने, कर चोरी रोकने और अनुपालन को बढ़ावा देने का अधिकार मिलता है। बोर्ड की वेबसाइट पर उपलब्ध यह संकलन हमारे लिए एक अमूल्य संसाधन है।

11. केंद्रीय सिविल सेवा (पेंशन) नियमों के नियम 30 के अनुसार, अठारह (18) वर्ष की सेवा पूरी करने पर 'अर्हकारी (qualifying) सेवा का सत्यापन' सेवाकाल का एक महत्वपूर्ण अंग है। यह पाया गया है कि इस दिशा में हमारी प्रगति काफी धीमी है। एक अन्य महत्वपूर्ण मुद्दा पेंशन कागजातों को समय पर पूर्ण करना तथा समयबद्ध रूप से PPO जारी करना है। मैं सभी संबंधित अधिकारियों से आग्रह करना चाहूंगा कि वे व्यक्तिगत रूप से सक्रिय दृष्टिकोण के साथ इस विषय पर विशेष ध्यान दें।

12. हमारे ज़ोन को ई-एचआरएमएस 2.0 (e-HRMS 2.0) प्लेटफॉर्म पर प्रोफाइल पूर्णता और नोडल अधिकारी द्वारा पुष्टिकरण तथा आई-जीओटी (i-GOT) कर्मयोगी पोर्टल पर छह अनिवार्य पाठ्यक्रमों को पूरा करने की भी आवश्यकता है। इस सन्दर्भ में हम सदस्य (प्रशासन), सीबीआईसी के प्रति प्रतिबद्ध हैं और हमें इन दोनों कार्यों को आगामी दो सप्ताह में पूरा करना है। मुझे विश्वास है कि हम इन कार्यों को समय पूर्व ही पूरा कर लेंगे। बोर्ड ने i-GOT पोर्टल पर 21 अन्य पाठ्यक्रम भी जारी किए हैं। हम सभी को इन पाठ्यक्रमों को भी पूरा करने का प्रयास करना चाहिए।

13. यह जानकर खुशी हुई कि हमारे सहयोगी श्री विजय सिंह मीना, अधीक्षक के पुत्र श्री कौशिक पअडुआ ने सिविल सेवा परीक्षा में 927वीं रैंक हासिल की है। मैं इस उपलब्धि पर श्री कौशिक पअडुआ और उनके परिवार को बधाई देता हूँ।

14. "ज्ञान संग्रह" के इस माह के संस्करण के लिए निम्नलिखित लेख चुने गए हैं:

(ए) नॉन-ट्रेसेबल श्रेणी के अंतर्गत बकाया की वसूली – लेखक: श्री मुकेश कुमार मान, अधीक्षक, सीजीएसटी एवं सीएक्स, जयपुर;

(बी) एक सेलिब्रिटी की बुकिंग : मेरी डीआरआई डायरी के पन्ने – लेखक: श्री मुकेश बिहारी पाठक, अधीक्षक, सीजीएसटी एवं सीएक्स, जयपुर;

(सी) रिफंड मंजूर करते समय वांछित लगन – लेखक: श्री भूपेन्द्र सिंह पंवार, निरीक्षक, सीजीएसटी एवं सीएक्स, जयपुर।

अपनी अंतर्दृष्टि और ज्ञान हमारे साथ साझा करने के लिए मैं उपरोक्त अधिकारियों का आभारी हूँ।

15. हमने पहले ही तय कर लिया था कि जिन अधिकारियों के लेख "ज्ञान-संग्रह" में प्रकाशित होंगे, उन्हें कृतज्ञता स्वरूप मानदेय राशि दी जायेगी। परिणामस्वरूप, अप्रैल में जोन के 11 अधिकारियों को उनके बहुमूल्य योगदान के लिए मानदेय राशि का भुगतान किया जा चुका है।

16. हम श्री मुनीम सिंह, उपायुक्त; श्री सतवीर सिंह झाझरिया, सहायक आयुक्त; श्री सुगर सिंह मीना, सहायक आयुक्त; श्री मुरारी केहरी मीना, अधीक्षक; श्री घनश्याम सिरोही, अधीक्षक; श्री कन्हैया लाल, अधीक्षक और श्री नरेंद्र कुमार, हेड हवलदार को अप्रैल, 2024 में उनकी सेवानिवृत्ति पर विदाई देते हैं। हम उनके स्वस्थ और आनंदमय भावी जीवन की कामना करते हैं।

अगले माह तक,

भवदीय,



(महेंद्र रंगा)

सेवा में:- टीम जयपुर जोना

प्रतिलिपि सूचनार्थ :-

- (i) ओएसडी, अध्यक्ष, सीबीआईसी, नई दिल्ली।
- (ii) निजी सचिव, सदस्य (जीएसटी/ सीई/ एसटी एवं क्षेत्रीय प्रभारी), सीबीआईसी, नई दिल्ली।
- (iii) मुख्य आयुक्त, राज्य कर, राजस्थान, जयपुर
- (iv) प्रधान एडीजी, नासिन /डीजीजीआई, जयपुर

# ज्ञान संग्रह

मई, 2024

**GYAN SANGRAH**

**MAY, 2024**

## **Recovery of Arrears under Non-Traceable Category**

*By – Mukesh Kumar Mann, Superintendent,  
CGST & CX, Jaipur*

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The role of TRC Branch is not just to compile the TAR Report received from Divisions and send them to CCO. TRC Branch was constituted at CGST Hqrs Jaipur with the intent to make concerted efforts for recovery of arrears. In this zeal, the TRC Branch comprising of Sh Rakesh Kumar Deriwal and Sh Mukesh Kumar Mann, both Superintendent, with regular guidance and discussions with the Principal Commissioner, stressed upon to filter the cases fit for recovery and updation which were long pending and shown in the **Annexure–L** of Tax Arrear Reports under 'Non Traceable' category in respect of Central Excise and Service Tax. The main reason for stressing upon the 'Non-Traceable' category was due to the fact that since long no effort was done to trace the defaulters under this category. Apart from many other cases, the following two demands of M/s Laxmi Electricals and Decorators ( M/s Laxmi in short), 699 Frontier Colony, Adarsh Nagar Jaipur were taken up for recovery proceedings.

- (i) 02(ST)/JP-1/2012-ADC dt.04/01/2012 - demand of Service Tax of **Rs 11.95 lacs** and penalty under section 76 and applicable interest.*
- (ii) 60/2011-ST-ADC dt.14/09/2011 - demand of **Rs 90.68 lacs** (Service Tax of Rs. 45.34 lacs and penalty of Rs 45.34 lacs under section 78) and applicable interest.*

The PAN of M/s Laxmi was sought from the Division office and PAN : AAFFL5787Q was provided. Upon checking the PAN with gst.gov.in it was found GSTIN: 08AAFFL5787Q2ZA (got registered in GST w.e.f 07.02.2018). As this was a new entity, Division was specifically asked for PAN in respct of the above two OIO shown in TAR and files of M/s Laxmi Electricals and decorators were also called from them. This time division office provided PAN: AHTPP8303P. This PAN was of Sh Rajendra Pal Garg, against whom these two demands were pending.

The files were studied and it came to knowledge that Sh Rajendral Pal Garg (Sh RP Garg in short) had provided Mandap and Shamiyana Services to Jaipur Nagar Nigam, JDA and others during 2006-10 with respect to which 04 demands were confirmed against him. Further it was learnt that Sh RP Garg passed away in 26.05.2015 and Sh Desh Deepak Garg ( Sh Desh in short) son of late Sh RP Garg vide his letters dated 25.06.2020 and 21.01.2021 addressed to the Division office had submitted that he had not inherited any property (movable/immovable) from his late father and the business of his father was closed soon after his detah and that he after death of his father, had filed SVLDRS in respect of 4 OIO's. Out of 4 cases, Sh Desh deposited the dues against only two OIO,s and those two cases were closed after issuance of SVLDRS-4, but in respect of the above mentioned two OIO's dues were not paid by Sh Desh quoting the reason that they had not any resources to deposit the dues and therefore SVLDRS-4 were not issued and those two cases were still pending for recovery.

On going through the facts/records available in file and studying the GSTR 2A/1M of 08AAFFL5787Q2ZA (partnership firm of Sh Desh Deepak Garg and his wife Ms Sunita Garg) of the first thing that looked doubtful was that the name of the firm owned by his late father and the name of the partnership firm created by Sh Desh is exactly same i.e. M/s Laxmi Electricals & Decorators and that the new firm is also providing services of the same nature to same entities i.e. Nagar Nigam Jaipur and JDA. It was also noticed that the new Laxmi firm has shown substantial value of taxable supplies in his GSTR-3B/1M, which was contrary to his submissions that they don't have any resources. Due to such contrary and doubtful

facts/records on file, the TRC branch started investigating the facts of the case in depth to ascertain the genuineness of the claims made by his son Sh Desh.

Firstly, IT Department was requested for Form 26AS(TDS) of Sh RP Garg for the FY 2015-16 and 2016-17 (for the period after his death i.e. on 26.05.2015) and on going through the Form 26AS of Sh RP Garg it was noticed that JDA / Jaipur Nagar Nigam have credited an amount of Rs. 65,02,258/- during FY 2015-16 and Rs 96,96,349/- during FY 2016-17. In order to find out where the amount credited to Laxmi old firm (Prop late Sh RP Garg) after his death have been deposited, the TRC branch visited the office of the Commissioner, Nagar Nigam, Jaipur.

Nagar Nigam, Jaipur was requested to provide details of amount paid to M/s Laxmi (Prop; Sh RP Garg) after the his death i.e. 26.05.2015 and the Bank Account details in which the same have been credited. Various visits were made to Commissioner/Financial Advisor (FA), Nagar Nigam and various letters were issued to the concerned officials and finally in compliance of Summons issued to the FA, the details of amount paid to M/s Laxmi (Prop Sh RP Garg) were provided. On going through these details it was noticed that an amount of Rs. 49.51 lacs had been credited in current account of M/s Laxmi (Prop late Sh RP Garg) and an amount of more than Rs 1 crore was deposited in the account of M/s Laxmi (new partnership firm of Sh Desh and his wife). The bank statements were requested from the concerned Banks and the statements confirmed that the same amount has been deposited in the bank accounts, the details of which were provided by Nagar Nigam Jaipur. Statement of Savings Banks account of Sh RP Garg in ICICI was called for and it was revealed that Income Tax refund of Rs. 1,40,110/-, Rs 1,46,450/ and Rs 2,48,000/- were got deposited after the death of Sh RP Garg. The same amount was withdrawn and Sh Desh was 100% nominee in that account.

In the mean time, letters were issued to Sh Desh to deposit the Govt dues pending against his late father and in response to which the tax consultant of Sh Desh submitted his reply to TRC branch and reiterated the same arguments that after the death of the proprietor recovery could not be effected from the legal heir. He repeatedly submitted that Sh Desh has not inherited any thing from his father and that the amount credited to new Laxmi firm is related to the work done by new Laxmi firm. On perusal of the written submissions made by Sh Desh, it was observed that Sh Desh has only made written submissions and he failed to provide any documentary evidence in support of his contentions.

Further, IT department was requested to provide 26AS/ITR filed by Sh Desh and M/s Laxmi (new partnership firm). On going through these documents (Section 206CL of IT Act) it was noticed that Sh Desh has used old Toyota Innova of his late father in exchange for Rs 6.71 lacs for purchasing a new Innova. On going through the ITR filed by M/s Laxmi (new firm), it was noticed that the new firm has not declared any amount if any received from Nagar Nigam in its ITR for the FY 2015-16 and 2016-17 during which Nagar Nigam credited an amount of more than Rs 1 crore to M/s Laxmi (new firm), which explicitly proved that the amount credited in the bank account of M/s Laxmi (new firm) actually belonged to old Laxmi firm. Income Tax refund was also withdrawn from the savings account of Sh RP Garg. It was again proved beyond doubt that the tax consultant of Sh Desh is misleading the department.

That, when the tax consultant was countered with the facts unearthed during the investigation and that as the amount paid by Nagar Nigam and JDA to the firm Laxmi of Rajendra Pal Garg (against which govt dues were pending) was ultimately used by New Laxmi Firm through Desh Deepak Garg and his wife and that the Department is demanding the same amount from New Laxmi Firm of Sh Desh and his wife, the tax consultant had no

counter reply and he sought time for submission of his reply to the facts/records shown by the department.

It was also gathered that immediately after the death of Sh RP Garg, all the assets of M/s Laxmi (old firm of his father) viz generators, furniture, some vehicles were used by Sh Desh in his new Laxmi firm.

Cheque leaves regarding withdrawal of amount from Bank accounts of late Sh RP Garg was requested from bank, one such leaf was provided by the Bank which shows that the amount was withdrawn by employee/Sh Desh after the death of Sh RP Garg.

Sh Desh Deepak Garg through his legal representative appeared for personal hearing in the matter and presented his contentions that he being a legal heir is not bound to pay the dues of Service Tax pending against his Late father. But the TRC branch put up the facts as narrated above and finally Sh Desh assured that he would start paying the dues pending against his late father and in continuation to that he paid an amount of Rs 5 lacs through payment dated 26.04.2024 and the same has also been reflected on the portal.

The above mentioned case is a perfect example that how a demand that has been lying in the 'Non-Traceable' category for long has been traced out and thereafter investigated in depth by both officers of the TRC CGST Jaipur. Despite delayed response from Nagar Nigam Jaipur and continuous efforts from the Tax Consultant misleading the department, partial recovery in the present case have been made.

TRC has a major role in to play in safeguarding the revenue of the Govt of India as efforts by every formations of Central Excise, Service Tax and GST department viz Range/ Divisions/AE/Audit/Adjudication by following due process creates demand for the Govt of India and ultimately it is the Recovery Cell that recovers such dues from the taxpayer.

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**Note:**

- (i) *The write-up is simply intended to share the personal experience of the writer with the colleagues and the views expressed therein may not necessarily represent the stand taken by him on the provisions of law in his official capacity.*
- (ii) *Thanks to **Shri Rakesh Kumar Deriwal, Superintendent**, CGST & CX, Jaipur for his support in preparation of this article.*

## **Booking a Celebrity - Pages from my DRI diary**

*By – Mukesh Bihari Pathak, Superintendent,  
CGST & CX, Jaipur*

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An intelligence was shared by the Air Customs Officer posted at IGI Airport, New Delhi that Shri **Rahat Fateh Ali Khan (famous international singer)** is engaged in illegal exporting foreign currency out of India by way of concealing the same in his baggage without declaring at Airport. The Officer had also informed that he regularly visits India and performs at different functions and taking approximate Rs.22 Lakhs per show, out of which he charge Rs.20 Lakh in Cash and Rs. 2 Lakh through cheque/banking channel. The officer also informed that Shri Rahat Fateh Ali Khan and his group had arrived in India on 2<sup>nd</sup> February, 2011 on Business Visa and would perform at various locations in India.

The intelligence was further developed by the officers of DRI-DZU, New Delhi and confirmed the facts of the intelligence shared by the Officer posted at IGI, New Delhi. It was further gathered that Shri Chitresh Srivastava, Event Manager, M/s Eye Line Films and Events, Mumbai is the main person engaged in organizing the events of Shri Rahat Fateh Ali Khan in India and abroad. Shri Shrivastava used to contact with Shri Maroof Ali, Business Manager of Shri Rahat Fateh Ali Khan to fix date of performance and negotiate amount for the concerts. It had also been gathered by the DRI Officials that Shri Rahat Fateh Ali Khan and his troupe performed at Delhi, Jaipur & Rajkot after arriving in India on 02.02.2011 and this time, Shri Khan would be carrying huge sum of unaccounted foreign currency with him.

Thereafter it was gathered that Shri Rahat Fateh Ali Khan with members of his group had booked tickets and would be leaving India on 13.02.2011 by Emirates Airlines (Flight No.EK-517) to Lahore (Pakistan) via Dubai. Accordingly, a team of officers of DRI-DZU was deputed at Departure Hall of Terminal-3, IGI Airport, New Delhi to identify and intercept these passengers on 13.02.2011.

Shri Rahat Fateh Ali Khan and all the troupe members were intercepted after they had cleared the immigration. The examination of baggage of Shri Rahat Fateh Ali Khan and Shri Maroof Ali, Business Manager led to recovery of US\$ 50,000 **in checking** in the baggage of each person and also US\$ 24095 and Pakistani Rupees 60000 and two demand draft worth US\$ 8646.77 & US\$ 10000 in hand baggage of Shri Ali. The aforementioned foreign currency amounting to US\$ 124095 and Pakistani Rupees 60000 and the bags used for its concealment were seized on reasonable belief that these were being carried illegally and were liable for confiscation under Customs Act, 1962.

Shri Rahat Fateh Ali Khan and his troupe members were summoned for examination on 14.02.2011. Shri Chitresh Srivastava, Event Manager was also summoned to join investigations in the case. Further, the statements of Shri Rahat Fateh Ali Khan and Shri Maroof Ali were recorded under the provisions of Section 108 of the Customs Act, 1962 wherein they confessed that they were not having any legal documents for the legal acquisition and possession of US\$ 1,24,000 recovered from them on 13.02.2011 at IGI Airport, New Delhi and these dollars were given to them without valid document.

The case was adjudicated by the Additional Commissioner of Customs, IGI Airport, New Delhi vide OIO NO.05/2011 dated 19.02.2011 wherein the seized currency and two demand drafts worth USD\$ 18646.7 were absolutely confiscated under Section 113(d) and 113(h) of the Customs Act, 1962 read with FEMA, 1999 and rules/regulations made thereunder. The checked in baggage & hand baggage of Shri Khan & Shri Ali were also absolutely confiscated under Section 188 and 199 of the Customs Act, 1962. In the said order personal penalty of Rs.15 Lakhs each on both Shri Khan and Shri Ali had been imposed

under Section 114 and Section 114AA of the Act *ibid*. The said amount was deposited by them on 21.02.2011.

Since, it was a case of international celebrity and renowned singer who possess huge fan followings as well as media attraction, the higher persona Shri Rahat Fateh Ali Khan, where emotions of fans of two nations and involvement of diplomatic pressure was challenge task for DRI officials. It was very tough task for the team deputed for surveillance and investigation as well as the case was to be handled very patiently, very tactfully and very delicately without having any room of complaint from any person under investigation, fans, media and diplomatic relation of the nations.

I was a member of Special Intelligence Cell of DRI and played prominent role in developing the intelligence into actionable mode. My team monitored activities of suspects for a considerable period and worked on a strategy to monitor the every moment and analyzed the *modus operandi* involved with endless patience over a period of time. Mounted surveillance at all the strategic points, identified the suspects, their associates and kept them under close watch which resulted in specific and accurate intelligence about the concealment of foreign currency. All the officers of my team worked beyond the designated office hours which resulted in recovery and seizure of foreign currency.

The officers of surveillance team and investigation team were appreciated as the case started from gathering the intelligence, surveillance of high profile celebrity and clients without exposing and investigation reached on conclusion within the short span of time & law of land prevailed which resulted in investigation report prepared within seven days and the case open & shut within the same month. Very good reward amount had been sanctioned to all the officers played role in the case. I got reward amounting to Rs.50,000/- sanctioned vide Memorandum dated 27.03.2012.

**Message to:**

1. The officers working at Airport or anywhere in the department should pass any piece of intelligence or information to agencies (DRI/DGGI) of our department and be in touch with the officers of the agencies during the course further processing of intelligence so that combined efforts of the officers posted at field formations/agencies can be resulted in booking good cases for the department.
2. All the newly recruited officers in the department that need not to afraid with name and fame of the suspected persons. Put all out efforts to book a good case wherever any contravention of law/provisions is noticed and for the sake of name and fame of our department/agencies without leaving any scope of complaint at any point of time.

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**Note:** *The write-up is simply intended to share the personal experience of the writer with the colleagues and the views expressed therein may not necessarily represent the stand taken by him on the provisions of law in his official capacity.*

## **Due diligence while sanctioning refunds**

*By – Bhoopendra Singh Panwar, Inspector,  
CGST & CX, Jaipur*

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The CBIC has laid down the defined procedure for sanction of the Refund Claims. The Review Branch has been reviewing the refund claims received after conduct of post audit of the claim related documents by Post Audit Branch. Under the guidance/direction of Reviewing Authority, a modified review process for examination of refund orders was adopted wherein the Review Branch started examining the following parameters:-

- (1) Critical examination of Annexure-B;
- (2) Relativeness of the inward-outward supplies;
- (3) Expected % of the refund in case of accumulated ITC;
- (4) Non-observance of the statutory provisions or mis-interpretation related irregularities;

By adopting such review process, it has been observed in several cases that the refund sanctioning authorities, while passing refund orders, have not performed due diligence in respect of the parameters prescribed under Instructions 03/2022-GST dated 14.06.2022 and the refund claims are being verified cursorily without due verification or without taking into consideration risk parameters or without following the applicable statutory provisions.

2. After detailed examination of Annexure-B, the Review Branch detected several kinds of discrepancies such as:-

- (i) Ineligible ITC or blocked ITC which was wrongly availed and added in the “Net ITC” for calculation of refund;
- (ii) Ineligible ITC or blocked ITC which was wrongly availed but not included in “Net ITC” and the same was otherwise recoverable from the refund in terms of Section 54(10) of the CGST Act, 2017;
- (iii) Considering the details of supplier i.e. Name and nature of supply of such supplier, mis-declaration of corresponding HSN/SAC by the taxpayer for the purpose of including such ITC in “Net ITC” for availing excess refund. Such ITC was either found blocked/restricted or otherwise not including in “Net ITC” for it being related to Capital Goods or Input Services.
- (iv) Considering the HSN/SAC, mis-match in tax rates of corresponding ITC i.e. GST rates for ITC were found higher than the applicable GST rates against the declared HSN/SAC;
- (v) Considering the HSN/SAC, mis-declaration of category i.e. Inputs/Input Services in place of Capital Goods or Input in place of Input Services;

Consequences of such kind of examination are not only in the form of review/appeal of the refund orders due to improper examination of Annexure-B but also in the form of substantial recovery of refund amounts whether paid before the appellate authority or before the refund sanctioning authority or before the investigating officers of AE branch.

3. Parameter of expected % of refund is very crucial criteria in order to ascertain the fact as to whether any taxpayer is mis-using the facility of refund extended by the Government and in order to curb the cases of fraudulent refund. Under this parameter, the %age is derived by the ratio of refund amount and “Zero Rated Turnover” or “Inverted Rated Turnover” and the same is compared with the expected %age of the refund amount considering the ratio of input/input services, GST rates of inward, outward supplies and profit margin. In such cases of higher % of refund, either ITC on unrelated inward supplies is taken fraudulently or some amount of ITC on related inward supplies is availed in excess on

the basis of invoice only without actual inward supplies. The cases where such %age was found in excess in a frequent manner were put under suspicious/risky category and detailed probe or investigation conducted in a team manner (with the help of AE branch) brought forward fraudulent cases of refund. **E.g.** a taxpayer doing export of textile material/garments from Mumbai port, availed ITC against fake invoices from various suppliers without actual receipt of goods for encashment thereof under the guise of “Zero Rated Supply”; a taxpayer engaged in supply of sesame seeds/watermelon seeds, diverted the outward supplies somewhere else without bills but raised bills to some other taxpayers.

4. The examination of relativity of inward supplies with outward supplies also proved to be a dynamic method in order to find out the cases of wrong availment of refund benefit. It was observed that ITC was availed on such inputs which cannot be utilized for making outward supplies. In other words, there is no nexus between inward or outward supplies. **E.g.** taxpayers showing supply of “glass scrap/cullet” against purchase of “fresh glass” who were fraudulently taking refund under the category of “Inverted Rated Structure”.

5. During the review process, the discrepancies relating to mis-interpretation of the statutory provisions are also noticed in the refund orders. With minute scrutiny of Annexure-B, it was observed that several taxpayers were excessively refunded against the turnover of trading activities which was not falling under the category of “Inverted Rated Structure” in terms of the provisions of Section 54(3) of the CGST Act, 2017. **E.g.** the taxpayers engaged in manufacturing of a product is also engaged in the trading of the same product but include turnover of product/item purchased and sold as such in the “turnover of Inverted Rated Supply” so as to increase the refund amount which is against the intended purpose of Section 54(3) of the CGST Act, 2017; There has also been the cases of refund where the Refund Sanctioning authority has failed to include the turnover of outward supply of Services in the “Adjusted Total Turnover” which resulted into excess refund to the taxpayer.

**6. Optimum Team work of officials of the Commissionerate (Hqrs.) has resulted into detection of several cases of mis-use of refund and has set various examples for the refund sanctioning authority or field formations which would be helpful in curbing the mis-use of refund benefits by the fraudulent/risky taxpayers. Even though modalities of refund are simplified by the Board yet the field formations must take into account the relevant parameters in order to identify the potential risks in refund cases so that the chances of leakage of revenue may be minimized.**

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