



For departmental use only

महेन्द्र रंगा  
**MAHENDRA RANGA**  
मुख्य आयुक्त  
CHIEF COMMISSIONER

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

GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
OFFICE OF THE CHIEF COMMISSIONER  
CGST & CENTRAL EXCISE  
Jaipur

07<sup>th</sup> May, 2024  
D.O. No. GCCO/TECH/MISC/440/2023

Dear *Colleagues,*

### **'SAMVAAD' : May, 2024**

This is time for General Elections. Our Republic is one of the nations where power transfer takes place based on will of the people expressed through the secret ballot. We must cherish our democracy and our great traditions.

2. It is also the time for our Annual Transfers. We have received a lot of representations. Most of the officers want to come to Jaipur. In their personal interactions with me, the officers have mentioned that their expectations have been raised after last year's experience. There is an arithmetic too to the transfer exercise. We should have as many officers going out as are waiting to come in. Prima-facie, the demand for Jaipur seems to be much higher than the supply. It shall be our endeavor to minimize any suffering on account of posting of officers. However, I expect that officers will take note of the ground reality and be willing to remain get posted at other places too. As most places have residential accommodations, we should try to enjoy the comfort outside Jaipur too.

3. During my stint, I have been ably supported by the CCO. I consider it my duty to acknowledge the sincere efforts put in by Team CCO. Accordingly, I felt obliged to acknowledge their contribution in a function. Twelve officials were also presented with certificates of commendation for their outstanding performance in the previous year. The occasion was graced by Shri S. V. Singh, Chief Commissioner of Customs (Prev.), Delhi Zone.

4. April ended on a good note so far as revenue is concerned. The Zone recorded collection of Rs.2528 Crores, the highest ever. Previous years have shown that revenue collected in April could not be touched in the subsequent months. I hope we will buck the trend this year.

5. In compliance with the SOP issued by the Board for General Elections, total 30 Nos. of dedicated teams for road checking were deployed in the Zone. Seizures worth Rs.10.46 Crores were effected during road checks and additional revenue of Rs.4.15 Crores recovered as penalty so far. The experience suggests that Iron & Steel Scrap,

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Gutkha/Pan Masala, tiles and several other commodities continue to be evasion prone. We need to take note of it and plug evasion in these areas.

6. I am glad that despite many officers being on election duty and trainings, we could maintain our vigil. Our field formations continued to foil attempts by unscrupulous elements to evade duty. CGST, Alwar booked an important case against M/s Allinone Hax (Opc) Private Limited, Dausa involving short payment of GST of Rs.14.93 Crores in relation to 'Online Money Gaming Services'. GST amount of Rs.10.00 Crores was recovered in the process. CGST, Jaipur has also recovered GST amount to the tune of Rs.4.03 Crores from M/s Rakesh Pancholi (Trade Name – M/s Samurai Tradex), Ajmer. The above taxpayer was involved in clandestine removal of goods. The case was unearthed while reviewing the refund claims filed by the taxpayer and verifying vehicle movements through e-way bill data. In follow up of this case, GST amount of Rs.49.54 Lacs has also been recovered from M/s Rawat Industries, Jaipur for non-payment of tax for receiving goods without bill and e-way bill from M/s Samurai Tradex.

7. CGST, Udaipur have booked a case against M/s Sooraj Sagar Resort Pvt. Ltd. (Labh Garh Palace), Udaipur for short payment of GST on Restaurant Service. The taxpayer wrongly availed benefit under Notification No. 46/2017-CT dated 14.11.2017 and evaded tax amounting to Rs.1.64 Crores by paying tax on a lower rate of 5% instead of 18%. The taxpayer had also not paid GST of Rs.1.50 Crores on unaccounted income. During the course of investigation, the taxpayer has voluntarily paid Rs.30.00 Lacs. CGST, Jodhpur has also detected two cases of non-reversal of Input Tax Credit under Rule 42 & 43 of the CGST Rules, 2017 in respect of exempted supplies and recovered Rs.3.51 Crores from M/s Adani Solar Energy Jaisalmer Two Pvt. Ltd., Lunkaransar and Rs.0.75 Lacs from M/s Hardik Agritrade Private Limited, Sriganganagar.

8. The Board is contemplating the idea of reorganizing the GST Ranges in big towns on functional basis. In this model, all divisional and range work is merged in Divisions. The Divisions are further reorganized into core verticals like Audit, Refund, Tax Arrears Recovery, Monitoring of non-filers, Statistics, Scrutiny of Returns & Issue of SCNs, Adjudication, Registration (PV/ Cancellation/ Amendment/ Revocation). Every officer in this system is mapped as a RO for every Range. Chennai (Outer) Commissionerate are learnt to have already adopted it. Thus we are likely to see a hybrid model in future comprising of multifunctional Divisions in big urban areas and territorial Ranges for the countryside. Your suggestions are solicited in the context to further hone the system.

9. I am well aware that, among the several time-bound tasks, ROs are having difficulty completing PV assignments. For some time, the system has been marking more PVs. This matter was deliberated during MANTHAN-April, 2024. It was decided to set up a dedicated PV Team at each Division office. We hope this will alleviate the work load of the ROs and help in conducting verification more efficiently.

10. The Board recently issued the 4<sup>th</sup> e-Compendium of the revenue favourable CESTAT case laws. The e-Compendium is quite useful in strengthening the legal framework governing indirect taxes and capacity building of officers. By consolidating judicial precedents in favor of revenue, tax authorities get empowered to effectively defend revenue claims, deter tax evasion, and promote compliance. The compendium available on CBIC website is an invaluable resource to be made use of by us.

11. It will be appreciated that 'Verification of Qualifying Service' as per Rule 30 of the CCS (Pension) Rules, on completion of eighteen (18) years of service is an important activity. It is observed that the progress in this aspect is sluggish. Another important issue is timely completion of pension papers. I would like to urge all concerned officials

to look into this area personally with proactive approach.

12. Our Zone also needs to conclude profile completion and validation on the e-HRMS 2.0 platform, as well as completion of six mandatory courses on the i-GOT Karmayogi portal. As committed to the Member (Admn.), CBIC, the tasks have to be concluded within two weeks. I am confident that we will be able to complete these tasks even before. The Board has also released 21 courses on i-GOT portal. All of us should endeavor to complete these courses too.

13. It is heartening to note that Shri Kaushik Padua, son of our colleague Shri Vijay Singh Meena, Superintendent has secured 927th Rank in Civil Services Exam. I compliment Shri Kaushik Padua and his family on this achievement.

14. The following articles have been picked up for this month's edition of "**Gyan Sangrah**":

- (a) *Recovery of Arrears under Non-Traceable category* – by Shri Mukesh Kumar Mann, Superintendent, CGST & CX, Jaipur;
- (b) *Booking a celebrity : Pages from my DRI diary* – by Shri Mukesh Bihari Pathak, Superintendent, CGST & CX, Jaipur
- (d) *Due diligence while sanctioning refunds* – by Shri Bhoopendra Singh Panwar, Inspector, CGST & CX, Jaipur.

I am grateful to above officers for sharing their insights and knowledge with us.

15. We had already decided that as a mark of gratitude, Honoraria would be given to officials whose articles are published in "Gyan-Sangrah". As a result, 11 officials of the Zone received an honorarium in April for their valuable contributions.

16. We bid adieu to Shri Munim Singh, Deputy Commissioner, Shri Satveer Singh Jhahharia, Assistant Commissioner, Shri Sugar Singh Meena, Assistant Commissioner, Shri Murari Kehari Meena, Superintendent, Shri Ghanshyam Sirohi, Superintendent, Shri Kanhaiya Lal, Superintendent and Shri Narendra Kumar, Head Hawaldar on their superannuation in April, 2024. We wish them a healthy and joyous life ahead.

Till next month,

Yours sincerely

  
07.05.24  
**(Mahendra Ranga)**  
Chief Commissioner

**To:- Team Jaipur Zone.**

**Copy for information to:-**

- (i) OSD to the Chairman, CBIC, New Delhi.
- (ii) PS to the Member (GST/CE/ST & Zonal Incharge), CBIC, New Delhi.
- (iii) Chief Commissioner, State Tax, Rajasthan, Jaipur
- (iv) Pr. ADG, NACIN/ DGGI, Jaipur.

# 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 detach 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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