

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 March, 2024  
D.O. No. GCCO/TECH/MISC/440/2023

Dear *Colleagues,*

**Subject: 'SAMVAAD' : March, 2024**

It's exam time in India. Many of you have children who are appearing for Board examinations. They are busy pouring over their textbook and guides, studying into the night, sucking on pencils and trying to memorize all the formulae. We hope they will do well. Staying calm is key to good performance and they must not panic. Parents should ensure not to stress them at this juncture. Similarly, with the end of the financial year, it is also a time of evaluation for us. It is time for us to take stock and make plan for the future. All of us are expected to give our best for attaining our targets and goals.

2. The revenue generated by the Zone has surpassed Rs.2000 Crores for the third time in the year and second straight month. The growth rate of revenue upto the month is 8.84%. Rs.20790 Crores had been realized upto February vis-à-vis the target of Rs.23300 Crores. Our biggest revenue payer viz M/s Hindustan Zinc Ltd. have short paid duties by about Rs. 500 Crores. It has not been possible to make up for it. About Rs.40 Crores revenue also seems to be under reported due to a technical glitch. This month marks the end of the current fiscal year. I urge the field formations to make a special action plan for March, 2024 to meet the assigned targets.

3. On anti-evasion side, the month gone by was rather eventful. CGST, Jaipur has detected three major cases of non-reversal of Input Tax Credit under Rule 42 & 43 of the CGST Act, 2017 in respect of exempted supply and recovered Rs.3.11 Crores from M/s Rajasthan State Food and Civil Supplies Corporation Limited, Jaipur, Rs.1.18 Crores from M/s Dadarwal Road Lines, Shahpura and Rs.1.99 Crores from M/s Rajasthan State Text Book Board, Jaipur. On similar issue, CGST, Udaipur has recovered Rs.80 Lacs from M/s Shree Bayan Mateshwari Logistics, Udaipur. In an another case against M/s Siemens Gamesa Renewable Energy Projects Pvt. Limited, Jaipur regarding short payment of GST on Works Contract Service, CGST, Jaipur has recovered Rs.6.53 Crores from the taxpayer. Further, acting upon an intelligence, CGST, Udaipur got ITC reversed to the tune of Rs.1.14 Crores from M/s Secure Metals Limited, who has availed ineligible/ fake ITC on the basis of invoices raised by non-existent firms.

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4. CGST, Jodhpur has booked a case against M/s Dinesh Chandra R. Agarwal Infracon Pvt. Ltd., Jodhpur for non-payment of interest of Rs.12.31 Crores on delayed payment of GST due to delayed raising of invoices. On being pointed out, the taxpayer has paid interest of Rs.5 Crores so far. In another case, the Commissionerate has detected short payment of GST of Rs.2.67 Crores by M/s Dwarka Das Doshi on account of change of rate of duty on supply of Works Contract services for construction of Road and affordable Housing Apartments. The taxpayer has paid Rs.95 Lacs so far in this case. CGST, Alwar has also recovered Rs.5.67 Crores of GST along-with interest and penalty from M/s TRANS ACNR Solutions Pvt. Ltd., Alwar, who are engaged in supplying of Air Conditioning Unit and Compressor. The taxpayer was raising separate invoices for both and was charging GST separately @28% for Air Conditioning Unit and @18% for Compressor, however the supply of both goods falls under composite supply being supply of Air Conditioning Unit as principal supply, hence GST @28% is applicable on the whole transaction. In another issue of non reversal of ITC attributable to residential units remained unsold as on date of completion/ first occupancy in the residential Real Estate Project, CGST, Alwar has recovered Rs.1.62 Crores from three taxpayers viz. M/s Trehan Homes Developers Pvt. Ltd., Alwar, M/s Trehan Apna Ghar Private Limited, Bhiwadi and M/s Oxirich Realtors Private Limited.

5. DGGI, Jaipur unearthed a case of creation and operation of fake firms and issuing goods less invoices to pass on fake ITC of Rs.215.67 Crores against Shri Pankaj Aggarwal, Delhi. In this case, till date, total ITC of around Rs.33.39 Crores has been blocked in the ITC ledger of fake firms and 137 bank accounts have been provisionally attached. Further, on issue of availment of fake ITC on strength of goods less invoices and partial utilization of same for discharging tax liability and passing on the remaining ITC by issuing goods less invoices, DGGI, Jaipur booked a case of Rs.3.34 Crores against M/s Goyal Chemicals, Kota and recovered Rs.1.63 Crores so far.

6. I am glad to share that State GST led by Dr. Ravi Kumar Surpur, IAS have won State level award for exemplary work related to seizure of freebies during assembly election in Rajasthan. We should also take cognizance of this and work to the best of our ability in the upcoming Lok Sabha Elections.

7. In February, DG Systems has issued Delivery Schedule (Purchase Order) to M/s Bharat Electronics Limited (BEL) for supply, installation & commissioning of Desktops (AIOs), Laptops & Tablets at all the field formations of CBIC and for conducting a site survey of 800 CBIC locations for estimation of various LAN devices (Switches, UPS, Rack, WiFi, Nodes etc.) required to be mapped by DG Systems to the CBIC locations either working on MPLS connectivity or provisioned for the same in new contract with M/s BSNL. M/s BEL is expected to start site survey and delivery of devices soon. All Commissioners may issue necessary directions to all concerned officials (Systems Manager/ Nodal Officer) to take required steps in this regard.

8. For smooth transition from ACES-GST module to GSTN BO, NACIN, Faridabad has already imparted trainings to Master Trainers of this Zone. An interactive session with all Pr. Commissioners/ Commissioners on transition process has also conducted on 27.02.2024 by NACIN, Faridabad. Now, in co-ordination with NACIN, Jaipur, Master Trainers of this Zone will impart training to the remaining work force of this Zone during March and April in 16 batches. All of you are advised to take it seriously and take full advantage of these trainings.

9. At the time of writing of this SAMVAAD, 82 fresh Inspectors, 1 Executive Assistant and 27 Tax Assistants have joined the Zone. Some of them have already joined the Induction training. Induction training for the rest shall commence soon. I congratulate all of them on their selection and welcome them to the Zone.

10. Following two (02) articles are being included in this month's '**Gyan Sangrah**'. I am grateful to the authors who took the time to share their useful experience with us.

- (a) *Whether the demand proposed in SCN issued under Section 74 of the CGST Act, 2017 can be adjudicated under Section 73 of the Act* – by Shri Sunil Kumar Verma, Superintendent, CGST & CX, Alwar; and,
- (b) *Art of Listening* – by Shri Arvind Singh, Additional Assistant Director, CoE, NACIN, Faridabad.

11. We bid adieu to our three officers namely Shri Vijay Singh Meena, Joint Commissioner, Shri Mukhlesh Jain, Inspector and Shri Pratap Singh Sisodia, Inspector, who have superannuated from service in February, 2024. Five Superintendents viz. Shri Tarun Kant, Shri Shiv Kumar Gupta, Shri Sanjeev Singh Rawat, Shri Avtar Singh Labana and Shri Vinay Awasthi have also taken voluntary retirement from service during February. Our best wishes to all for their future life.

12. The best weather of the year is around. It is time to enjoy it. Before signing off, I also want to wish you all Happy Holi in advance. No color is brighter than the color of success. We dedicate this hue to our staff and officers, who have worked hard with dedication to duty. On this occasion, following stanza by the great poet Shri Harivansh Rai Bachchan seems to be a good guide for us:

प्रेम चिरंतन मूल जगत का, वैर-घृणा भूलें क्षण की,  
भूल-चूक लेनी-देनी में सदा सफलता जीवन की,  
जो हो गया बिराना उसको फिर अपना कर लो।  
होली है तो आज शत्रु को बाहों में भर लो!

Till next month,

Yours sincerely,

  
(Mahendra Ranga)

**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

मार्च, 2024

**GYAN SANGRAH**

**MARCH, 2024**

**Whether the demand proposed in SCN issued under Section 74 of the  
CGST Act, 2017 can be adjudicated and confirmed by the  
Adjudicating Authority under Section 73 of the Act**

*By – Sunil Kumar Verma, Superintendent,  
CGST & CX, Alwar*

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As per Section 75(2) (2) of the CGST Act, 2017, where any Appellate Authority or Appellate Tribunal or *court* concludes that the notice issued under sub-section (1) of section 74 is not sustainable for the reason that the charges of fraud or any willful-misstatement or suppression of facts to evade tax has not been established against the person to whom the notice was issued, the proper officer shall determine the tax payable by such person, deeming as if the notice were issued under sub-section (1) of section 73. Similar provisions are also available in the Central Excise Act, 1944, the Finance Act 1994 and the Customs Act, 1962.

2. Before going in to the issue it appears essential to look into some of the definitions under CGST Act, 2017

*2(4) “adjudicating authority” means any authority, appointed or authorised to pass any order or decision under this Act, but does not include the [Central Board of Indirect Taxes and Customs], the Revisional Authority, the Authority for Advance Ruling, the Appellate Authority for Advance Ruling, [The National Appellate Authority for Advance Ruling] [the Appellate Authority, the Appellate Tribunal and the Authority referred to in sub-section (2) of section 171];*

*2(8) “Appellate Authority” means an authority appointed or authorised to hear appeals as referred to in section 107;*

*2(9) “Appellate Tribunal” means the Goods and Services Tax Appellate Tribunal constituted under section 109;*

The expression '**Court**' is not defined in the CPC (Civil Procedure Code, 1908) nor in the General Clauses Act, 1897 however as per the Indian Evidence Act 1872 “*Court*” includes all Judges and Magistrates and all persons, except arbitrators, legally authorised to take evidence.

Further, limited meaning of the term “*court*” has been provided in Para 2 of SCHEDULE III of the CGST, Act,2017 according to which term “*court*” includes **District Court, High Court and Supreme Court.**

3. There are separate and exclusive provisions to issue notice, determine the tax and issue the order where reason of fraud, or any willful-misstatement or suppression of facts to evade tax is found as well as cases other than **the reason of**

**fraud or any willful-misstatement or suppression of facts to evade tax as discussed below:- .**

- (i) Where any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason, **other than the reason of fraud or any willful-misstatement or suppression of facts to evade tax**, proper officer shall serve notice under Section 73(1) on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder. The notice under Section 73(1) is to be issued at least three months prior to the time limit specified in sub-section (10) for issuance of order i.e. within three years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund.
  
- (ii) Where any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised **by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax**, a notice is to be served on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause under Section 74(1) of the CGST Act, 2017 as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty equivalent to the tax specified in the notice. The notice under Section 74(1) is to be issued at least six months prior to the time limit specified in sub-section (10) for issuance of order i.e. within a period of five years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous refund.

4. In the Customs Act, 1962, the adjudicating Authority is permitted or authorized by the virtue of sub section (10B) of Section 28 if *the charges of collusion or any willful mis-statement or suppression of facts to evade duty has not been established then to decide within normal period. However, in the provisions related to Central Excise Act, Service Tax as well as CGST no such power or authority similar to Appellate*

**Authority or Appellate Tribunal or court has been provided to the Adjudicating Authority.** Therefore, the adjudicating Authority under Central Excise Act, Service Tax or CGST is **not permitted / empowered or authorised to decide the cases within normal period if extended period and charges of fraud or any willful-misstatement or suppression of facts to evade tax is not established.**

4.1 This view can be conformed from combined comparison of the provisions reproduced in following table:

Section 75 (2) of CGST Act, 2017	Section 11 A(9) of Central Excise Act, 1944	Section 73 (2A) of Finance Act, 1994	28(10B) of Customs Act, 1962
<p>Where any <u>Appellate Authority or Appellate Tribunal or court concludes</u> that the notice issued under sub-section (1) of section 74 is not sustainable for the reason that the charges of fraud or any willful-misstatement or suppression of facts to evade tax has not been established against the person to whom the notice was issued, the proper officer shall determine the tax payable by such person, deeming as if the notice were issued under sub-section (1) of section 73.</p>	<p>Where any <u>appellate authority or tribunal or court concludes that</u> the notice issued under sub-section (4) is not sustainable for the reason that the charges of fraud or collusion or any wilful misstatement or suppression of facts or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty has not been established against the person to whom the notice was issued, the Central Excise Officer shall determine the duty of excise payable by such person for the period of 5 [two years], deeming as if the notice were issued under clause (a) of sub-section (1).</p>	<p>Where any <u>appellate authority or tribunal or court concludes that</u> the notice issued under the proviso to sub-section (1) is not sustainable for the reason that the charge of, –            (a) fraud; or            (b) collusion; or            (c) wilful misstatement; or            (d) suppression of facts; or            (e) contravention of any of the provisions of this Chapter or the rules made thereunder with intent to evade payment of service tax,            has not been established against the person chargeable with the service tax, to whom the notice was issued, the Central Excise Officer shall determine the service tax payable by such person for the period of thirty months, as if the notice was issued for the offences for which limitation of thirty months applies under sub-section (1).</p>	<p>A notice issued under sub-section (4) shall be deemed to have been issued under sub-section (1), if such notice demanding duty is held not sustainable <u>in any proceeding under this Act, including at any stage of appeal</u>, for the reason that the charges of collusion or any wilful mis-statement or suppression of facts to evade duty has not been established against the person to whom such notice was issued and the amount of duty and the interest thereon shall be computed accordingly.]</p>

5. From the plain reading of provisions of Section 75 (2) of CGST Act, 2017 it is crystal clear that only Appellate Authority or Appellate Tribunal or court may order or conclude in case the charges of fraud or any willful-misstatement or suppression of facts to evade tax is not established then proper officer shall determine the tax payable deeming as if the notice were issued under sub-section (1) of section 73 of CGST Act. Similar power has been vested by the legislature to Appellate Authority or Appellate Tribunal or court in the matter related to Central Excise, Service tax as well as Customs.

6. In view of above, and for purpose of uniformity, removal of doubts (if any) as well as to safe guard the revenue where charges of fraud or any willful-misstatement or suppression of facts to evade tax is not established, adjudicating authority under CGST ACT may be vested power or author identical to Section 28 (10B) of Customs Act 1962 by amending Section 75(2) of CGST Act, 2017 and corresponding provisions of SGST or UT GST Act and or issuing clarification by the CBIC.

**Note:**

- (i) *The above views or opinions expressed in the content do not necessarily reflect those of the individual, Department or Government and it is not intended to be used for legal advice or professional advice.*
- (ii) *Thanks to Shri Umesh Kumar Agarwal, Superintendent for his support in preparation of this article.*

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# ART OF LISTENING

By – Arvind Singh, Additional Assistant Director,  
Centre of Excellence, NACIN, New Delhi

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Listening is the single most crucial skill in communicating and building your business, it increases productivity, boosts confidence and reduces errors. Listening can have numerous benefits, including making you popular, building your personal brand and expanding your relationship network. The importance of listening has been emphasised since ancient times. The Greek philosopher Diogenes once said,

*“We have two ears and one tongue so to listen more and talk less”*

In fact, researchers estimate that we only remember 25-50% of what we hear. So, why is listening in danger of extinction? According to Seth Horowitz, an auditory neuroscientist from Brown University,

*“Listening is a skill we’re in danger of losing in a world of digital distractions and information overload.”*

## Why be a good listener

Listening is the gateway to learning. It opens up new avenues of growth and knowledge. The lesson gained through careful listening is sticky and long-lasting. People who listen well are liked and admired. It’s easier and more fruit to talk to such people. Because they listen well, they give you better advice and solution. These are the people you can count on. These are the people you can look for valuable advice. Listening makes you calm and considerate.

## Listening versus hearing

In order to get the most out of the information we are presented with, we have to make sure we are always listening and not just hearing. So, what is the difference between listening and hearing? There are many differences.

Listening is something altogether different from hearing, an unintentional (or possibly intentional) experience of one of your senses at work. What we hear may or may not become a part of us over time. Yet, what we truly listen to soaks into us at that very moment. Hearing is the act of perceiving and receiving sound; it’s the use of one of your senses. Listening, on the other hand, is the act of hearing a sound and understanding what you hear. Hearing is easy. You just cannot control what your ears catch. Listening is harder. When you are listening, you are consciously choosing what you want to hear. Listening is a choice. Listening requires the willingness to focus and the act of providing your full attention. Listening requires engagement

and may require follow-up questions for full clarity and visibility. Listening is an art, requiring practice, skill, spirit, and inspiration.

### **Are you listening?**

- You probably aren't listening if you are multi-tasking – texting, checking emails, listening to music and reading.
- You probably aren't listening if you can only remember the main idea but cannot remember details of the conversation.
- You probably aren't listening if all of your responses are neutral. If you do have questions or feedback, you are more likely to remember the conversation as it relates to you.
- You probably aren't listening if you leave the conversation with the same information you started with.

### **How to improve skill of listening?**

There are a few simple things that you can do to improve your skill of listening.

1. Pay attention- Be attentive, but relaxed, face the speaker, maintain eye contact and listen to the words and try to picture what the speaker is saying.
2. Use Non-verbal cues- Pay attention to what isn't said – to nonverbal cues.
3. Keep the conversation alive- Ask questions only to ensure understanding.
4. Keep the speaker on track- Give the speaker regular feedback but wait for the speaker to pause to ask clarifying questions.
5. Avoid judgement- Keep an open mind.
6. Don't interrupt and don't impose your "solutions."

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