

GOVERNMENT OF ASSAM
OFFICE OF THE PRINCIPAL COMMISSIONER OF STATE TAX
CUM COMMISSIONER OF TAXES, ASSAM
KAR BHAWAN :: DISPUR, GUWAHATI-6

INSTRUCTION NO. 14/2024-GST

Dated Dispur the 14th March, 2024.

Subject: Advisory on exercising due diligence for issuance of notices under Section 73/74 of Assam GST Act and timely completion of adjudication thereof — reg.

No. CT/GST-40/2020/116.— A large number of demand show cause notices in FORM DRC-01 have been issued under section 73/ 74 of Assam GST Act, 2017 by the proper officers during the current year. In the interest of revenue, it is necessary to issue demand notices in cases involving short payment or non-payment of tax/ wrong availment of input tax credit/ evasion of tax, etc. However, issuance of demand notices, without considering full facts and without proper examination of the relevant documents and explanation submitted by the taxpayers, may not only lead to avoidable litigation in future causing inconvenience to the taxpayers, but may also result in increased burden on the adjudicating officers as well as appellate authorities and it will adversely affect the quality of subsequent adjudication and appellate orders. Further, as the last date of issuance of demand notices under section 73 of Assam GST Act for FY 2019-20, being 31st May 2024, is fast approaching, the Zonal Joint Commissioner of State Tax may also keep a close watch on the pending investigations, scrutiny, audit etc. to ensure that the said proceedings are completed by the proper officers well in time and any decision to issue demand notice is taken only after providing an opportunity to the taxpayers to explain their case by giving them sufficient time and after full appreciation of the facts of the case taking into consideration the explanation/ response of the taxpayers, if any. It may also be ensured that the demand notices, where ever required, for FY 2019-20 and subsequent financial years are issued well in advance, so as to provide adequate time for adjudication of the said notices.

Your attention is also invited to the provisions of sub section (10) of Section 73 of Assam GST Act, 2017 as per which the proper officer is mandatorily required to issue the order under sub-section (9) of Assam GST Act 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 utilized related to or within three years from the date of erroneous refund. The said time limits for issuance of adjudication orders for FY 2017-18, 2018-19 and 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 time lines. Considering such large number of demand notices being issued during Year 2023-24, especially for FY 2017-18, FY 2018-19 and FY 2019-20, field officers are advised to dispose of these demand notices by way of issuance of adjudication orders in a timely manner. Also,

principles of natural justice should be duly followed and quality of the adjudication orders should be ensured, so that they can withstand judicial review at the higher fora. The proper 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/=

(Pallav Gopal Jha, IAS,)

Principal Commissioner of State Tax, Assam,
Dispur, Guwahati

Memo No. CT/GST-40/2020/116-A

Dated Dispur the 14th March, 2024.

Copy to :

1. The Commissioner & Secretary to the Government of Assam, Finance (Taxation) Department, Dispur, Guwahati-6 for favour of kind information.
2. The Special Commissioner of State Tax (All) / Additional Commissioner of State Tax (All)/ Joint Commissioner of State Tax (All) / Deputy Commissioner of State Tax (All) / Assistant Commissioner of State Tax (All) / Superintendent of State Tax (All) for information and necessary action.
3. The Information Technology Officer, Office of the Principal Commissioner of State Tax, Assam for uploading of the instruction in the website of the Commissionerate for information of all concerned.

Pallav Gopal Jha

Principal Commissioner of State Tax, Assam,
Dispur, Guwahati