

GST- ON BEAT, OFF-BEAT AND BACK BEAT

Notices under GST : FORM ADT 01



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Background and Legal Provision: Form ADT 01 is issued under Rule 101(2) the relevant Rule is given below:

CGST Rule 101: Audit (Chapter-XI: Assessment and Audit)

- (1) The period of audit to be conducted under sub-section (1) of section 65 shall be a financial year or part thereof or multiples thereof.
- (2) Where it is decided to undertake the audit of a registered person in accordance with the provisions of section 65, the proper officer shall issue a notice in FORM GST ADT 01 in accordance with the provisions of sub-section (3) of the said section.
- (3) The proper officer authorised to conduct audit of the records and the books of account of the registered person shall, with the assistance of the team of officers and officials accompanying him, verify the documents on the basis of which the books of account are maintained and the returns and statements furnished under the provisions of the Act and the rules made thereunder, the correctness of the turnover, exemptions and deductions claimed, the rate of tax applied in respect of the supply of goods or services or both, the input tax credit availed and utilised, refund claimed, and other relevant issues

and record the observations in his audit notes.

- (4) The proper officer may inform the registered person of the discrepancies noticed, if any, as observed in the audit and the said person may file his reply and the proper officer shall finalise the findings of the audit after due consideration of the reply furnished.
- (5) On conclusion of the audit, the proper officer shall inform the findings of audit to the registered person in accordance with the provisions of sub-section (6) of section 65 in FORM GST ADT 02.

From the above reading, it is amply clear that the proper office can issue notice after due process is followed and this notice can be issued based on observations in the audit notes. We also must see the relevant section in CGST Act for getting further clarity i.e. Section 65 to be reproduced below:

Section 65 – Audit by Tax Authorities

- (1) The Commissioner or any officer authorised by him, by way of a general or a specific order, may undertake audit of any registered person for such period, at such frequency and in such manner as may be prescribed.
- (2) The officers referred to in sub-section (1) may conduct audit at the place of business of the registered person or in their office.

- (3) The registered person shall be informed by way of a notice not less than fifteen working days prior to the conduct of audit in such manner as may be prescribed.
- (4) The audit under sub-section (1) shall be completed within a period of three months from the date of commencement of the audit:

Sec 65 (4) – Example:

A notice for audit was served to M/s. ABC Ltd, on 20.05.2020. The required information was given by M/s. ABC Ltd, on 25.08.2020. The audit officers visited the place of business on 26.09.2020. What is the last date within which the audit is to be completed?

It will be 3 months from 27.09.2020, viz., and 26.12.2020 or within an extended period of 6 months. The extended period would be 26.06.2021.

Explanation.—For the purposes of this sub-section, the expression “commencement of audit” shall mean the date on which the records and other documents, called for by the tax authorities, are made available by the registered person or the actual institution of audit at the place of

business, whichever is later.

- (5) During the course of audit, the authorised officer may require the registered person,—
 - (i) To afford him the necessary facility to verify the books of account or other documents as he may require;
 - (ii) To furnish such information as he may require and render assistance for timely completion of the audit.
- (6) On conclusion of audit, the proper officer shall, **within thirty days**, inform the registered person, whose records are audited, about the findings, his rights and obligations and the reasons for such findings.
- (7) Where the audit conducted under sub-section (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under section 73 or section 74.

When notice is issued it can be viewed in taxpayer’s log in like below:

Picture 1:

AUDIT	Notice for conducting Audit u/s 65(3) (GST ADT-01)	ZD2204210001479	29/04/2021	View
AUDIT	Notice calling Additional Information	ZD2204210001289	22/04/2021	View
AUDIT	Reply to request for adjournment of Audit	ZD220421000107D	14/04/2021	View
AUDIT	Audit Report (GST ADT-02)	ZD220421000100R	13/04/2021	View
AUDIT	Notice for Discrepancy under rule 101(4)	ZD2204210000976	13/04/2021	View
AUDIT	Notice for conducting Audit u/s 65(3) (GST ADT-01)	ZD220421000072I	07/04/2021	View
AUDIT	Reply to request for adjournment of Audit	ZD220421000060N	05/04/2021	View
AUDIT	Reply to request for adjournment of Audit	ZD2204210000588	05/04/2021	View

Whereas the notice will look like below in the Log in of taxpayer:

Picture 2:

Issued Notices						
Notice Reference Number	Notice Type	Notice Issue Date	Issued By	Due Date To Respond	Document	Stat
ZD220521000668T	Notice for conducting Audit u/s 65(3) (GST ADT-01)	31/05/2021	Aud Sri, Lower Division Clerks	15/06/2021	Download	Repl



Below the notices, there is an option of giving a Reply also. Once you open reply then options of documents upload, counter reply etc. also gets enabled.

It will be the duty of the Tax Payer to fully cooperate Audit team appointed and file a reply or pay tax liability received as an outcome in ADT 02 Form with the reason for asking for liability.

FAQs-

Whether the audit is mandatory in the case of every registered person?

- * No, it is not mandatory. It will be applicable only in cases where the appropriate authorities authorize the same by the issue of general/specific orders.

What are the reasons for getting Notice?

- * There are specific instances already given in Rule 101 for the issue of ADT 01 notice.
- * These instances include the correctness of the turnover, exemptions and deductions claimed, the rate of tax applied in respect of the supply of goods or services or both, the input tax credit availed and utilized, refund claimed, and other relevant issues.
- * In other words, practically all issues are covered here which may arise out of the audit.
- * Primarily this is a notice for Audit rather than notice for any demand.

What are the time constraints?

- * Usually, the taxpayer receives 15 days prior notice before the start of the audit and to be concluded in 3 months and can be extended by 6 months if needed.

What is the probable response in such a case?

- * There is no reason for giving any response but to allow for an audit to be conducted.
- * However taxpayers can get 3 reminders before it takes to a higher degree of further punishments/ notices.
- * After-tax liability is determined (after due audit or otherwise) Show Cause Notice is issued under section 73 or 74 and even if no response or cooperation is given summons can also be issued.
- * Taxpayer can request for adjournment also which may

be accepted or rejected.

Additional Information:

- ◆ Unlike scope and limits to powers under section 61 to 64 of CGST Act 2017, **scope and coverage under section 65 can extend from scrutiny and pave the way to the investigation.**
- ◆ New discoveries may be made but not make 'spot recovery'.
- ◆ Show cause notice under section 73 or 74 or 76 is a must for any demand to be entertained by the taxpayer.
- ◆ The Maharashtra Goods and Services Tax Department (MGSTD) is **initiating audits under section 65** of the MGST Act in the case of selected RTPs (Registered Tax Payers).

Rights of the Registered Person/Tax Payer:

1. To check the identity of each and every member of the audit team.
2. To get at least 15 days prescribed time limit for collection, compilation, preparation and arrangement of documents for audit from receipt of an audit notice.
3. To engage an authorized representative to act and appear on his behalf in audit proceedings.
4. To seek adjournment of proceeding in unavoidable circumstances for submission of documents keeping in mind the timelines required for completing the audit.
5. To submit his audit proceeding through letter or e-mail communication.
6. To ensure that opportunity of being heard is given properly to him by the audit authority. To represent and submit say in case of debatable/disputable issues during the audit.
7. To ensure that the audit is completed by the audit team in the prescribed time limit as per GST.
8. To receive findings of audit from the Audit Officer within 30 days of the conclusion of the audit.
9. To take benefits of the voluntary payment tax, if the audit objections are acceptable, and take advantage of the benefits available under sections 73(6)/74(6)

Duties of the Registered Person/Tax Payer:

1. To comply in time to GST-ADT-01 notice and all necessary correspondence from the audit officer with respect to the audit proceeding.
2. To make available all necessary books of account (physical record as well as accounting system access/electronic record as per necessity) to the audit team and any other document/information required to complete the audit.
3. To provide the necessary facility to verify the books of account/other documents as required.
4. To ensure the presence of either the Registered Person or his authorized representative at the place of business (POB) where the audit is being conducted during audit activity so that he can explain the books and the business activity properly.
5. To extend necessary cooperation to the audit team during the POB audit visit for timely completion of the audit.

6. To follow the statutory timelines in case of making the payment if audit findings are accepted and/or to comply with the notice under section 73/74 of GST Act in case audit findings are not accepted.

Common Advice to all the Taxpayers:

- Taxpayers are always advised to keep track of the details posted on the GST portal as a good practice and timely response to the notice.
- If any irregularity or error is found, the taxpayer should, if possible, attempt to correct the same in the latest return.
- Taxpayers should also reconcile all returns with each other, such as the turnover recorded in GSTR 1 with GSTR 3B and the generated e-way bills.
- Also, ITC reconciliation with GSTR 2A or GSTR 2B was used in GSTR 3B.