



## NOTICES UNDER GST

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### Background

As per the Cambridge English Dictionary, "Notice" means 'to see or become conscious of something'; 'to bring someone to the attention of'; 'information or a warning given about something that is going to happen in near future'.

With the structure of GST legislation being centred around self-assessment and self-certification by the taxpayer, and with the focus on procedure-based legislation, it was important for the Government to bring out provisions of law to seek both proactive and reactive attention of the taxpayer in matters relating to compliances. With focus on e-governance and digitalisation, the need to have these incorporated in the system was also the need of the hour. Ability, Agility and Accuracy were the 3 Aces required.

In order to achieve this, the overall structure underwent a revamp to include not only inform the taxpayers of the defaults, but also sending reminders to caution taxpayers of any default being noticed. It also included cases where regular information was to be sought from the taxpayers.

### Provisions of the Law

Notices under GST are communications by the GST Authorities. A notice so issued, depending upon the purpose or gravity of default or action required from the taxpayer, can be called by different names e.g. Show Cause Notice (SCN), Scrutiny Notice or Demand Notice.

GST authorities act based on any hints collected on scrutinising taxpayer's GST Returns or based on information received from another Government department/ third parties. A few common grounds for receiving notices relating to lapses/ defaults on

the part of the taxpayers are - not registering under GST when otherwise required under law, non-filing or any delay in filing of GST returns, non-payment of GST or short payment of GST, excess Input tax credit claims, etc.

In other cases, GST authorities send reminders to the taxpayers requiring them to comply with specific provisions of the law. A few examples are - not filing Part B of registration form within the specific timeline, not filing desired returns on time etc.

A taxpayer must promptly act or reply to notices within the time limit specified in such notice. Any failure to do so can land the taxpayer in a legal soup. In such eventuality, the authorities can proceed to impose penal provisions, including and not limited to penalty as well as prosecution.

### Notices under GST

Some of the frequent reasons of receiving GST notice,

- Liable but has failed to obtain GST registration.
- Delay in filing of GSTR-1 and GSTR-3B consecutively for more than six months
- Mismatch in details reported between GSTR-1 & GSTR-3B
- Inconsistent declaration in GSTR-1 and e-way bill portal
- Differences in Input tax credit claims made in GSTR-3B vis-a-vis GSTR-2A
- Non-payment of GST liability/ short-payment of the tax with or without the intent to defraud
- GST Refund wrongly claimed with or without the intent to defraud
- Anti-profiteering - Non-reduction of prices due to reduced GST Rates
- Information return required to be furnished before tax authorities, but not submitted within the time limit stipulated.

Following is the list of Notices as issued under the GST laws.

Sl. No.	Name of Notice (Form)	Section of Law (CGST Act/ Rules)	Description	Action to be taken	Time limit to respond	Consequence of not responding
1	REG-03	Rule 9(2)	Clarification required on the information provided in the new registration application or amendment of GST registration	Reply, in form REG-04 with clarification, information and document,	Within 7 working days from the date of receiving the notice	Rejection of the application (inform the applicant electronically in

				if any		form REG-05).
2	REG-17	Rule 22(1)	SCN on why the GST registration not be cancelled	Reply, in form REG-18 with the reasons	Within 7 working days from the date of receiving the notice	Cancellation of GST registration (issuance of form REG-19)
3	REG-23	Rule 23(3)	SCN on why the cancellation of GST registration must be revoked for the reasons laid down in the notice	Reply in form REG-24	Within 7 working days from the date of receiving the notice	Cancellation of GST Registration will be revoked
4	REG-27	Rule 24(3)	For cases relating to migration into GST from VAT regime, for not making application after obtaining provisional registration or not giving correct or complete details therein	Reply by applying in REG-26 and appear before the tax authority giving reasonable opportunity to be heard	None prescribed	Cancellation of provisional registration (in form REG-28)
5	GSTR-3A	Rule 68	Default notice to non-filers of GST returns in GSTR-1 or GSTR-3B or GSTR-4 or GSTR-8	File GST Returns along with late fees and interest, if any	15 days from the date of receiving notice	Best judgement basis assessment by Dept. including penalty u/s 122
6	CMP-05	Rule 6(4)	SCN on eligibility to be a composition dealer	Necessary justification in form CMP-06	15 days of receipt of the notice	Penalty u/s 122 plus order (in form CMP-07) denying the benefit of the scheme
7	PCT-03	Rule 83(4)	SCN for misconduct by the GST practitioner	Necessary justification	Within time prescribed in the SCN	Cancellation of the license as GST practitioner
8	RFD-08	Rule 92(3)	SCN on rejection of GST refund made	Reply in form RFD-09	Within 15 days of receipt of notice	Rejection order (in form RFD-06)
9	ASMT-02	Rule 98(2)	Additional Information for provisional assessment under GST	Reply (in form ASMT-03 along with documents	Within 15 days of the service of the notice	Application may be rejected
10	ASMT-06	Rule 98(5)	Additional information for final assessment under GST	Reply (in form ASMT-03 along with documents	Within 15 days of the service of the notice	Order, in form ASMT-07 may be passed ex-parte
11	ASMT-10	Rule 99(1)	Notice for intimating discrepancies in the GST return after scrutiny	Reply in form ASMT-11 giving reasons for discrepancies	Within the time prescribed in the SCN or 30 days from the date of service of notice	Ex-parte assessment
12	ASMT-14	Rule 100(2)	SCN – Assessment u/s 63 (best judgement assessment)	Appearance before the concerned authority	Within 15 days of the notice	Assessment order in form ASMT-15
13	ADT-01	Rule 101(2)	Notice for conducting Audit u/s 65	Attend in person and/ or produce records	Within the time prescribed in the notice	Deemed that the taxpayer doesn't possess necessary records and proceedings shall be initiated accordingly.

14	RVN-01	Rule 109B	Notice u/s 108 issued by revisional authority	Reply within prescribed time and/ or appear before the authority	Within 7 working days of the serving of the notice	Ex-parte judgement
15	DRC-01	Rule 100(2) & Rule 142(1)(a)	SCN for demand of tax (served along with DRC-02)	Reply, in form DRC-06. Payment in form DRC-03	Within 30 days of the notice	Order passed with available details
16	DRC 10	Rule 144(2)	Notice for Auction of Goods u/s 79(1)(b)	Pay outstanding demand as per form DRC-09	As specified in the notice	Proceed with auction and sale
17	DRC-11	Rule 144(5) & Rule 147(12)	Notice to the successful bidder	Pay the bid amount	Within 15 days from the date of auction	Re-auction
18	DRC-13	Rule 145(1)	Notice to a third person u/s 79(1)(c)	Deposit the amount specified in the notice and reply in form DRC-14	Not Applicable	Deemed to be a defaulter
19	DRC-16	Rule 147(1)& Rule 151(1)	Notice for attachment and sale of immovable/movable goods/shares u/s 79	Refrain from transferring/ creating charge on the assets	Not applicable	Prosecution and penalties

### Mode of sending GST Notices

Section 169(1) of the CGST Act, 2017 states the different means of communicating the notices by the Department. The notice, so issued, may be sent to the taxpayers through,

- Hand-delivered either directly or by a messenger, including by a courier, to the taxpayer or his representative (manager, advocate, family member etc.)
- By registered post or a speed post or a courier with an acknowledgement due, addressed to the last known place of the business of the taxpayer.
- Communication to the email address provided at the time of registration, as amended from time to time.
- Making it available on the GST portal after logging in.
- By publication in a regional newspaper being circulated in the locality of the taxpayer based on the last known residential address.
- If none of the above means is used, then by affixing it in some prominent place at his last known place of business or residence. If this is not found as reasonable by the tax authorities, they can affix a copy on the notice board of the office of the concerned officer or authority as a last resort.

Thus, the taxpayer need not act upon the notice or communication if it is received in any other modes apart from what is notified by GST law from time-to-time.

### Closing the loop

With the emphasis on reduction in documentation (in physical paper form) through digitalisation and reducing personal interaction with Department, the GST system has been designed so that all replies to the GST notices can be submitted online on the GST portal.

Where the notice issued warrants payment of tax and interest, payment of such liability in the requisite form and manner is a prerequisite. After such payment, the reply letter in requisite form, along with documents, if any, must be submitted before the tax authority who sent notice. A taxpayer can use the digital signature or e-signature of the authorised personnel of such taxpayer or himself to file such reply.

A taxpayer can also authorise another representative to look into the matters related to GST notices. He can do so, by issuing Letter of Authorisation under GST. GST authorisation letter gives the power of replying to GST notices by another representative and taking action on behalf of him.

In case the taxpayer receiving the GST notices does not reply within the stipulated time limit, he shall be liable for penalties, which may include prosecution, and further proceedings as per the provisions of the GST law. So, it is always advisable to be on the 'right' side of the law so that one is not 'left' out.