CBEC-20/06/04/2019-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing
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New Delhi, Dated the 24th December, 2019

To,

The Pr. Chief Commissioners / Chief Commissioners / Principal Commissioners / Commissioners of Central Tax (All)
The Principal Director Generals / Director Generals (All)

Madam/Sir,

Subject: Standard Operating Procedure to be followed in case of non-filers of returns – reg.

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Doubts have been raised across the field formations in respect of the appropriate procedure to be followed in case of non-furnishing of return under section 39 or section 44 or section 45 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act"). It has further been brought to the notice that divergent practices are being followed in case of non-furnishing of the said returns.

2. The matter has been examined. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby issues the following clarifications and guidelines.

3. Section 46 of the CGST Act read with rule 68 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the "CGST Rules") requires issuance of a notice in **FORM GSTR-3A** to a registered person who fails to furnish return under section 39 or section 44 or section 45 (hereinafter referred to as the "defaulter") requiring him to furnish such return within fifteen days. Further section 62 provides for assessment of non-filers of return of registered persons who fails to furnish return under section 39 or section 45 even after service of notice under section 46. **FORM GSTR-3A** provides as under:

"Notice to return defaulter u/s 46 for not filing return

Tax Period - *Type of Return -*

Being a registered taxpayer, you are required to furnish return for the supplies made or received and to discharge resultant tax liability for the aforesaid tax period by due date. It has been noticed that you have not filed the said return till date.

1. *You are, therefore, requested to furnish the said return within 15 days failing which the tax liability may be assessed u/s 62 of the Act, based on the relevant material available with this office. Please note that in addition to tax so assessed, you will also be liable to pay interest and penalty as per provisions of the Act.*

2. *Please note that no further communication will be issued for assessing the liability.*

3. *The notice shall be deemed to have been withdrawn in case the return referred above, is filed by you before issue of the assessment order."*

As such, no separate notice is required to be issued for best judgment assessment under section 62 and in case of failure to file return within 15 days of issuance of **FORM GSTR-3A**, the best judgment assessment in **FORM ASMT-13** can be issued without any further communication.

4. Following guidelines are hereby prescribed to ensure uniformity in the implementation of the provisions of law across the field formations:

(i) Preferably, a system generated message would be sent to all the registered persons 3 days before the due date to nudge them about filing of the return for the tax period by the due date.

(ii) Once the due date for furnishing the return under section 39 is over, a system generated mail / message would be sent to all the defaulters immediately after the due date to the effect that the said registered person has not furnished his return for the said tax period; the said mail/message is to be sent to the authorized signatory as well as the proprietor/partner/director/karta, etc.

(iii) Five days after the due date of furnishing the return, a notice in **FORM GSTR-3A** (under section 46 of the CGST Act read with rule 68 of the CGST Rules) shall be issued electronically to such registered person who fails to furnish return under section 39, requiring him to furnish such return within fifteen days;

(iv) In case the said return is still not filed by the defaulter within 15 days of the said notice, the proper officer may proceed to assess the tax liability of the said person under section 62 of the CGST Act, to the best of his judgement taking into account all

the relevant material which is available or which he has gathered and would issue order under rule 100 of the CGST Rules in **FORM GST ASMT-13.** The proper officer would then be required to upload the summary thereof in **FORM GST DRC-07;**

(v) For the purpose of assessment of tax liability under section 62 of the CGST Act, the proper officer may take into account the details of outward supplies available in the statement furnished under section 37 (**FORM GSTR-1**), details of supplies auto-populated in **FORM GSTR-2A**, information available from e-way bills, or any other information available from any other source, including from inspection under section 71;

(vi) In case the defaulter furnishes a valid return within thirty days of the service of assessment order in **FORM GST ASMT-13,** the said assessment order shall be deemed to have been withdrawn in terms of provision of sub-section (2) of section 62 of the CGST Act**.** However, if the said return remains unfurnished within the statutory period of 30 days from issuance of order in **FORM ASMT-13,** then proper officer may initiate proceedings under section 78 and recovery under section 79 of the CGST Act;

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5. Above general guidelines may be followed by the proper officer in case of non-furnishing of return. In deserving cases, based on the facts of the case, the Commissioner may resort to provisional attachment to protect revenue under section 83 of the CGST Act before issuance of **FORM GST ASMT-13.**

6. Further, the proper officer would initiate action under sub-section (2) of section 29 of the CGST Act for cancellation of registration in cases where the return has not been furnished for the period specified in section 29.

7. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

8. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Yogendra Garg)
Principal Commissioner (GST)