

**GOVERNMENT OF TAMIL NADU
COMMERCIAL TAXES DEPARTMENT
OFFICE OF THE COMMISSIONER OF COMMERCIAL TAXES
EZHILAGAM, CHENNAI- 600 005
PRESENT: THIRU DHEERAJ KUMAR I.A.S.,
PRINCIPAL SECRETARY/ COMMISSIONER OF STATE TAX**

**Circular No. 14/2022 – TNGST
(PP2/GST-15003/23/2022)**

Date: 12.11.2022

Sub: Procedures for initiation of action on non-filers of returns under TNGST Act, 2017 – instructions issued – reg.

Ref: 1. Commissioner of Commercial Taxes, Circular No. 23/2019, (PP2/32794/2019), dated 08/11/2019.
2. Commissioner of Commercial Taxes, Circular No. 28/2019, (PP2/38242/2019), dated 11/12/2019.
3. Principal Secretary / Commissioner of Commercial Taxes, letter no. R1/E-845773/2022, dated 22/08/2022
4. Government of India, Ministry of Finance, Department of Revenue, Central Board of indirect Taxes and Customs, Notification No.18/2022, Centre dated 28/09/2022.
5. Government of India, Ministry of Finance, Department of Revenue, Central Board of indirect Taxes and Customs, Notification No.19/2022, Centre dated 28/09/2022.

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In the reference first cited, instructions regarding clarity on the roles and responsibilities and procedures to be followed by the Proper Officers and also clear demarcation between Territorial and Intelligence Divisions were issued.

It was instructed in the circular that

- a. Primary responsibility for ensuring timely filing of returns rests with the Assessing Officer. With the help of sub-ordinates, he should secure compliance of the filing of returns. If return is not filed, the registered tax payers shall be contacted over phone,

by sending SMS / emails / letters to them. They shall be persuaded by the Assessing Officer to see that the returns are filed.

- b. If persuasion is unsuccessful, a warning letter cum notice under Section 46 may be issued by the jurisdictional officer highlighting how non-filing would attract legal consequences like penalty, late-fee, interest etc. Continuous non-filing attracts action under Section 46 of the TNGST Act, 2017, and further under Section 62 of the TNGST Act, 2017. Action for field verification and a report on GST FORM 30 in the cases where the jurisdictional officer has bonafide belief that the non-filer may not be operational in the registered premises, procedure to be followed and action to be taken under Section 29 for cancellation of registration was also instructed.
- c. **Assessment of return non filers:-** In respect of the registered person who fails to file returns under Section 39, even after expiry of time limit in the notice issued under Section 46, the Proper Officer shall proceed to assess the tax liability under Section 62 of the Act for the said person.

2. Vide reference second cited, detailed circular with regard to cancellation has also been issued in this regard.

3. The powers for cancellation for registration is vested with Proper Officer under Section 29(2) of the TNGST Act 2017 and Rule 21 of the TNGST Rules 2017, read with Notification no.18/2022 – Central Tax dated 28.9.2022 with effect from 01.10.2022, and in Notification no.19/2022 – Central Tax dated 28.9.2022 with effect from 01.10.2022 as follows.

Sl. No.	Event	Initiation of cancellation.
1	Tax payers filing monthly returns in Form GSTR-3B	Not filed for a continuous period of six months.
2	Tax payer filing returns under QRMP scheme.	Not filed returns in GSTR-3B for 2 continuous tax periods.
3	Composition tax payer filing return in GSTR-4	Beyond three months from the due date of furnishing the said return.

4. In the reference 3rd cited, it was instructed that there is equal responsibility on the part of the Deputy Commissioners and Joint Commissioners of the Zone and Division respectively in ensuring filing of returns within the time prescribed under the Act. Though 90% of the revenue is derived from 37,740 tax payers, the fact remains that at the end of the every month, revenue is realised from only 90% of the above mentioned tax payers. Timely collection of returns is the most important

item of work in the territorial division. From 20th to 30th of every month, priority is to ensure that all returns of these tax payers who are contributing 90% of the revenue are filed before the end of the month.

5. Further, it was instructed that all the Joint Commissioners are directed to fix responsibility to the respective Proper Officers and the Deputy Commissioners in the following manner:-

5.1 All the top payers of the Commercial Tax District / Zone, the Deputy Commissioners concerned shall personally ensure filing of returns within the time period not exceeding 30th of the succeeding month.

5.2 The Proper Officers of the respective assessment shall follow up with the tax payers and monitor continuously until filing of returns within the time period not exceeding 30th of the succeeding month.

6. Even after issue of above instructions to watch the return filing meticulously, the status of non-filing of such top revenue tax payers, is increasing month on month. This is due to non-monitoring of the filing of returns by the top taxpayers. There may be cases where the top tax payers fail to file returns for more than 6 months. Proper action at the appropriate time is not taken by the Proper Officers in such cases. Strict supervisory action and continuous monitoring in this regard is to ensure compliance in filing of returns in due date.

7. Hence, the responsibilities and procedures to be followed in respect of non-filers are reiterated as below:-

(I) Assessment of non-filers of Form GSTR 3B:-

(i) When a registered tax payer fails to file return under Section 39 of the TNGST Act, 2017, on the due date, action under Section 46, is initiated automatically by the GSTN System and a notice as per Rule 68 of the TNGST Rules, 2017, in FORM GST-3A is generated and issued electronically on the day preceding the last day of the month.

Hence, the following action has to be taken after the due date for filing return, till the date of generation of FORM GSTR - 3A electronically.

(a) Proper Officer

Every Proper Officer has to contact the defaulter over phone for reminding to file the pending returns. E-mails shall be sent to the defaulter's authorised signatory for the same purpose.

(b) Territorial Deputy Commissioners.

The Deputy Commissioners shall personally watch the filing of returns by the top 100 tax payers of their respective zones contributing 90% of the Revenue and for any default in filing of such returns, the Deputy Commissioner concerned would be held responsible.

(c) Territorial Joint Commissioners.

The Territorial Joint Commissioners shall closely monitor the progress of return filing by the top registered tax payer contributing 90% of the Revenue and see that the returns are filed in time.

(ii). The Registered tax payer on receipt of FORM GSTR- 3A, shall file the return within 15 days from the date of receipt of the said FORM GSTR-3A notice. For those who file the returns within 15 days, the notice issued in FORM GSTR-3A shall be deemed to have been withdrawn. The details of defaulters who fail to file FORM GSTR-3B returns even after expiry of FORM GSTR-3A time limit, is reflected in the Proper Officer's back office login.

(iii) The Proper Officer should initiate the task to take action under Section 62 of the TNGST Act, 2017, to assess the turnover under best of judgement taking in to account all the relevant materials available or gathered in respect of defaulting registered tax persons.

(iv) The assessment order in FORM GST ASMT-13 along with summary in FORM GST DRC-07 thereof shall be uploaded electronically. In respect of the assessment order passed under Section 62, it has been specifically stated that the said assessment order shall be deemed to have been withdrawn if the registered person furnishes a valid return within **thirty days of service** of the assessment order.

(II) Assessment of Non-filers of QRMP Return

In respect of QRMP return filers, a list of defaulters shall be prepared for non-payment of tax and they have to be persuaded by the Proper Officer for payment of tax for that month. When the QRMP Return filer, fails to file return in FORM GSTR 3B for two consecutive tax period, action under Section 62 of the TNGST Act 2017, has to be initiated. The procedures followed in respect of regular filers has to be undertaken in respect of QRMP return filers also.

III Hence, the Proper Officer shall issue ASMT-13 along with DRC-07 in respect of non-filers who are contributing 90% of revenue and top 50 tax payers based on the revenue in previous financial year **within 30 days of expiry of FORM 3A time limit**. For ex. if FORM 3A is generated on 30th

October, then the issue of ASMT-13 in the above targeted cases shall be completed before 15th December.

IV. The Proper Officer shall initiate recovery proceedings under Section 78 and recovery of tax under Section 79 of the TNGST Act 2017 for the above demand.

8. Cancellation of Registration of non-filers:-

a. Non-filers of returns in Form GSTR-3B (Regular / QRMP):-

(i) . If the registered tax payer fails to file monthly returns in Form GSTR-3B, for continuous period of six months or quarterly return filer in Form GSTR-3B for two consecutive tax period, besides Best of Judgement orders issued under Section 62 and consequent recovery action, under Section 79, the Proper Officer shall **initiate cancellation and suspend the registration** of the Registered Tax Payer as provided under Section 29 (2), of the TNGST Act, 2017.

b. Non-filers of GSTR-4 (Composition tax payer)

(ii) In respect of Composition tax payer, the Proper Officer shall prepare a list of defaulters and action shall be taken under Section 29 of the TNGST Act 2017. As per the amended provision, as the due date for furnishing GSTR-4 is 30th April, cancellation shall be initiated beyond three months from the date of furnishing such return. Hence, the cancellation shall be initiated in August and cancellation orders shall be issued before the end of September.

(iii). The procedure as prescribed in the TNGST Act, shall be followed while cancelling the Registration of the return defaulters. After the registered tax payer's registration is cancelled, within 15 days from the date of issue of cancellation proceedings, the Proper Officer shall verify the place of business to ascertain as to whether the cancelled tax person is continuing business. If business is being carried out by the said person, the Proper Officer should report to the Intelligence Wing for inspection through the concern Joint Commissioner (ST) along with his / her report.

(iv) On receipt of the report from the concerned Joint Commissioner (ST), the concerned Joint Commissioner (Intelligence) shall conduct inspection immediately on place of business of the tax payer whose registration has been cancelled.

9. All the Proper Officers, Deputy Commissioners, Joint Commissioners are requested to adhere to the instructions strictly. All the Joint Commissioners shall acknowledge the receipt of this circular immediately.

Sd/- Dheeraj Kumar
Principal Secretary /
Commissioner of State Tax

To

1. All the Joint Commissioners (Territorial) including LTU and (Intelligence).
2. All the Deputy Commissioners in the State (Territorial) and (Intelligence).
3. The Head of Assessment Circles.

Copy to

1. All the Additional Commissioners (CT), O/o the CCT, Chennai-5.
2. The Director, Commercial Taxes Staff Training Institute, Chennai-35.
3. The Joint Commissioner (Computer Systems), Chennai 35 for uploading in the intranet website.
4. Stock file

/forwarded by order/


Joint Commissioner (P & P)

