Chartered Accountants Association, Surat

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Ref: CAAS/Representations/2023-24/04 Date: 20-01-2024

To,

Commissioner of State Tax (Gujarat),

Rajya Kar Bhawan,

Near Times of India Office,

Ashram Road,

Ahmedabad – 380009

Sub: Unscrupulous practices by SGST Officials to harass stakeholders

Respected Sir,

With reference to the above captioned subject, we at Chartered Accountants Association Surat (CAAS) would like to draw your attention towards various unscrupulous practices by SGST Officials to harass stakeholders with the intent of obtaining undue gratification in the course of performance of their statutory duties.

CAAS has always supported and promoted in adopting ethical practice by CA fraternity. While our association respects, the checks and measures placed by the Government to avoid harassment and resultant corruption, we have noticed in the most objective manner that the same procedures are not followed in appropriate spirit by the GST Officials of the State (SGST).

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Once such unscrupulous practice adopted by SGST Officials is to harass stakeholders, may it be the taxpayer, his consultant, attorney, CA or their employees, by asking these stakeholders to meet the respective officials personally, else their work shall not be accomplished.

Instances when such methods are adopted are at the time of:

1. **Processing registration applications**

   It is beyond any doubt that any registration application is the welcoming gesture to the registered tax payer to allow them and invite them to comply with the procedures of the GST Law. At present GST registrations are lingered till the very last day that is statutorily available to process the application and at the 11th hour the application is either bombarded with irrelevant queries or is altogether rejected on the basis of vague queries.

2. **Issuing Refunds**

   While the automated GST refunds obtained directly from ICEGATE in cases where exports are made with payment of duty are a boon to the industry. But on the other hand, the refunds issued manually are handled based on the weight of gratification which ranges from 1% to 1.5% of the refund amount. The registered persons whose monies are involved do not intend to fight for the same as huge amount gets piled up at the time of refund especially in case of inverted duty structure.

3. **Assessment Proceedings**

   In the course of number of assessment proceedings where stakeholders were asked to visit the officer and where all relevant information was already

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submitted online, the concerned officers had passed high pitched orders in lakhs and crores of rupees without application of mind. There is no mandate under CGST Act or Rules to visit the office in any assessment proceedings. Officials, on being confronted with the question of why such high-pitched orders were passed without considering submission on record, the officials have taken the matter casually and asked the registered persons to file an appeal. Ironically, the appeal under GST is a farce and has become a laughing stock, with number of appeals whose first hearing has even after not been initiated even after the passage of more than 2 years. Also, it not feasible to file appeal for petty matters.

4. **Allowing cancellation of registration**

The most painful part of harassment is when the business has been closed, partners have wound up their books of accounts and applied for cancellation of registration, the department comes up with rejecting the cancellation application, which results into re-activation of all procedural liabilities like penalties for filing of returns during the intervening period from the date of cancellation application till the date of revocation.

The real procedure for cancellation of registration was already made clear by Hon'ble Gujarat High Court in case of ***Aggarwal Dyeing And Printing Works vs State Of Gujarat (Feb 2022),*** stating in Para 9.2(v) of the judgement as follows:

> *"However, when the person who has submitted an application for cancellation of his registration is no longer liable to be registered or*

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his registration is liable to be cancelled, the Superintendent of Central Tax will issue an order in FORM GST REG-19, within a period of thirty days from the date of application or, as the case may be, the date of the reply to the show cause issued, cancel the registration, with effect from a date to be determined by him and notify the taxable person, directing him to pay arrears of any tax, interest or penalty."

Hence, when cancellation application is made by the applicant u/s 29(1)(a) or (c) read with Rule 22(3), issuing rowing inquiries at this stage is nowhere stipulated under any law or rule. The registration has to be cancelled without further questioning. Any apprehension relating to evasion of tax is well within the powers of the department to be handled through their powers of assessment by issuing notice in ASMT-10.

Sec.157 of CGST Act, 2017 provides immunity to the GST Officers for anything done or intended to be done in good faith. However, the good faith lacks here, when the officials are not knowing the law which they intend that the stakeholders must know. A Latin maxim "***ignorantia juris non-excusat***" aptly describes that ignorance of law is not an excuse.

If the officers are ignorant in law, then doctrine of good faith does not work. If officers are knowing the law and still asking stakeholders to visit them for petty tasks of allowing cancellation of registration with an intention to obtain undue gratification, good faith still does not work.

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To objectively test the veracity of the claim that officials call the stakeholders, Member of our association who was compelled to visit the officer for the task of cancellation of registration, arranged a telephonic conversation with the said officer, and the Vice President of our association was told that without your member visiting the office, how shall the task get accomplished.?

In the sister department of CGST, no such harassments are being faced by the stakeholders. We have list of such unscrupulous officers involved in unethical practices which can be provided to you at any time.

We hope that you would take a prompt action in the above matter.

Thanks & Regards,

For Chartered Accountants Association, Surat.

President | Secretary

Copy to: -

(1) **The Chairman (CBIC),** - **for information and appropriate action**
The Ministry of Finance, New Delhi – 110001

(2) **Finance Minister (Gujarat),** - **for information only**
Swarnim Sankul-1, 2nd Floor, Sachivalaya, Sector-10 Gandhinagar-382010

(3) **Joint Commissioner of State Tax,** - **for information and appropriate action**
C-Wing, Bahumali Bhavan, Nanpura, Surat

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