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**GOVERNMENT OF KARNATAKA**

**(Department of Commercial Taxes)**

No. Adcom (A, I & C)/PA/CR-09/2023-24

Office of the  
Commissioner of Commercial Taxes  
(Karnataka), VTK-1, Gandhinagar,  
Bengaluru, Dated 06-07-2023.

**COMMISSIONER OF COMMERCIAL TAXES  
CIRCULAR No.GST-05/2023-24**

Sub: Standard Operating Procedure (for conduct of Search &  
Seizure under Section 67(2) of the Karnataka Goods and  
Services Tax Act, 2017).

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**Preamble:**

The taxation scheme under the GST Act and rules predominantly provides an elaborate design to aid and promote compliance by taxpayers based on self-assessment. Notably, at the same time, it also provides for a systematic process to deal with non-compliance by any taxpayer by misuse of the self-compliance environment provided. Detection of tax evasion in a quite a number of cases has to be achieved through a physical intervention by the departmental officers to determine the fact of noncompliance and tax evasion by surprise inspections of the premises of the taxpayers concerned which may lead to search of the premises to obtain and verify, the taxpayers' records which are not voluntarily produced or physical evidence in the form of goods involved in tax evasion. It may also lead to seizure of records and goods in some cases. It is worthwhile to note that the entire process of identifying a case for physical inspection, obtaining statutory authorisation for inspection, search and seizure, subsequent conduct of search and seizure, and all other attendant processes are required to be systematic and consistent with the legal provisions and accepted practices to ensure that the evidence and findings gathered which can be relied for assessment, stand legal scrutiny. It needs to be ensured that there is no compromise of the revenue interests by procedural lapses in the entire process either by ignoring

the statutory obligations of the departmental authorities or the rights of the taxpayer. It is therefore considered necessary to reiterate the relevant legal provisions for the benefit of all the departmental officers and to lay down suitable guidelines for effective and uniform implementation of the law relating to search and seizure in the interests of public revenue.

Whereas, sub-section (2) of Section 67 of the Karnataka Goods and Services Tax Act, 2017 (herein afterwards referred to as KGST Act) empowers proper officer not below the rank of Joint Commissioner to authorise or carry out search proceedings. In such a case the Joint Commissioner should have reason to believe that any goods liable for confiscation or any documents/books which in his opinion are relevant for the proceedings under the KGST Act, are concealed/hidden at any place. 2) Sub-sections (2) and (3) of Section 67 of the KGST Act reads as follows:

*“(2) Where the proper officer, not below the rank of Joint Commissioner, either pursuant to an inspection carried out under sub-section (1) or otherwise, has reasons to believe that any goods liable to confiscation or any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Act, are secreted in any place, he may authorise in writing any other officer of state tax to search and seize or may himself search and seize such goods, documents or books or things:*

*Provided that where it is not practicable to seize any such goods, the proper officer, or any officer authorised by him, may serve on the owner or the custodian of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer:*

*Provided further that the documents or books or things so seized shall be retained by such officer only for so long as may*



be necessary for their examination and for any inquiry or proceedings under this Act.

*(3) The documents, books or things referred to in sub-section (2) or any other documents, books or things produced by a taxable person or any other person, which have not been relied upon for the issue of notice under this Act or the rules made thereunder, shall be returned to such person within a period not exceeding thirty days of the issue of the said notice."*

II. Further, Rule 139 of Karnataka Goods and Services Tax Rules, 2017 (**herein afterwards referred to as KGST Rules**) prescribes the procedure to be followed while conducting Search and Seizure.

- i. Sub-rule (1) thereof provides for the issuance of authorisation in Form GST INS-01 by the proper officer not below the rank of Joint Commissioner authorising any officer subordinate to him to conduct the inspection or search or, as the case may be, seizure of goods, documents or things liable to confiscation.
- ii. Sub-rule (2) thereof provides that any goods, documents, books or things are liable to seizure under sub-section (2) of section 67, the proper officer or an authorised officer shall make an order of seizure in Form GST-INS-02.
- iii. Sub-rule (5) thereof provides that the officer seizing the goods, documents, books or things shall prepare an inventory of such goods or documents, books, or things containing inter alia, description, quantity or unit, make, mark or model where applicable, and get it signed by the person from whom such goods or documents or books or things are seized.

**III. To ensure that the provisions of search and seizure are used properly and effectively while at the same time the rights of taxpayers are also protected, and also to bring uniformity in the procedure for search and seizure carried out by the departmental officers, the following SOP is issued for the guidance of the officers.**

**IV. Essential conditions for the Search & Seizure:**

The search and seizure may be taken up under Section 67(2) of the KGST Act only if the proper officer, empowered to issue Authorisation for Search has the reasons to believe that; -

- i. any goods liable to confiscation are secreted in any place; or
- ii. any documents or books or things which in his opinion shall be useful for or relevant to any proceedings under this Act are secreted in any place;

**V. Officer empowered to issue Authorisation for Search & Seizure and the officers to whom the search & seizure Authorisation can be issued:**

- i. The Proper Officer to issue authorisation for Search and Seizure is the Additional Commissioner of Commercial Taxes (Enforcement), South Zone and the Joint Commissioner of Commercial Taxes of the DGSTOs/ other Enforcement zones.
- ii. Such Search and Seizure authorisation may be given to their subordinate officers, not below the rank of Commercial Tax officers.
- iii. The Proper Officer who is empowered to issue authorisation for search and seizure is also empowered to conduct search of any premises and seize such goods, documents or books or things on his own as per Section 67(2) of the KGST Act.

**VI. Places to be searched.**

Search can be conducted at any place which would include any house, office, building, vehicle etc. It includes the premises of any person and not just the taxable person, where there is reason to believe that **any goods**

*liable to confiscation are secreted in any place, or any documents or books or things which in his opinion shall be useful for or relevant to any proceedings under this Act are secreted in any place.*

#### **VII. Powers of the officer authorized to search.**

The officer authorized to search will have the power to

- i. Seal the door of the premises.
- ii. Break open the door of any premises if access is denied.
- iii. Break open any cupboard or box in which goods, books, documents etc. are suspected to be concealed.

#### **VIII. Procedure to be followed in Search and Seizure**

The Proper officers who have been authorised to conduct Search and Seizure have to follow the below-mentioned procedure during the pre-search, search and post-search operations.

##### **1. Pre-Search and Seizure Procedure:**

- a. **Gathering of Intelligence from various sources:** It is the responsibility of the proper officer to collect all available information and documentary evidence to put up the case for obtaining authorisation (assignment) under Section 67(2) of the KGST Act.
- b. **Intelligence Report:** The proper officer after gathering all reasonable evidence shall prepare an Intelligence Report mentioning the reasons to believe that *any goods liable to confiscation are secreted in any place; or any documents or books or things which in his opinion shall be useful for or relevant to any proceedings under this Act are secreted in any place.* Thereafter he shall put up the report to the Additional Commissioner or Joint Commissioner as the case maybe for obtaining authorisation (assignment) under section 67(2) of the KGST Act.



- c. Obtaining Authorization to conduct Search and Seizure / investigation:** After Submitting the Intelligence report to the authorisation (Assignment) issuing authority, a valid Search warrant i.e. Assignment u/s 67(2) of The KGST Act needs to be obtained in GST INS-01. **No search of any premises should be carried out without a dule filled in valid search warrant issued by the assignment issuing authority.**

**2. Search and Seizure Procedure:**

- a. The procedure prescribed under Rule 139 of KGST Rules shall be followed for conducting Search & Seizure.
- b. The search warrant should be executed before the start of the search by showing the same to the person in charge of the premises and his signature should be taken on the body of the search warrant in token of having seen the same. The signatures of at least two witnesses should also be taken on the body of the search warrant.
- c. There is no need to give a copy of the search authorisation to the person in charge of the premises.
- d. The search should be made in the presence of at least two independent witnesses of the locality. If no such inhabitants are available /willing, the inhabitants of any other locality should be asked to be witnesses to the search. The witnesses should be briefed about the purpose of the search.
- e. Precaution should be taken to avoid those persons as *panch* witnesses who are dependent for their livelihood on the Commercial Taxes Department viz., Department hired vehicle owners, the department hired vehicle drivers, their family members, etc.
- f. There should be a lady officer accompanying the search team when the search of a residential premises is being conducted.

- g. Before the start of the search proceedings, the team of officers conducting the search and the accompanying witnesses should offer themselves for their personal search to the person in charge of the premises being searched. Similarly, after the completion of the search all the officers and the witnesses should again offer themselves for their personal search and the same shall be recorded in the *Panchnama / Mahazar*.
- h. The search shall be conducted in a professional and peaceful manner. No religious sentiments shall be hurt during the search. The honour of family members including any domestic help, especially women and children present in the searched premises shall be respected. No damage to the property shall be done during the search.
- i. If a situation arises to break open the locks of any closed container or premises, proper procedure shall be followed before the *panch* witnesses.
- j. All the incriminating material gathered during the search shall be kept in one place with proper numbering (marking) and it shall be entered in the Annexure to the *Panchnama*. If quantification of any goods is to be done then the same shall be done scientifically so as to arrive at the exact quantities.
- k. The Authorised Officer may issue the Order of Seizure in Form GST INS-02 seizing the goods/documents/books/things recovered during the search.
- l. If the Authorised Officer is of the opinion that, it is not practicable to seize any such goods, then, after obtaining necessary permission from the Proper Officer, he may serve an 'Order of Prohibition' in Form GST INS-03 on the owner or the custodian of the goods informing that he shall not remove/part with/otherwise deal with the goods except with his previous permission.

- m. A *Panchnama/Mahazar* of the proceedings of the search should necessarily be prepared on the spot. A list of all goods, and documents recovered and seized/detained should be prepared and annexed to the *Panchnama/Mahazar*. The *Panchnama/ Mahazar* and the list of goods/documents seized/detained should invariably be signed by the witnesses, the in-charge/ owner of the premises before whom the search is conducted and also by the officer(s) duly authorized for conducting the search.
- n. After completing the search, a Summon under Section 70 of the KGST Act may be issued and the statement of the person in charge with the proper questionnaire related to the business and other information related to the investigation shall be recorded.
- o. Before leaving the premises, a copy of *Panchnama* along with the copy of the Annexure of items/documents/books recovered along with a copy of the Seizure order in GST INS-02 shall be handed over to the person in charge of the premises under proper acknowledgement.
- p. After the search is over, the search warrant duly executed shall be returned in original to the issuing authority with a report regarding the outcome of the search. The names of the officers who participated in the search may also be written on the reverse of the search warrant.
- q. The issuing authority of search warrant should maintain a register of records of search warrant issued and returned and used search warrants should be kept in records.

### **3. Post Search and Seizure Procedure:**

- a. **Incident Report:** On conclusion of the search and seizure procedure, an Incident Report containing a gist of observations made during the course of investigation needs to be prepared in




brief. The same may be brought to the attention of other Enforcement zones of the state as well as Centre Counterpart to avoid the duplication of investigations.

- b. Consequent upon the conduct of search, if the Authorised Officer is of the opinion that any further information is required from the Taxpayer and/or statement is required from the Taxpayer regarding the transactions in the recovered documents/books/things/goods, then he may issue a Summon in terms of Section 70 of KGST Act.
- c. Consequent upon the Search of the premises and Seizure of the documents/books/things/goods and gathering of required information/data/documents by the Authorised Officer and after consolidating the findings based on the material evidences gathered, the entire facts along with the proposal to issue authorisation for Show cause Notice under section 73 or 74 of the KGST Act as the case may be put up by the Authorised Officer to the issuing authority.
- d. The Proper Officer shall examine the entire material on record and findings of the Authorised officer, and upon his satisfaction about the sustainability of the case, he may issue written permission to the same Authorised Officer to issue Show Cause Notice to the Taxable person.
- e. Only after obtaining such written permission to initiate adjudication proceedings, the Officer so authorised shall initiate the Show cause Notice (SCN) proceedings against such Taxable person.
- f. If the Taxpayer accepts and admits the liability as determined in the aforesaid SCN, then the Authorised Officer may conclude proceedings under section 73(8) or 74(8) of the KGST Act read with 73(5) or 74(5) of the KGST Act as the case may be.

- g. If the Taxpayer has not accepted and admitted the said liability as determined in the aforesaid SCN, then the Authorised Officer shall forward the Investigation report along with the SCN and Reply if filed by the Tax payer and other documents relied upon in the investigation, to the concerned Divisional Goods and Services Tax Office (DGSTO) for Adjudication Proceedings.

IX. It is reiterated again that the powers of search and seizure are to be exercised in cases where there is prima facie evidence of suppression of turnover and tax liability which cannot be unearthed otherwise. It should also be evident that any delay may result in destruction or fabrication of evidence proving tax evasion, thereby resulting in revenue loss to the State. The aforesaid SOP shall be mandatorily followed while exercising the powers of search and seizure.



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**ANNEXURE-I**

**FORM GST INS-1**

**AUTHORISATION FOR INSPECTION OR SEARCH**

*[See rule 139 (1)]*

MA INS No. \_\_\_\_/FY

To:

<< Name of Inspecting Officer >>

<< Designation of Inspecting Officer >>

<< Enforcement Division Name >>

Whereas information has been presented before me and I have reasons to believe that—

<<Trade Name of Tax Payer >>

<<Address of Place of Business>>

<<GSTIN: \_\_\_\_\_>>

And other Business locations (If any) and

Any other undisclosed Business location (if any):

I

- has suppressed transactions relating to supply of goods and/or services
- has suppressed transactions relating to the stock of goods in hand
- has claimed input tax credit in excess of his entitlement under the Act
- has indulged in contravention of the provisions of this Act or rules made thereunder to evade tax under this Act;

**Or**

II

- Has kept accounts or goods in such a manner as is likely to cause evasion of tax payable under this Act.

**Or**

III

- Goods liable to confiscation / documents relevant to the proceedings under

the Act are secreted in the business/residential premises detailed herein below

Therefore, -

- in exercise of the powers conferred upon me under sub-section (1) of section 67 of the Act, I hereby authorize and require you to inspect the premises belonging to the abovementioned person with such assistance as may be necessary for inspection of goods or documents and/or any other things relevant to the proceedings under the said Act and rules made thereunder.
- in exercise of the powers conferred upon me under sub-section (2) of section 67 of the Act, I hereby authorize and require you to search the above premises with such assistance as may be necessary, and if any goods or documents and/or other things relevant to the proceedings under the Act are found, to seize and produce the same forthwith before me for further action under the Act and rules made thereunder.

Any attempt on the part of the person to mislead, tamper with the evidence, refusal to answer the questions relevant to inspection / search operations, making of false statement or providing false evidence is punishable with imprisonment and /or fine under the Act read with sections 179, 181, 191 and 418 of the Indian Penal Code.

Name and Designation of the Assisting Officer/s: -

<<Name and designation of assisting officer >>

Given under my hand & seal this \_\_\_\_ day of \_\_\_\_ (Month) \_\_\_\_ (Year). Valid up to \_\_\_\_\_.

Date:

Name and signature

Place:

Additional/ Joint commissioner of Commercial Taxes  
Enforcement, Division Name

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**ANNEXURE-II**

**FORM GST INS-02**

**Order of Seizure**

[See rule 139(2)]

Whereas an inspection under sub-section (1) / search under sub-section (2) of Section 67 was conducted by me on \_\_/\_\_/\_\_ at \_\_:\_\_ AM/PM in the premise(s):

<< Details of Premises>>

Which is /are a place/places of business/premises belong to:

<<Name of Person>>

<<GSTIN, if registered>>

in the presence of the following witness(es):

1. <<Name and address>>
2. <<Name and address>>

and on scrutiny of the books of accounts, registers, documents / papers and goods found during the inspection/search, I have reasons to believe that certain goods liable to confiscation and/or documents and/or books and/or things useful for or relevant to proceedings under this Act are secreted in place(s) mentioned above.

Therefore, in exercise of the powers conferred upon me under sub-section (2) of section 67, I hereby seize the following goods/ books/ documents and things:

**A) Details of Goods seized:**

Sr. No	Description of goods	Quantity or units	Make/mark or model	Remarks
1	2	3	4	5

**B) Details of books / documents / things seized:**

Sr. No	Description of books / documents / things seized	No. of books / documents / things seized	Remarks

1	2	3	4

and these goods and or things are being handed over for safe upkeep to:

<<Name and address>>

with a direction that he shall not remove, part with, or otherwise deal with the goods or things except with the previous permission of the undersigned.

Place:

Name and Designation of the Officer

Date:

Signature of the Witnesses

Sr. No.	Name and address	Signature
1.		
2.		

To:

<<Name and address>>

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**ANNEXURE-III**  
**FORM GST INS-03**  
**ORDER OF PROHIBITION**  
[See rule 139(4)]

Whereas an inspection under sub-section (1)/search under sub-section (2) of Section 67 was conducted on \_\_\_/\_\_\_/\_\_\_ at \_\_\_ :\_\_\_AM/PM in the following premise(s):

<<Details of premises>>

which is/are a place/places of business/premises belonging to:

<<Name of Person>>

<<GSTIN, if registered>>

in the presence of following witness(es):

1. <<Name and address>>
2. <<Name and address>>

and on scrutiny of the books of accounts, registers, documents/papers and goods found during the inspection/search, I have reasons to believe that certain goods liable to confiscation and/or documents and/or books and/or things useful for or relevant to proceedings under this Act are secreted in place(s) mentioned above.

Therefore, in exercise of the powers conferred upon me under sub-section (2) of section 67, I hereby order that you shall not/shall not cause to remove, part with, or otherwise deal with the goods except without the previous permission of the undersigned:

Sr. No	Description of goods	Quantity or units	Make/mark or model	Remark s
1	2	3	4	5

Place:

Name and Designation of the Officer

Date:

**Signature of the Witnesses**

	Name and address	Signature
1.		
2.		

To:

<<Name and address>>

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**ANNEXURE-IV**

**MAHAZAR**

Date and Time: \_\_/\_\_/\_\_, \_\_:\_\_ AM/PM

Place:

**Witnesses: -**

Sl	Particulars	Witness 1	Witness 2
1	Name		
2	Age		
3	Father's Name		
4	Address		
5	ID type and Proof		

On being called upon by the <<Designation of Inspecting Officer>>, we the above-mentioned Mahazar witnesses assembled ourselves near the premises -----  
----- at about \_\_:\_\_ Hours on \_\_/\_\_/\_\_.

The said <<Designation of Inspecting Officer>>, informed us that he/she has a reasonable belief that the said person is registered since \_\_\_\_\_ and has reason to believe that the said registered person is -----  
which is an offence under KGST and CGST Acts and that there are certain incriminating documents/evidence stored in the said premises and therefore he/she intends to conduct a search of the said premises. The said <<Designation of Inspecting Officer>>, then showed the Authorization to Search dated \_\_/\_\_/\_\_ issued by the <<ADCOM/JCCT, Name of the division>>, authorizing him to search the premises and we have affixed our dated signature as a token of having seen the same.

Further, he/she requested us to witness the search proceedings for which we have readily agreed. The said <<Designation of Inspecting Officer>>, also introduced us to the other officers accompanying him in conducting the search. Thereafter, we along

with the said officers reached the said premises at \_\_:\_\_ hours. The said Officer introduced themselves, the staff and us to the ----- and showed the authorization i.e. GST INS-02 to the ----- and asked the ----- to cooperate with the search and seizure. The said officer(s), staff and we offered ourselves to search.

<<continuation>>

**Witness 1**

**Witness 2**

**Taxpayer/Authorised Person**

Typed by me as narrated by the witnesses.

Before me,

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