

F.No. 116/13/2020-CX-3
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs

New Delhi, Dated 11th November, 2021

To

1. The Pr. Chief Commissioner/Chief Commissioner, CGST & CX (All).
2. The Pr. Director General/Director General (All).

Sir/Madam,

Subject: - Clarification in respect of the Master Circular No. 1053/02/2017- CX dated 10.03.2017-reg.

As a trade-facilitation measure, a concept of pre-show cause notice consultation in Central Excise and Service Tax was introduced vide Board's instruction dated 21.12.2015, issued vide F. No. 1080/09/DLA/MIS/15. Vide the said Instruction, it was clarified that "*Pre-show cause notice consultation with the Principal Commissioner and Commissioner is being made mandatory prior to issue of show cause notice (SCN) in the case of demand of duty above Rs.50 Lakhs (except for preventive/offence related SCNs)*".

2. Para 5.0 of the Master Circular No. 1053/02/2017-CX dated 10.03.2017 merely reiterates the principle of pre-show cause notice consultation enunciated vide aforementioned Instruction dated 21.12.2015. Further, vide Circular No.1076/02/2020-CX dated 19.11.2020, it was clarified that "*Pre-show cause notice consultation with assessee, prior to issuance of SCN in case of demand of duty is above Rs.50 Lakhs (except for preventive/offence related SCNs) is mandatory & shall be done by the Show cause notice issuing authority*".

3. Subsequent to this, a reference has been received from the DGGI to clarify whether DGGI formations fall under the exception/exclusion category of the CBIC's instruction supra dated 21.12.2015 or otherwise.

4. In this regard, it is hereby clarified that exclusion from pre-show cause notice consultation is case-specific and not formation specific.

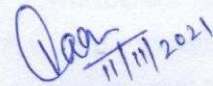
5. It is, therefore, reiterated that pre-show cause notice consultation shall not be mandatory for those cases booked under the Central Excise Act, 1944 or Chapter V of the Finance Act, 1994 for recovery of duties or taxes not levied or paid or short levied or short paid or erroneously refunded by reason of: -

- (a) fraud: or
- (b) collusion: or
- (c) wilful mis-statement: or
- (d) suppression of facts: or
- (e) contravention of any of the provision of the Central Excise Act, 1944 or Chapter V of the Finance Act, 1994 or the rules made there under with the intent to evade payment of duties or taxes.

6. Trade, industry and field formations may be suitably informed.

7. Difficulty, if any, in the implementation of this Circular may be brought to the notice of the Board.

8. Hindi version will follow.


11/11/2021

(Varun Kumar Singh)
Under Secretary – CX.8