

Latest GST Scrutiny Norms and Latest Updates

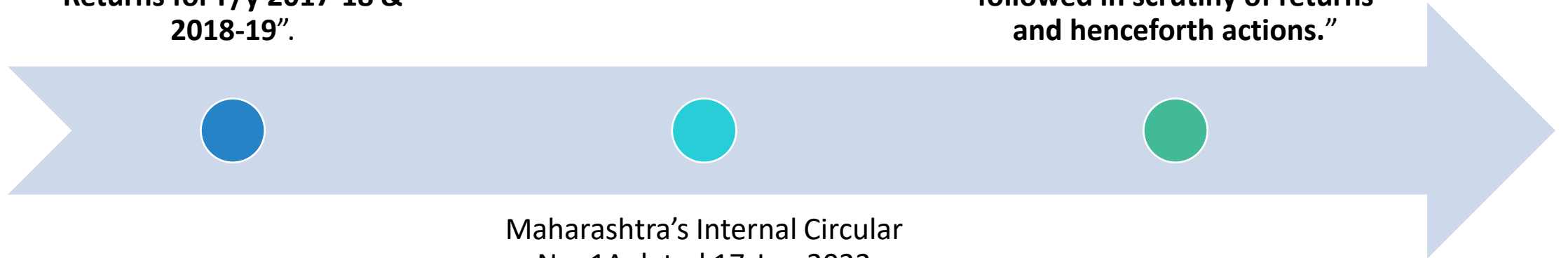


Background of today's discussion

CBIC's Instruction No. 02/2022-
GST dated 22-Mar-2022
**"Standard Operating
Procedure for Scrutiny of
Returns for F/y 2017-18 &
2018-19".**

Kerala's Circular No. 7/2021
dated 7-Nov-2021
**"Instructions/Guidelines
regarding procedure to be
followed in scrutiny of returns
and henceforth actions."**

Maharashtra's Internal Circular
No. 1A dated 17-Jan-2022
"Scrutiny Tech Issues"

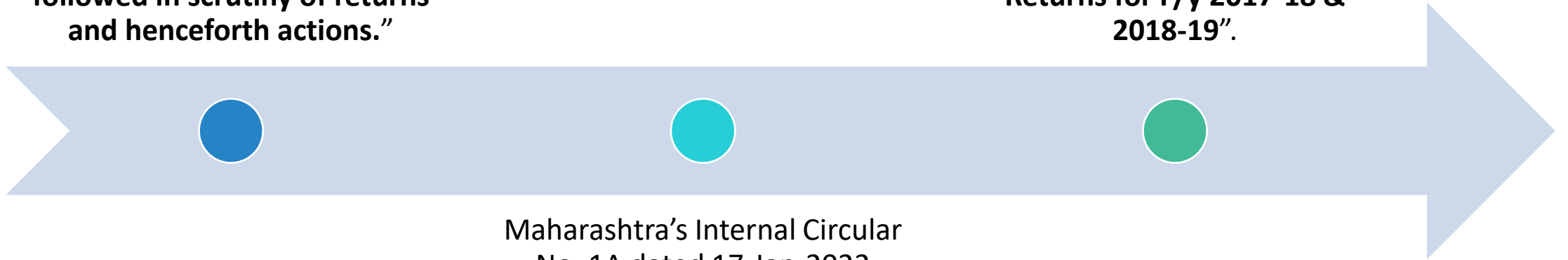


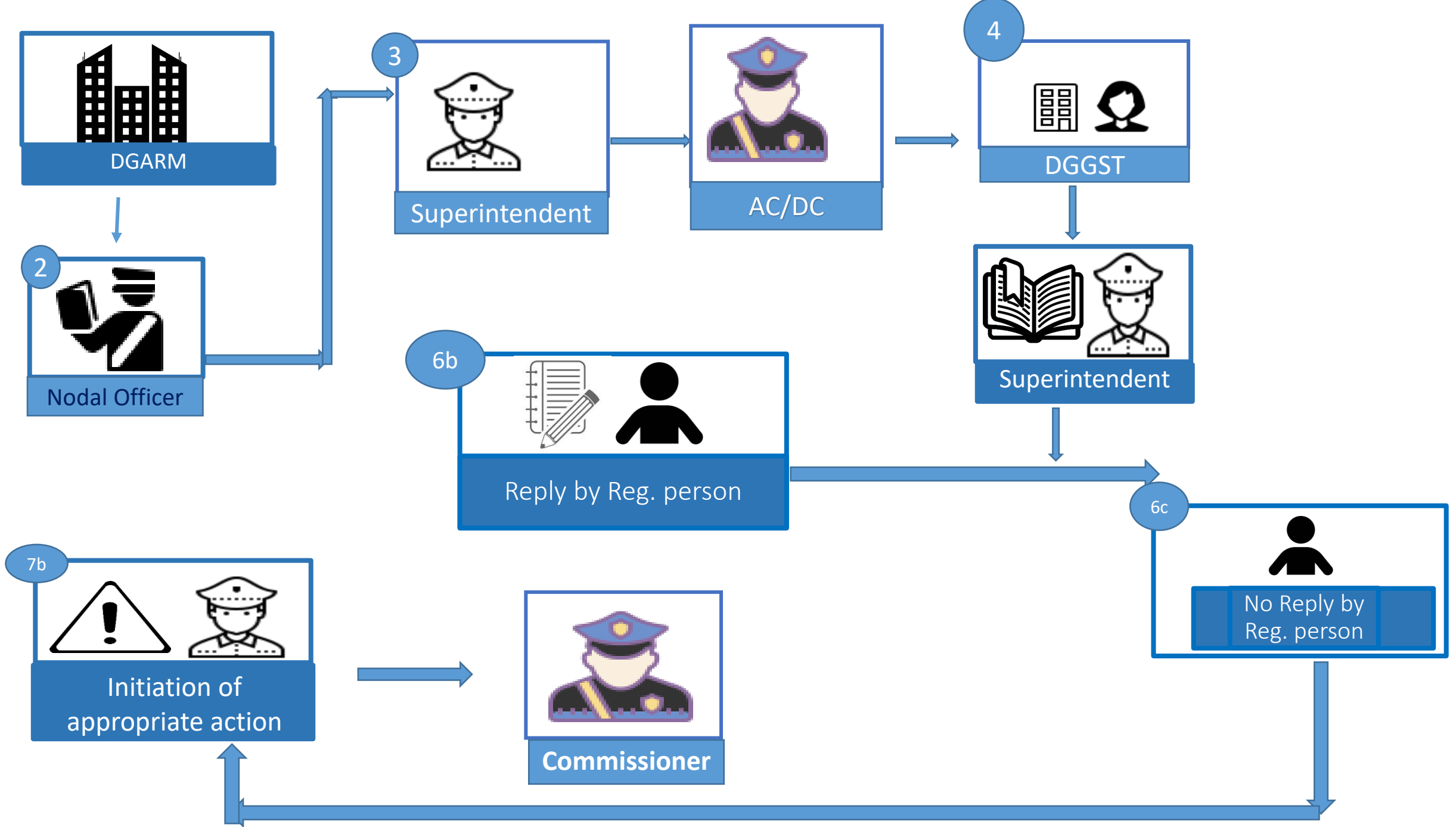
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1



DGARM

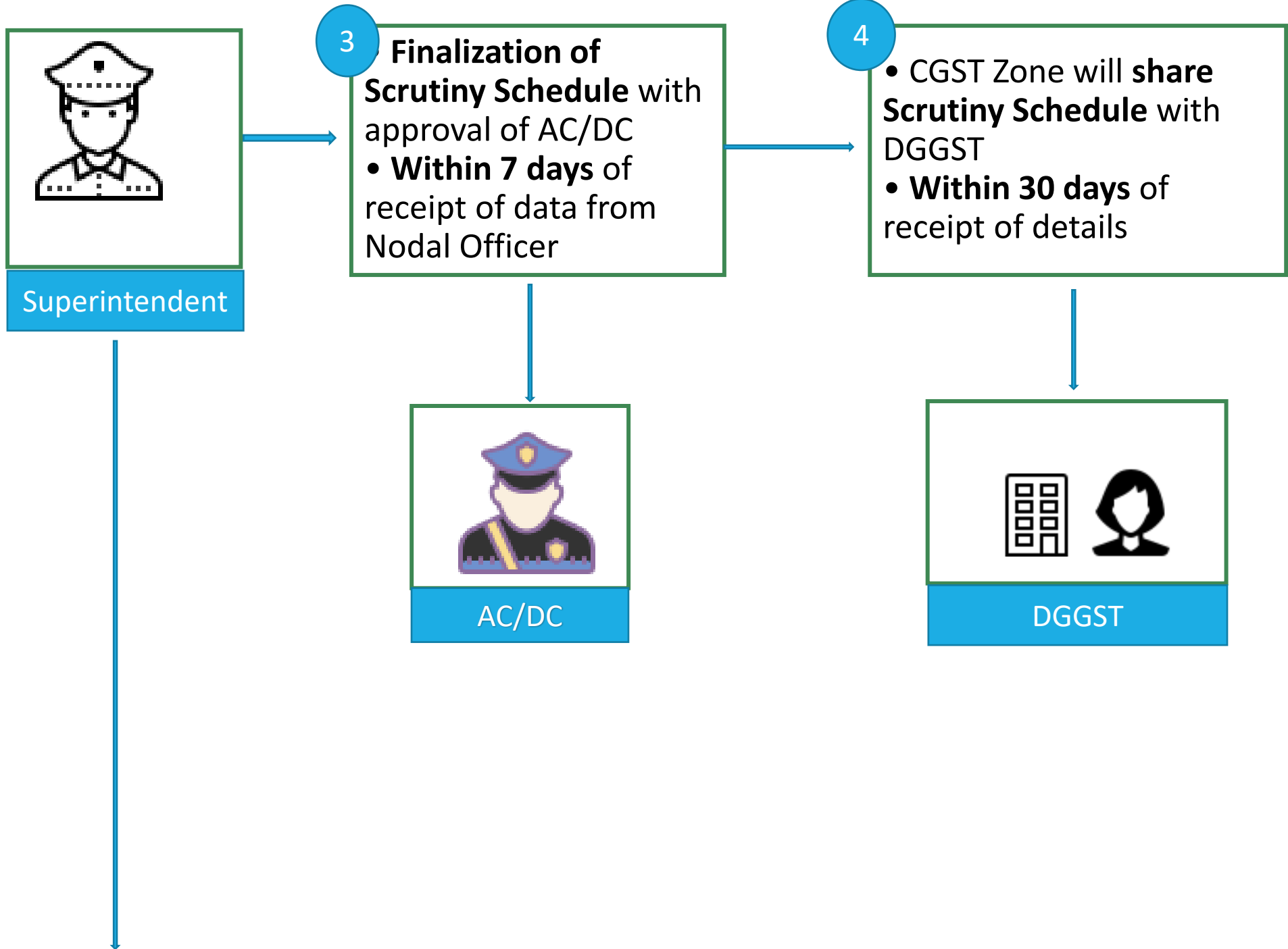
- DGARM **selects returns for scrutiny** based on specific risk parameters.
- Provide information to Nodal Officers

2

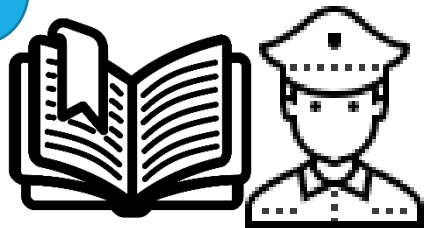


Nodal Officer

- **Nodal officers to distribute list of GSTINs** selected for scrutiny to Superintendent of Central Tax (**within 3 working days**)



5



Superintendent

- Issue of **Notice** to registered person in Form GST ASMT-10
- Notice would intimate **discrepancies** in return

6a



Discrepancy accepted by
Reg. person

Reg. person would **pay tax, interest** and other amount in **Form GST DRC-03**

- **Inform** Superintendent of the payment made in **Form GST ASMT-11**

6b



Reply by Reg. person

Reply to Superintendent
in Form GST ASMT-11

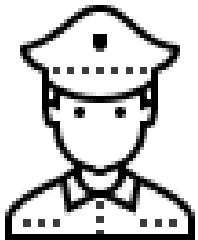
- **Within 30 days** of being informed in Form GST ASMT-10
- Superintendent may permit **further period** to submit reply

6c



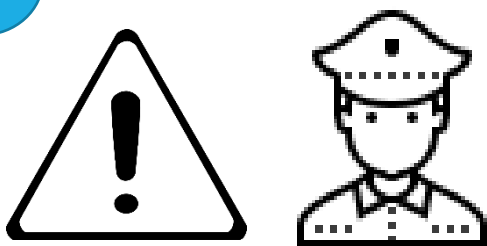
No Reply by
Reg. person

7a



Superintendent

7b



Initiation of appropriate
action under Section 73
or Section 74

- Issue of order in **Form GST ASMT-12** for **acceptance of reply** furnished by Reg. Person
- **Within 30 days** from receipt reply in Form GST ASMT-11

Proper Officer to initiate proceedings u/s 73/74 within following timelines:

- When reply received by reg. person is not accepted – **Within 30 days** from receipt of reply
- When no reply is received – **Within 15 days after completion of 30 days** of issuance of notice in **Form GST ASMT-10**



Commissioner

- Cases would be **referred to Commissioner** for taking appropriate action under **Section 65, Section 66 or Section 67**, if required
- **Within 30 days** of receiving reply in Form GST ASMT-11
- Or **within 45 days** of issuance of Form GST ASMT-10, where no reply is received from Reg. person

Documentation to be maintained by Superintendent

Scrutiny Schedule:

- Prepared by Superintendent with the approval of the divisional AC/DC
- Specify the month-wise schedule for scrutiny
- Within 7 days of receipt of details from the nodal officer

Scrutiny Register :

- Maintained by Superintendent for the GSTINs allotted for scrutiny
- **Progress** viz-a-viz Scrutiny schedule to be **monitored by the JPC/Commissioner on monthly basis**

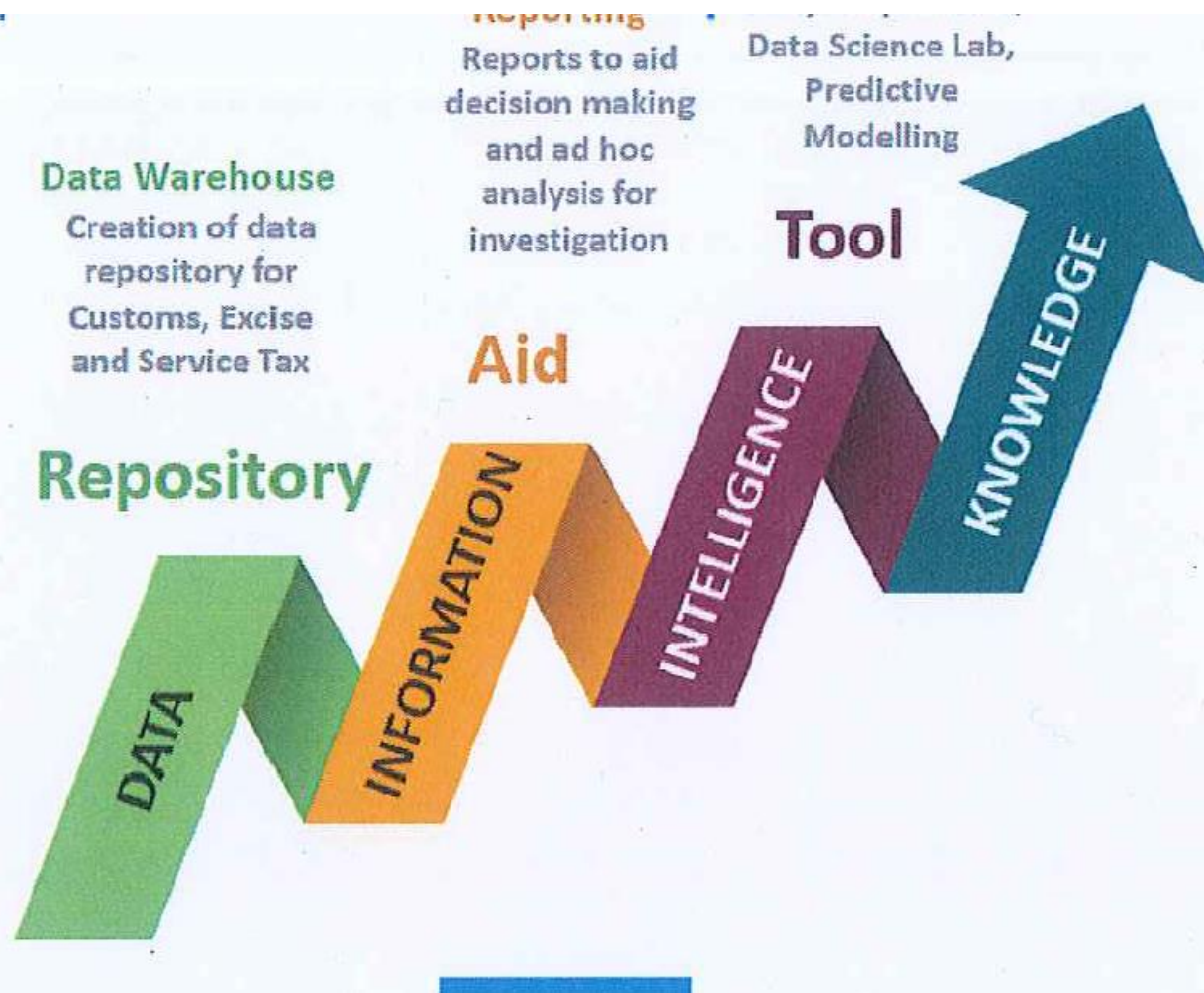
Scrutiny Progress Report :

- Prepared by proper officer i.e. superintendent, at the **end of every month**
- Forwarded to DGGST by **10th day of next month**
- DGGST present the progress report to CBIC, by the **20th of next month**

ADVAIT

Advanced Analytics in Indirect Taxes

Directorate General of Systems & Data Management





**Enhancing Indirect Tax
revenues**



Increasing taxpayer base



**Supporting data-driven tax
policy formulation**

WHAT'S NEW.



**Analytics on
GST, Customs**



**State of Art
Data
Visualization**



**Real time Data
Capture and
Exchange**



**Predictive &
Fraud
Analytics**



Big Data



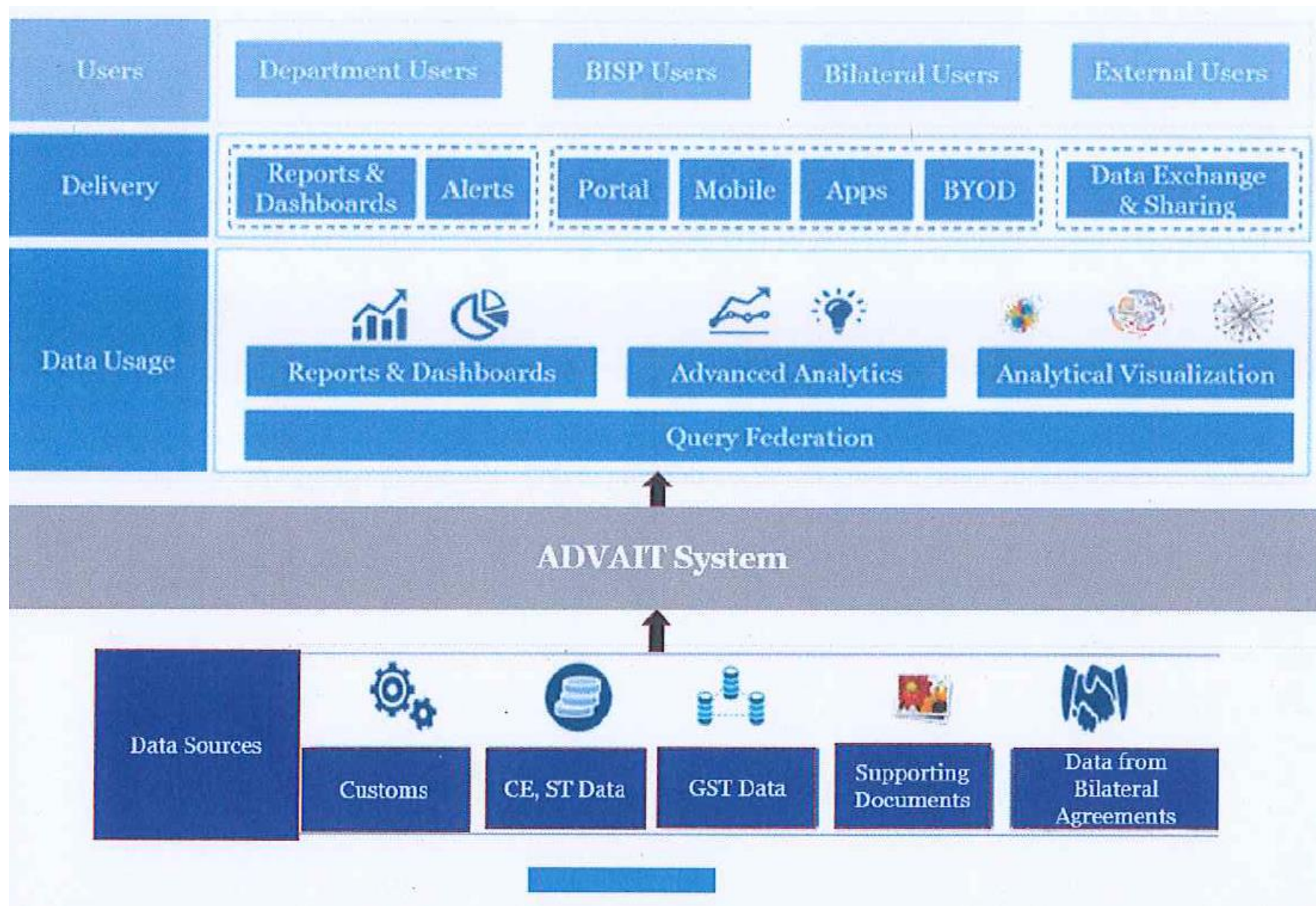
**Data Science
Lab**

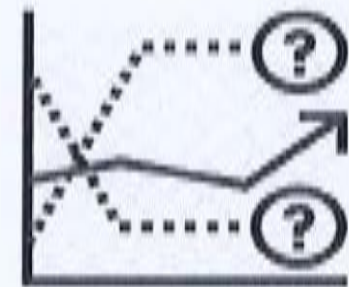


**Access on
Mobile Devices**



**Public Data
Portal**





PATNA NEWS

50 Bihar firms caused ₹171 crore loss in GST tax, raided

The firms were selected for searches by using data analytics and 360 degree profiling on the instructions of commissioner cum secretary, commercial taxes department, Dr Pratima.

By HT Correspondent

PUBLISHED ON JUL 11, 2021 11:33 AM IST



The department said it had started tracking the owners of these firms involved in tax evasion. (PTI)

The commercial taxes department on Saturday carried searches at 50 business firms across Bihar and exposed a swindling worth ₹171 crore through fake e-way bills and fraudulent claim of input tax credit (ITC).

Close ×



Business Intelligence and Fraud Analytics (BIFA)

The Objective

The key objectives of this program, as listed below, were aimed to empower policy decision-makers, operations & the compliance team with real-time actionable insights:

Detection of tax evasion

Revenue assurance

Creation of statistical insights for policymakers

User Persona



Tax Officer



Policy Maker



Administrator

MySQL

HBase

GST
Applications

Data
Sets



API

External Data

BIFA Web Portal

Authentication / Authorization

Visualization

AI/ML Models

Graph Models

Data Ingestion
& Processing

SQOOP

HBase2Hive Utility

Spark

JDBC

REST API

Graph
Query

Hive

HBase

Raw Zone

Curated Zone

Distribution Zone

Graph DB

Data Lake



Users

Data
Sets



API

External Data
Access

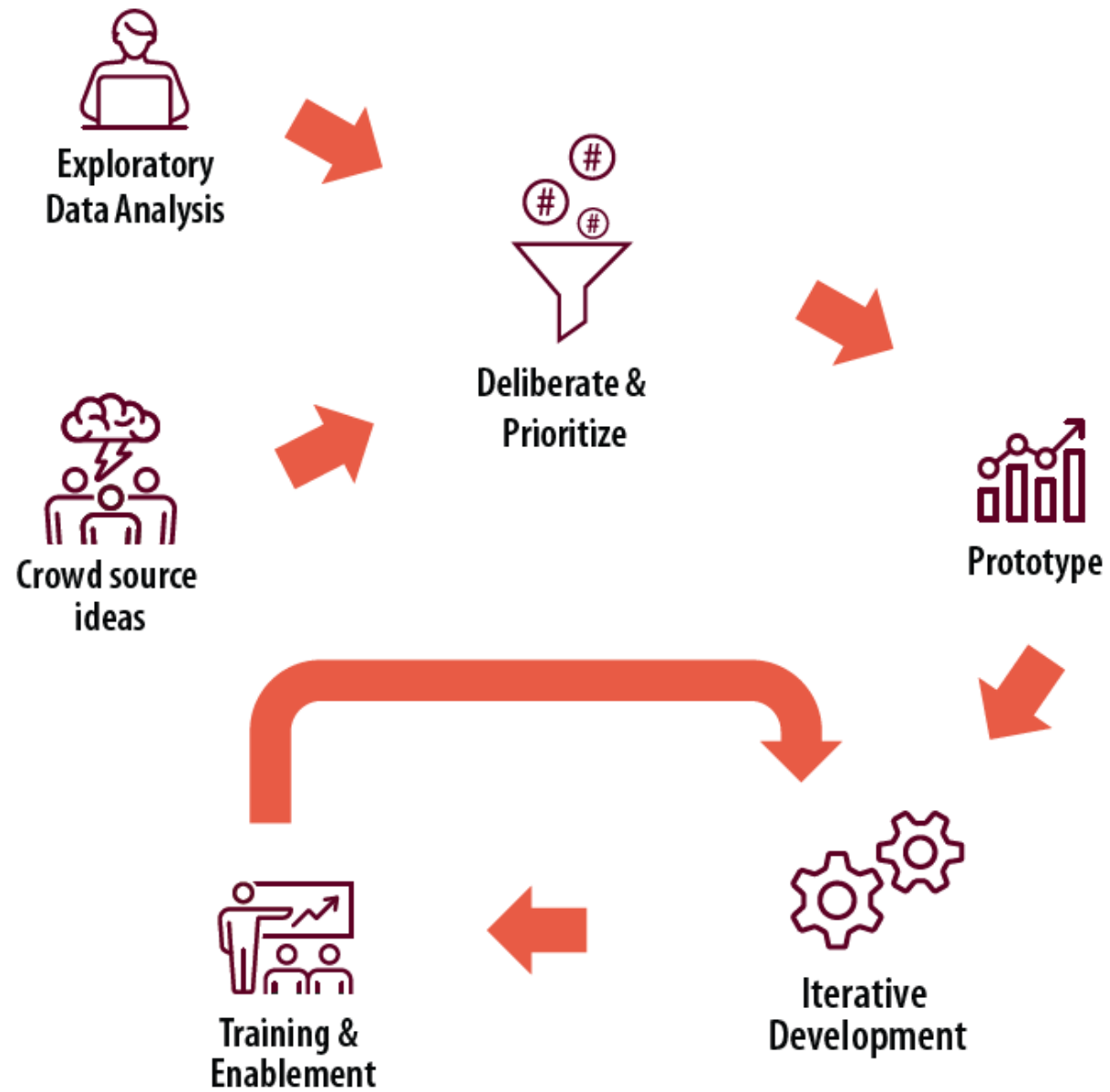
Infrastructure

CDH Cluster

Tableau

Neo4J

Python



Implementation scope involved:

Development and construction of genome data models to support analytics use cases

Migration of approximately 100TB of historical data from over three years from GST's application data stores to a data lake

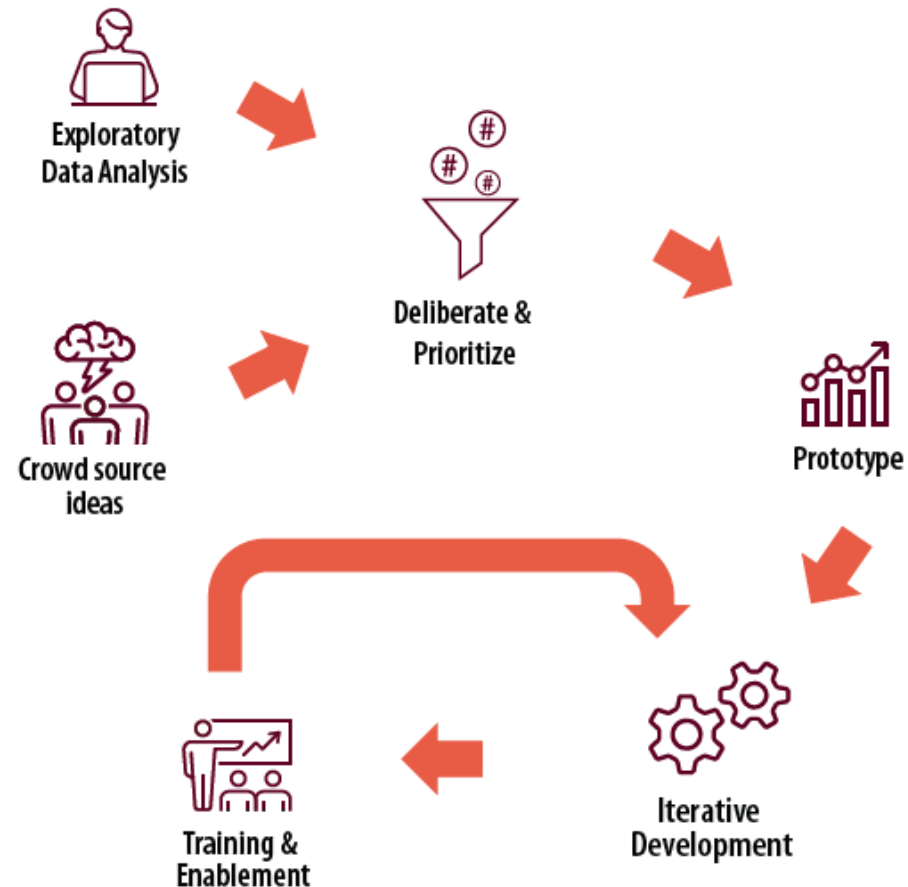
Setting up of graph database with 200 million nodes and two billion edges that represented the taxpayer ecosystem data

Implementation and setup of daily data refresh from GST application's sources to the data lake and automation of the daily batch process

Development and deployment of analytics use cases

Uncovering data patterns using Advanced Analytics

Once the data across internal and external sources were made available on the data lake, the focus was to identify analytics use cases that could utilize the data and deliver insights to GSTN for any action.



Crowdsourcing of Ideas

Ideas/use-cases were gathered from Tax/Enforcement Officers, Tax Practitioners, policymakers, which were taken up at subsequent stages of refinement and prioritization. Another method used was to interrogate the experienced investigators to find out heuristic approach used by them to identify fraudsters or malpractices.

Exploratory Data Analysis

EDA was conducted on the raw data from upstream GST application to identify data patterns indicative of fraudulent behavior.

Deliberated & Prioritized

All ideas were deliberated within GSTN's BIFA team, and with due consultation from other stakeholders like policymakers and enforcement officers, wherever required.

Prototype

Prioritized use-cases were then prototyped with data from the Data Lake to assess the feasibility and extent of the impact.

Iterative Development

The use-cases were built iteratively to include features based on feedback and results from the prototype.

Training & Enablement

Users across states and the center were enabled through training programs for each release cycle.

Leveraging the data mine: Adoption of advanced analytics to gain actionable insights

With over three years of operations, GSTN had accumulated a large amount of data related to taxpayer demographics (~13 mn), invoices (~9 bn), eWay bills (~1.42 bn), tax payments (~150 mn), and the tax returns filed (~530 mn). Data from external sources such as Customs, Direct Taxation system were also available for deriving insights.

Infosys formed a core team to strategize, architect and implement a Data and Analytics Platform to meet the objective set out by GSTN for this initiative.

Scrutiny/Verification
& risk profiling

Historically tax
evasion prone
sectors

Multiple
registrations on
same PAN



Common
items

Re-application for
registration

Live registration -
PAN - CGST
jurisdiction -
offence - booked by
SGST authorities



Detection of Tax Evasion

- **Reconciliation:** Identified mismatches between returns filed by taxpayers and identified potential frauds
- **Anomaly detection:** Used AI/ML techniques to identify potential fraudulent transactions
- **Outlier Analysis:** Used un-supervised learning techniques to identify outliers within similar peer-groups
- **Community Detection:** Used graph algorithms, identified communities of taxpayers involved in fraudulent activities
- **Fraud Propensity Assessment:** Leveraged AI/ML techniques to perform Fraud propensity analysis of individual taxpayers & their transactions

Kerala Risk Parameters

ASMT13 -
Return within 30
days

ITC utilisation
greater than 5
times cash

Turnover above
1crore cash nil

Turnover above
60 percent

2A-3B ITC
Comparison

GSTR9-8D
Difference

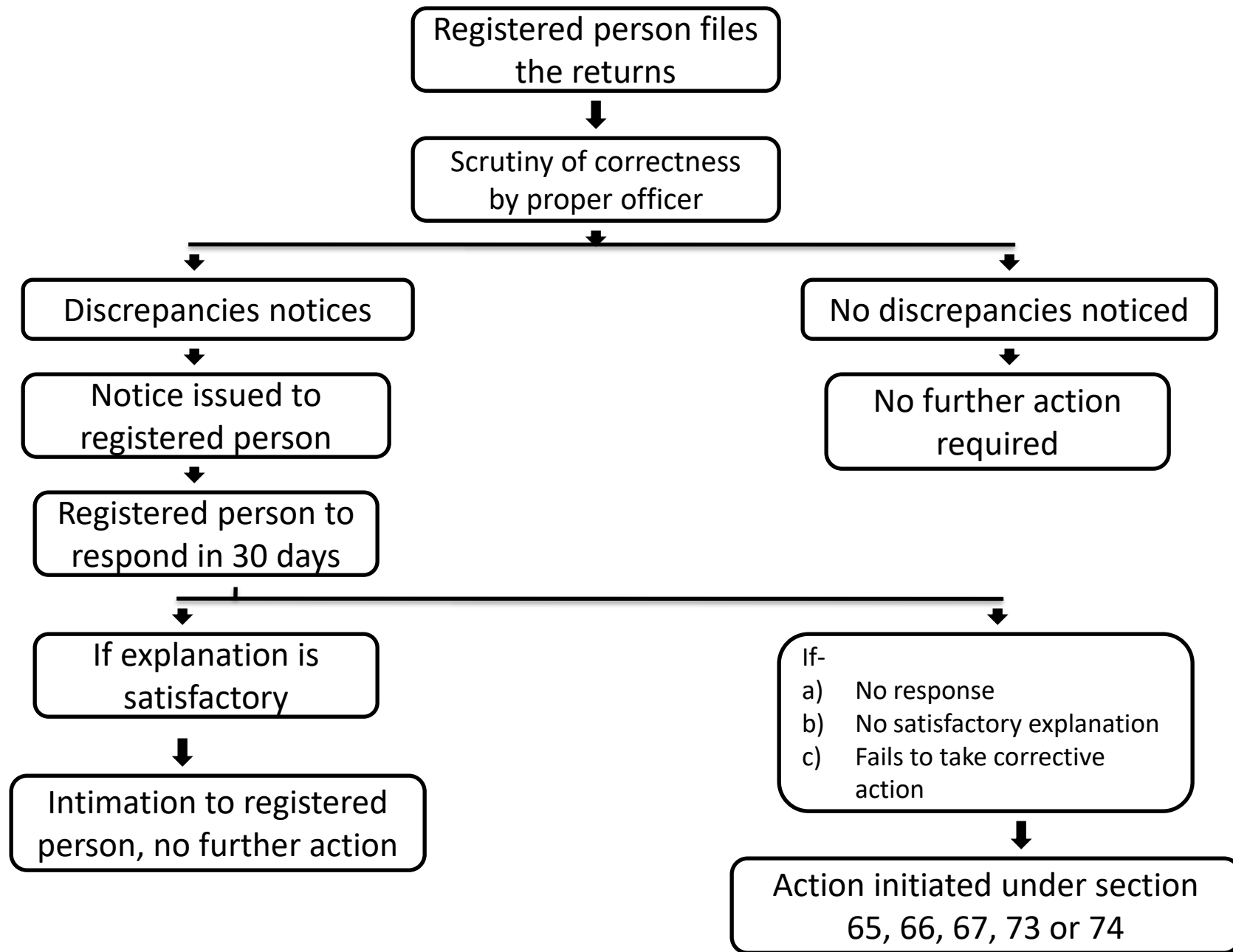
ITC availed after
due date

Capital goods
ITC vs Exempted
turnover

GSTR-1 Vs GSTR
3B mismatch

GSTR 3B Vs E-
way bill

Turnover less
than TDS and
TCS





S.61 Scrutiny of Returns

- is it Detailed Manual Scrutiny (DMS) as was there in Service Tax era?:NO –
- Can Proper Officer ask for additional documents?: NO, they just need to scrutinize the returns available on their records.
- - If Proper officer doesn't satisfied with reply in ASMT-11, will he directly issue Demand order?: NO, detailed SCN to be given u/s 73/74, detailed reply by Tax Payer should be given. (what is 73/74?, In a bit).

S.61 Scrutiny of Returns

Detailed Simplified Table for S.61 as below:

Form	Particulars of the form	By
ASMT-10	Notice for intimating discrepancies in the return after scrutiny or returns – Quantify Tax, Interest and any other amount, if possible	Officer
ASMT-11	Reply to the notice issued under section 61 – within 30 days – Either Accept the demand OR furnish an explanation for the discrepancy	Tax Payer
ASMT-12	Order of acceptance of reply against the notice issued under section 61 [CAUTION: IT'S NOT A DEMAND ORDER]	Officer
OUTCOME UNDER S.61	<p>— NO Direct Demand Order</p> <p>EITHER Additional Fact Finding process u/s 65, 66 or 67 as below</p> <p>A. Initiate departmental audit as per section 65</p> <p>B. Initiate Special Audit as per section 66</p> <p>C. Initiate inspection, search and seizure as per section 67</p> <p>OR</p> <p>D. Issue show cause notice u/s 73 & 74 of the CGST Act</p>	



S.65 Audit by Tax Authorities

S.65 Audit by Tax Authorities

- will it be done at Taxpayer's premise?: Yes, or officer may do it 'Desk Audit' at their premise
- is it inspection/search?: NO, the officer might visit the premise, but well intimating before 15 days
- RP need to furnish Books and information.



S.65 Audit by Tax Authorities

1. To be conducted by Commissioner or Any officer authorised by him
2. By General or Specific Order [Criteria not specified, yet]
3. For Such a period
4. At such a frequency
5. At place of Business / At in the office of officer (Desk Audit)
6. Inform at least before 15 working days
7. To be completed within 3 months from “Commencement”
8. Necessary Facility [Premise/Work area etc] is to be provided to the officer
9. To furnish information as required to the officer



S.65 Audit by Tax Authorities

- Can they insist upon spot recovery? - NO
- If they don't agree with the reply to their discrepancies, will it amount to Demand Order? - NO, detailed SCN to be given u/s 73/74 for which detailed reply to be filled.

S.65 Audit by Tax Authorities

- Detailed Simplified Table for S.65 is as below:

Form	Particulars of the Form	By
ADT-01	Notice for conducting audit Officer	Officer
	Communication of any discrepancies observed Officer	Officer
	Reply to be filled	Tax Payer
ADT-02	Audit Report under section 65(6) [Audit Observations] Officer	Officer
OUTCOME UNDER S.65	On conclusion, A. findings to be informed to RP within 30 days & B. Incase officer wants to adjudicate, Issue Show Cause Notice u/s 73 & 74 of the CGST Act	

What is Adjudication u/s 73 or 74?

'Scrutiny of Returns' or
'Audit by department'
doesn't conclude directly
into the Order.

S.74 can be invoked due to
reasons of 'fraud, wilful-
mis statement or
suppression of facts'

S.73 for others than above
reasons.

DEMAND AND RECOVERY

SECTION 73 v/s 74

	Section 73	Section 74
To be Invoked	Other than Fraud OR wilful mis-statement OR Suppression of Facts	FOR Fraud OR wilful-mis statement OR Suppression of Facts
Notice To be issued	Within 33 Months from the due date of Annual Return [3 months prior]	Within 54 Months from the due date of Annual Return [6 months prior]
Statement may be served	For continuing period, Statement can be served instead of Notice	
Reply to SCN		
Passing or Order Max by	Within 3 Years from the due date of Annual Return	Within 5 Years from the due date of Annual Return

What is Adjudication u/s 73 or 74?

- Major difference between these 2 section is,
- A. Penalty
- B. Time barred limit to issue SCN and order

Below is the Summary Table for Penalties under these 2 sections:

What is Adjudication u/s 73 or 74?

Below is the Summary Table for Penalties under these 2 sections:

If Tax and Interest Paid	Section 73	Section 74
Voluntary Before Service of SCN*	NIL	15%
Within 30 days of Issuing SCN**	NIL	25%
Within 30 days of communicating of Order	NA	50%
After above mentioned period	10% of Tax OR 10000 whichever is higher	100%
If self assessed Tax / amount collected as tax no paid within 30 days of due date	10% of Tax OR 10000 whichever is higher	NA

SUB-RULE**PROVIDING FOR**

1. Provides for initiating scrutiny of returns furnished by registered person, based on information available; issue notice on finding discrepancies, seeking explanation, quantifying the liability and extending the period of 30 days if deemed fit.
2. Provides the manner in which registered person may either accept the discrepancy or furnish an explanation to the proper officer.
3. Manner in which proper officer should send the intimation to the registered person in case the information/explanation is, acceptable.

S. No.	Form No.	Purpose
1.	GST ASMT-10	Issuance of notice by proper officer on noticing discrepancies on return
2.	GST ASMT-11	Response by registered person against ASMT-10 by way of accepting the discrepancy or submitting explanation
3.	GST ASMT-12	Intimation by proper officer on finding explanations satisfactory

Status of limitation period for F.Y.2017-18 to 2019-20:

SR.NO.	Relevant F.Y. to which the demand relates	Due date for furnishing the AR in FORM GSTR-9	Last date for issuance of the show cause notice as per S.73(2) r/w. S.73(10)	Remarks
1	2017-18	05.02.2020 ¹ 07.02.2020	05.11.2022 07.11.2022	
2	2018-19	31.12.2020 ²	30.09.2023	
3	2019-20	31.03.202	21.12.2023	

²Not. No. 80/2020-CT dt. 28.10.2020 refers

³Not. No. 04/2021-CT dt. 28.02.2021 refers.

Status of limitation period for F.Y.2017-18 to 2019-20 [S.74(2) r/w. S.74(10) refers].

SR.NO.	Relevant F.Y. to which the demand relates	Due date for furnishing the AR in FORM GSTR- 9	Last date for issuance of the show cause notice as per S.74(2) r/w. S.74(10)	Remarks
1.	2017-18	05.02.2020 07.02.2020	05.08.2024 07.08.2024	
2.	2018-19	31.12.2020	30.06.2025	
3.	2019-20	31.03.2021	30.09.2025	

Note: Refer slide 44 for further details

**Standard Operating Procedure
(SOP) for Scrutiny of returns for
FY 2017-18 and 2018-19**

Standard Operating Procedure (SOP) for Scrutiny of returns for FY 2017-18 and 2018-19

- Section 61 of the Central Goods and Services Tax Act, 2017 read with rule 99 of Central Goods and Services Tax Rules, 2017 provides for scrutiny of returns and related particulars furnished by the registered person.

Relevant statutory provisions

- **Section 61. Scrutiny of returns:**
- The proper officer may scrutinize the return and related particulars furnished by the registered person to verify the correctness of the return and inform him of the discrepancies noticed, if any, in such manner as may be prescribed and seek his explanation thereto.
- In case the explanation is found acceptable, the registered person shall be informed accordingly and no further action shall be taken in this regard.


- In case no satisfactory explanation is furnished within a period of thirty days of being informed by the proper officer or such further period as may be permitted by him or where the registered person, after accepting the discrepancies, fails to take the corrective measure in his return for the month in which the discrepancy is accepted, the proper officer may initiate appropriate action including those under section 65 or section 66 or section 67, or proceed to determine the tax and other dues under section 73 or section 74.”

- **Rule 99. Scrutiny of returns:**
- Where any return furnished by a registered person is selected for scrutiny, the proper officer shall scrutinize the same in accordance with the provisions of section 61 and in case of any discrepancy, he shall issue a notice to the said person in FORM GST ASMT-10, Informing him of such discrepancy and seeking his explanation thereto within such time, not exceeding thirty days from the date of service of the notice and also where possible, quantifying the amount of tax, interest and any other amount payable in relation to such discrepancy.

- The registered person may accept the discrepancy mentioned in the notice issued under subrule (1), and pay the tax, interest and any other amount arising from such discrepancy and inform the same or furnish an explanation for the discrepancy in FORM GST ASMT-11 to the proper officer.
- Where the explanation furnished by the registered person or the information submitted under sub-rule (2) is found to be acceptable, the proper officer shall inform him accordingly in FORM GST ASMT-12.”

3. Selection of returns for scrutiny

- Selection of returns for scrutiny is to be based on specific risk parameters
- (DGARM) has been assigned the task to select the GSTINs registered with Central tax authorities, whose returns are to be scrutinized, and to communicate the same to the field formations from time to time through the DDM portal for further action.


- 
- It may be noted that the data provided by the DGARM is generated at a particular point of time which may undergo change at the time of scrutiny of returns by the proper officer due to subsequent compliances carried out by the taxpayer or by the suppliers of the taxpayer. The proper officer shall, therefore, rely upon the latest available data.

Proper officer for scrutiny of returns.

- Scrutiny of returns of a taxpayer may be conducted by Superintendent of Central Tax in-charge of the jurisdictional range of the said taxpayer.

Scrutiny Schedule


- Once the list of GSTINs, whose returns have been selected for scrutiny, is communicated to the field formations, the proper officer, with the approval of the divisional Assistant / Deputy Commissioner, shall finalize a scrutiny schedule.

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- Such scrutiny schedule will specify month-wise schedule for scrutiny in respect of all the GSTINs selected for scrutiny.
 - The proper officer shall conduct scrutiny of returns pertaining to minimum of 3 GSTINs per month.

Process of scrutiny by the Proper Officer

- The Proper Officer shall scrutinize the returns to verify the correctness of the returns.
- Information available with the proper officer on the system in the form of various returns and statements furnished by the registered person and other various sources like:
- DGARM, ADVAIT, GSTN, E-Way Bill Portal, etc.

- For convenience of proper officers, an indicative list of parameters to be verified is enclosed as **Annexure B**.
- The proper officer is expected to rely upon the information available with him or with the department.
- scrutiny of returns should have minimal interface between the proper officer and the registered person.
- there should normally not be any need for seeking documents/ records from the taxpayers before issuance of FORM GST ASMT-10.

- 
- Proper officer shall issue a notice to the registered person in FORM GST ASMT-10 informing him of the discrepancies noticed and seeking his explanation thereto.
 - The payments thus made through FORM GST DRC-03 may also be taken into consideration while communicating discrepancies to the taxpayer in FORM GST ASMT-10.
 - The proper officer is required to scrutinize all the returns pertaining to the corresponding Financial Year.

- The registered person may accept the discrepancy mentioned in the notice issued in **ASMT-10** and pay the amount in **DRC-03** and inform the officer in ASMT -11.
- The information submitted in respect of acceptance of discrepancy and payment of dues is found to be acceptable by the Proper Officer, he inform the registered person in **ASMT-12**.

Timelines for scrutiny of returns

- Scrutiny of returns is to be conducted in a time bound manner, so that necessary action to safeguard revenue may be taken up expeditiously. In this regard, the following timelines may be observed by all concerned:
-

S.no.	Process/Events	Timeline/Frequency
1.	Communication of list of GSTINs selected for scrutiny (by DGARM to the nodal officer of the Commissionerate concerned)	From time to time.


2.	Distribution of the list of GSTINs selected for scrutiny by the nodal officer to the proper officers concerned.	Within three working days of receipt of the list from DGARM.
3.	Finalization of scrutiny schedule with the approval of the concerned Assistant/Deputy Commissioner	Within seven working days of receipt of the details of the concerned GSTINs from the nodal officer.
4.	Sharing the scrutiny schedule by the zone with DGGST	Within thirty days of receipt of the details of the concerned GSTINs from DGARM.
5.	Issuance of notice by the proper officer for intimating discrepancies in FORM GST ASMT-10 , where required	Within the month, as mentioned in scrutiny schedule for scrutiny of the returns of the said GSTIN
6.	Reply by the registered person in FORM GST ASMT-11	Within a period of thirty days of being informed by the proper officer in FORM GST ASMT-10 or such further period as may be permitted by the proper officer


7.	Issuance of order in FORM GST ASMT12 for acceptance of reply furnished by the registered person, where applicable	Within thirty days from receipt of reply from the registered person in FORM GST ASMT-11
8.	Initiation of appropriate action for determination of the tax and other dues under section 73 or section 74, in cases where no reply is furnished by the registered person.	Within a period of fifteen days after completion of the period of thirty days of issuance of notice in FORM GST ASMT-10 or such further period as permitted by the proper officer.
9.	Initiation of appropriate action for determination of the tax and other dues under section 73 or section 74, in cases where reply is furnished by the registered person, but the same is not found acceptable by the proper officer	Within thirty days from receipt of reply from the registered person in FORM GST ASMT-11
10.	Reference, if any, to the Commissioner for decision regarding appropriate action under section 65 or section 66 or section 67.	Within thirty days from receipt of reply from the registered person in FORM GST ASMT-11 or within a period of forty-five days of issuance of FORM GST ASMT-10, in case no explanation is furnished by the registered person.

Reporting and Monitoring

- A **Scrutiny Register** shall be maintained by the proper officer in respect of the GSTINs allotted for scrutiny.
- The progress of the scrutiny exercise as per the scrutiny schedule shall be monitored by the jurisdictional Principal Commissioner/ Commissioner on monthly basis.
- Further, a **Scrutiny Progress Report**, shall be prepared by the proper officer at the end of every month. The monthly Scrutiny Progress Report for each Commissionerate of the CGST Zone shall be compiled for each month and forwarded to the Director General of Goods and Service Tax (DGGST) by the Principal Chief Commissioner/Chief Commissioner of the concerned Zone by **10th day of the succeeding month**.

- The DGGST, in turn, would present the progress report to the Board, through the GST Policy Wing, by the 20th day of the corresponding month.
- Till the time scrutiny module is made available on the CBIC-GST application/AIO for CBIC officers, the aforesaid interim procedure for scrutiny of returns may be conducted on manual basis. Any communication with the taxpayer for the purpose of scrutiny shall be made with the use of DIN as per the guidelines mentioned in the **Circular No. 122/41/2019-GST** dated 5th November 2019.

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- This SOP is envisaged to enable the department to leverage technology and risk-based tools to encourage self-compliance and to conduct scrutiny of returns with minimal interaction with the registered persons. All Principal Chief Commissioners (PCCs)/ Chief Commissioners (CCs) are requested to closely monitor timely scrutiny of returns of the identified GSTINs within their jurisdictions.
 - Difficulties, if any, in implementation of these instructions may be informed to the Board.

- 
1. Tax liability on account of table 3.1(a) and table 3.1(b) of GSTR-3B may be verified with table 4,5,6,7A(1),7B(1), 11 and table 11B of GSTR1
 - Where tax liability in respect of Form GSTR 1 exceed of GSTR-3B it may indicate short payment of Tax.
 - Impact of Details in table 11B is reduction in liability for the tax period under consideration as the tax should have already been paid upon receipt of such advance amount.


2. Tax liability on account of “Inward supplies (liable to reverse charge)” as declared in Table 3.1(d) of GSTR-3B may be verified with the following:.

- **2(i) ITC availed in Table 4(A)(2) and Table 4(A)(3) of FORM GSTR-3B.**

Availment of ITC in excess of liability of RCM supplies may indicate Short payment of Tax liability of RCM supplies or excess availment of ITC in respect of RCM supplies.


2.(ii) ITC in respect of inward supplies attracting reverse charge as available in **Table 3 And 5** (alongwith the net effect of amendments thereof in **Table 4 and 6** respectively) of **GSTR-2A**.

- Inward supplies attracting reverse charge from registered person, the details of invoices and Dr/Cr note are communicate in Table 3 and 5 of **GSTR-2A** and amendment of that supplies in their **GSTR-1** the detail of such amendment are communicate in table 4 and 5 respectively.
- Detail of such inward supplies from unregistered persons are not communicate in GSTR-2A. Moreover, detail of ITC on account of Import of services also are not communicate in **GSTR-2A**
- Reverse charge services declared in table 3.1(d) of **GSTR-3B** cannot be less than inward supplies attracting reverse charge of **GSTR-2A**

- 
- RCM supplies in table 3.1(d) of GSTR -3B are less than inward supplies attracting reverse charge in GSTR-2A it may indicate short payment of tax on account of RCM supplies.
 - It may be noted that the said tables in FORM GSTR-2A contain details of supplies attracting forward as well as reverse charge.

2.(iii) Tax/Cess paid in cash as per column 8 of Table 6.1 of GSTR-3B.

- In respect of inward supplies liable to reverse charge, tax/cess is to be paid in cash.
- tax liability off-set in cash should not be less than the liability arising on account of reverse charge as per table 3.1(d) of FORM GSTR-3B.
- Where the tax liability off-set in cash is less than the liability arising on account of reverse charge, it may indicate short payment of tax.

- 
3. ITC availed in respect of “Inward supplies from ISD” in Table 4(A)(4) of GSTR-3B may be verified with Table 7 (along with the net effect of amendments thereof in Table 8) of GSTR2A.

4. ITC availed in respect of “All other ITC” in Table 4(A) (5) of GSTR-3B may be verified with Table 3 and Table 5 (along with the net effect of amendments thereof in Table 4 and Table 6 respectively) of GSTR-2A.

- It may be noted that the said tables in FORM GSTR-2A contain details of supplies attracting forward as well as reverse charge. Therefore, only the supplies against which there is NO or N in column 14 of table 3, column 16 of Table 4, column 15 of Table 5 and column 18 of Table 6 may be considered.

5. It may be verified that the taxable value declared on account of “Outward taxable supplies (other than zero rated, nil rated and exempted)” in Table 3.1(a) of GSTR-3B is not less than the net amount liable for TCS and TDS credit as per Column 6 of Table 9 of GSTR-2A.


- The details of such TDS and TCS are furnished by the corresponding deductors and operators in their GSTR-7 and GSTR-8 respectively and communicated to the registered person in table 9 of GSTR-2A.
- Besides such supplies, the registered person may have other supplies also.
- A discrepancy on the aforementioned count may indicate short payment of tax.

6. Liability on account of outward supplies in Table 3.1(a) and 3.1(b) of GSTR-3B should be verified with the Tax liability as declared in e-way bills.

- Rule 138 of the CGST Rules mandates generation of e-way bill before commencement of movement of goods of consignment value exceeding Rs.50,000.
- Accordingly, liability declared in table 3.1 (a) and (b) of FORM GSTR-3B should not be less than tax liability as declared in the e-way bills.

7. Claim of ITC in respect of supplies from taxpayers whose registrations have been cancelled retrospectively.

- In case of retrospective cancellation of registration of a supplier, the recipient is not entitled to claim ITC in respect of invoices or debit notes issued after the effective date of cancellation of the registration.
- It may be verified whether the registered person has availed ITC in respect of such invoices or debit notes issued by the suppliers after the effective date of cancellation of their registrations.

- 
8. Ineligible ITC availed in respect of invoices / debit notes issued by the suppliers who have not filed their GSTR-3B returns for the relevant tax period.
- FORM GSTR-2A of the registered person contains the details of “GSTR-3B filing status” of the supplier in respect of each invoice / debit note received by the registered person.
 - Where the said status is “No”, it indicates the supplier has furnished invoice details in his FORM GSTR-1, but has not furnished the return in FORM GSTR-3B for the corresponding tax period.

9. Whether GSTR-3B of a tax period is filed after the last date of availment of ITC in respect of any invoice / debit note as per section 16(4). In such cases, no ITC shall be availed in the return.

- It may also be noted that vide proviso to sub-section (4) of section 16, for FY 2017-18, availment of ITC was allowed beyond the due date of furnishing of return for the month of September, 2018 till the due date of furnishing of the return in FORM GSTR-3B for the month of March, 2019 subject to the condition that the details of the said invoices / debit notes should have been furnished by the suppliers in their FORM GSTR-1 till the due date of furnishing of FORM GSTR-1 for the month of March, 2019.

10. ITC availed in respect of “Import of goods” in Table 4(A)(1) of FORM GSTR-3B may be verified with corresponding details in Table 10 and Table 11 of FORM GSTR-2A

- Wherever required, the details of such imports may also be cross-verified from ICEGATE portal.

11. Whether the registered person has made reversals of ITC in accordance with provisions of rule 42 and rule 43 of the CGST Rules.

- Rule 42 of the CGST Rules provides for manner of determination of input tax credit in respect of inputs or input services and reversal thereof.
- Rule 43 provides for manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases. The registered person avails ITC in table 4(A) of FORM GSTR-3B and reverses in Table 4(B). It may be verified whether requisite reversals have actually been made by the said registered person.

12. Whether the registered person has paid interest liability in terms of section 50

- As per section 50 of the CGST Act a registered person is required to pay interest on delayed payment of tax. It may be verified whether interest payable as per the provisions of section 50 of the CGST Act has actually been paid by the registered person.

13. Whether the registered person has paid late fee in terms of section 47 in respect of returns/ statements.

- As per section 47 of the CGST Act a registered person is required to pay late fee for delayed filing of returns / statements under the Act. It may be verified whether late fee payable as per the provisions of section 47 of the CGST Act has actually been paid by the registered person.

CBIC have prescribed the monetary limits within for issuance of Show Cause Notices as per Circular No. 31/05/2018-GST, dated 09-Feb-2018 which is as follows

Particulars	Superintendent	AC/DC	ADC/JC
Amount of CGST (including Cess) involved in a case	Demand <= Rs. 10 Lakhs	Rs. 10 Lakhs < Demand <= Rs. 1 Crore	Demand > Rs. 1 Crore
Amount of ICGST (including Cess) involved in a case	Demand <= Rs. 20 Lakhs	Rs. 20 Lakhs < Demand <= Rs. 2 Crore	Demand > Rs. 2 Crore
Amount of ICGST and CGST (including Cess) involved in a case	Demand <= Rs. 20 Lakhs	Rs. 20 Lakhs < Demand <= Rs. 2 Crore	Demand > Rs. 2 Crore

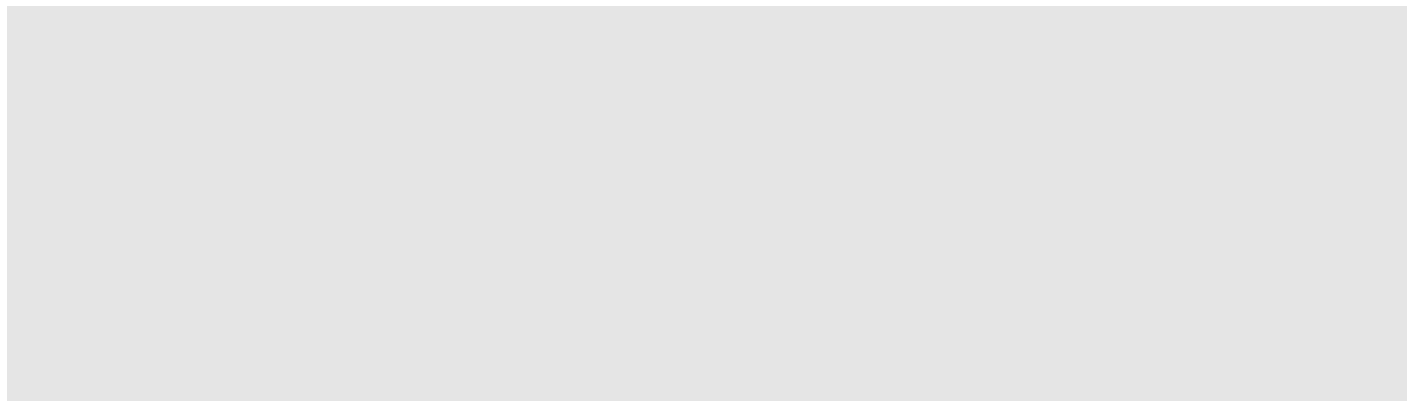
GENERAL DISCIPLINES RELATING TO DETERMINATION OF TAX

1. Opportunity of personal hearing shall be given to the taxpayer.
2. Adjournment maximum 3 times to each party.
3. Amount demanded in order must not exceed the amount mentioned in SCN
4. Interest is payable whether or not determined in the Order.
5. Officer issuing Order must be different from him who issued SCN.

GENERAL DISCIPLINES RELATING TO DETERMINATION OF TAX

6. Adjudication proceedings deemed to be concluded if not decided within stipulated time period.
7. Where the service of notice is stayed by an order of a Court or Appellate Tribunal, the period of such stay shall be excluded.
8. Order passed by the Proper Officer shall be a Speaking Order.
9. The Interest shall create automatic charge whether or not specified in the order determining the tax liability.
10. Direct recovery proceedings U/s 79 shall be initiated for any pending self-assessed tax liability along with interest in accordance with the returns furnished either GSTR-1 or GSTR-3B.

Quoting of Document Identification Number (DIN) Cir. No. 122/41/2019- GST & 128/47/2019



DIN

DIN on email??

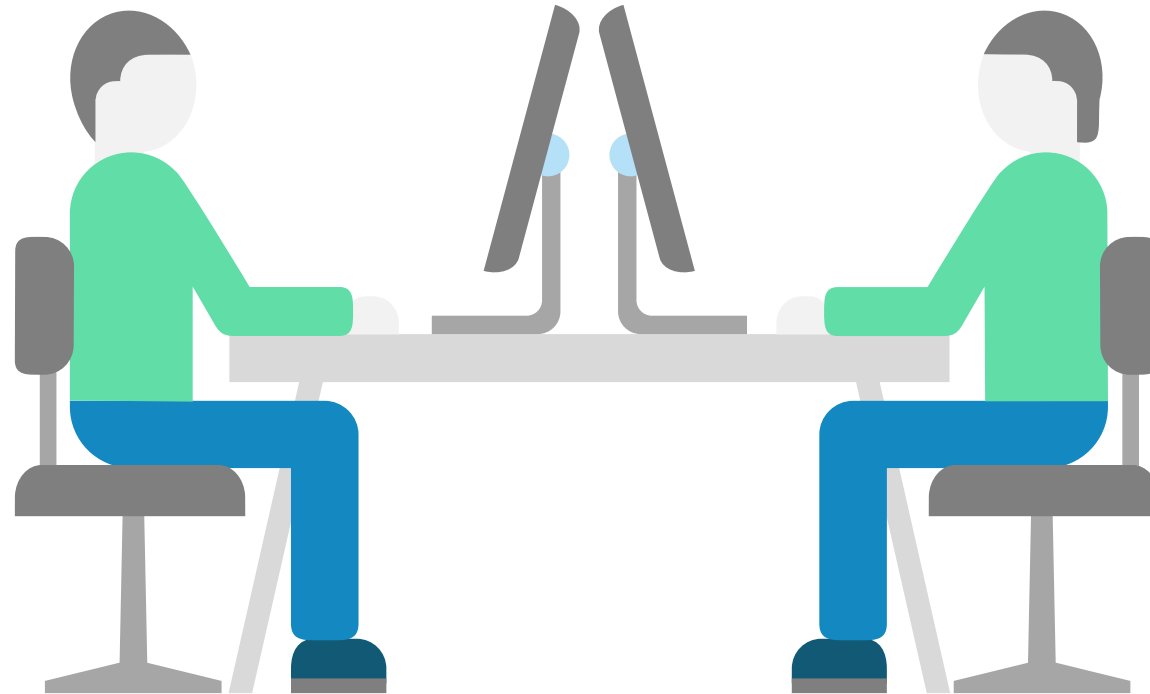
Exceptions to Issuance of DIN

- Technical difficulty
- Inquiry, Investigation etc but authorised officer is outside the office
- Reasons to be recorded

Offences and Penalties & Demand and Recovery

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Wrt Section 73,74, & 76



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Recovery of service tax not levied or paid or short-levied or short-paid or erroneously refunded. Section - 73, Finance Act, 1994

Where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded, the Central Excise Officer may, within **thirty months** from the relevant date, serve notice on the person chargeable with the service tax which has not been levied or paid or which has been short-levied or short-paid or the person to whom such tax refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice :

Provided that where any service tax has not been levied or paid or has been 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 provisions of this Chapter or of the rules made thereunder with intent to evade payment of service tax,

by the person chargeable with the service tax or his agent, the provisions of this sub-section shall have effect, as if, for the words **thirty months** the words "**five years**" had been substituted.

Time Duration U/s 73 of S.Tax

- 1994 to 2012: 12 months
- 2012 to 2016: 18 months
- 14-05-2016 onwards: 30 months

S. Tax vs GST

Section - 73

- (a) fraud; or
- (b) collusion; or
- (c) wilful mis-statement; or
- (d) suppression of facts; or
- (e) contravention of any of the provisions

Section 74

- fraud, or
- any wilful-misstatement or
- suppression of facts
 - to evade tax

Demands and Recovery

Section	Rules	Form No.
Section 73- Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful misstatement or suppression of facts.	Rule 142 Notice and order for demand of amounts payable under the act.	GST DRC-01 GST DRC-02 GST DRC-03 GST DRC-04 GST DRC-05 GST DRC-06 GST DRC-07 GST DRC-08

Demands and Recovery

Section	Rules	Form No.
Section 74- Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful misstatement or suppression of facts.	Rule 142 Notice and order for demand of amounts payable under the act.	GST DRC-01 GST DRC-02 GST DRC-03 GST DRC-04 GST DRC-05 GST DRC-06 GST DRC-07 GST DRC-08

Demands and Recovery

Section	Rules	Form No.
Section 75- General provisions relating to determination of tax	Rule 142 Notice and order for demand of amounts payable under the act.	GST DRC-01 GST DRC-02 GST DRC-03 GST DRC-04 GST DRC-05 GST DRC-06 GST DRC-07 GST DRC-08

Demands and Recovery

Section	Rules	Form No.
Section 76- Tax collected but not paid to Government.	Rule 142 Notice and order for demand of amounts payable under the act.	GST DRC-01 GST DRC-06 GST DRC-07 GST DRC-08
Section 77- Tax wrongfully collected and paid to Central Government or State Government.		

Demands and Recovery

Section	Rules	Form No.
Section 79- Recovery of tax	Rule 143 Recovery by deduction from any money owed.	GST DRC-09
	Rule 144 Recovery by sale of goods under the control of proper officer.	GST DRC-10
	Rule 145 Recovery from a third person	GST DRC-11
	Rule 146 Recovery through execution of a decree, etc.	GST DRC-12
	Rule 147 Recovery by sale of movable or immovable property.	GST DRC-13
	Rule 148 Prohibition against bidding or purchase by officer.	GST DRC-14
	Rule 149 Prohibition against sale on holidays.	GST DRC-15
	Rule 150 Assistance by police	GST DRC-16
	Rule 151 Attachment of debts and shares etc.	GST DRC-17
	Rule 152 Attachment of property in custody of courts or Public Officers	GST DRC-18
	Rule 153 Attachment of interest in partnership	GST DRC-19
	Rule 154 Disposal of proceeds of sale of goods and movable or immovable property.	GST DRC-20
		GST DRC-21
		GST DRC-22
		GST DRC-23

Demands and Recovery

Section	Rules	Form No.
Section 81- Transfer of property to be void in certain cases		
Section 122- Penalty for Certain Offences.		
Section 123- Penalty for Failure to furnish information return.		
Section 124- Fine for failure to furnish statistics.		
Section 125- General Penalties.		
Section 126 - General Disciplines related to penalty.		
Section 127- Power to impose penalty in certain cases.		
Section 128- Power to waive penalty or fee or both.		
Section 129- Detention, seizure and release of goods and conveyances in transit.		

Demands and Recovery

Section 130- Confiscation of goods or conveyances and levy of penalty.		
Section 131- Confiscation or penalty not to interfere with other punishments.		
Section 132- Punishment for certain offences.		

Demands and Recovery

Section	Rules	Form No.
Section 130- Confiscation of goods or conveyances and levy of penalty.		
Section 131- Confiscation or penalty not to interfere with other punishments.		
Section 132- Punishment for certain offences.		

Section-73

(1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder.

(2) The proper officer shall issue the notice under sub-section (1) at least three months prior to the time limit specified in sub-section (10) for issuance of order.

Section 73

(3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.

(4) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.

Time limits u/s 73

For the purpose of	Time limit
Foe SCN issued u/s 73(1)	At least 3 months prior to issue of order u/s 73(9) i.e. 2 years and 9 months from the due date of filing annual return for the F.Y to which the demand pertains or from date of erroneous refund as per u/s 73(2)
For adjudication order passed u/s 73(9)	Within 3 year from the due date of filing annual return for the year F.Y to which the demand pertains or within 3 years from date of erroneous refund as per u/s 73(10)

Amount of penalty

S.No.	Action by Tax payer	Amount of penalty
1	Tax and Interest paid before issuance of SCN	No penalty and No SCN
2	Tax and interest paid within 30 days of issuance of SCN	No penalty & all processing deemed to be concluded
3	Tax and interest paid within 30 days of communication of adjudication order	10% of Tax amount, OR Rs. 10,000 Which ever is higher
4	Tax and interest paid after 30 days of communication of adjudication order	10% of Tax amount, OR Rs. 10,000 Which ever is higher

NOTE:-1 Penalty shall also be not chargeable in case where the self-assessed tax or any amount collected as tax is paid (with interest) within 30 days from the due date of payment.

NOTE:-2 Where any penalty imposed u/s 73, no penalty for the same act or omission shall be imposed on the same person under any other provision of Act.

NOTE:-3 Payment of interest is mandatory even if not specified in adjudicating order as per u/s 73(9).

Section 74

(1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty equivalent to the tax specified in the notice.

(2) The proper officer shall issue the notice under sub-section (1) at least six months prior to the time limit specified in sub-section (10) for issuance of order

Time limits u/s 74

For the purpose of	Time limit
Foe SCN issued u/s 74(1)	At least 6 months prior to issue of order u/s 74(9) i.e. 4 years and 6 months from the due date of filing annual return for the F.Y to which the demand pertains or from date of erroneous refund as per u/s 74(2)
For adjudication order passed u/s 74(9)	Within 5 year from the due date of filing annual return for the year F.Y to which the demand pertains or within 5 years from date of erroneous refund as per u/s 74(10)

Amount of penalty

S.No .	Action by Tax payer	Amount of penalty
1	Tax and Interest paid before issuance of SCN	15% Tax but No SCN
2	Tax and interest paid within 30 days of issuance of SCN	Penalty equal to 25% of Tax & all processing deemed to be concluded
3	Tax and interest paid within 30 days of communication of adjudication order	Penalty equal to 50% of Tax & all processing deemed to be concluded
4	Tax and interest paid after 30 days of communication of adjudication order	100% of Tax

NOTE:-1 Penalty shall also be not chargeable in case where the self-assessed tax or any amount collected as tax is paid (with interest) within 30 days from the due date of payment.

NOTE:-2 Where Payment of interest is mandatory even if not specified in adjudicating order as per u/s 74(9).

NOTE:-3 any penalty imposed u/s 74, no penalty for the same act or omission shall be imposed on the same person under any other provision of Act.

Penalty under Demand & Recovery

	Show cause notice	Order	
Section 73 Bonafied	Within 2 year & 9 months of services from due date annual return filing.	Within 3 years from due date of annual GST return	Section 73 Bonafied
Section 74 Malafied	Within 4 years & 6 months from the due date of annual GST Return	Within 5 years from due date of annual GST return	Section 74 Malafied
Any amount of tax collected but not paid	No Time Limit	Within 1 year from date of issue of notice	Any amount of tax collected but not paid

Time limit of show cause notice & order

S.No.	Action by Tax Payer	Section 73 Bonafied Case	Section 74 Malafied case
1	Tax & interest paid before show cause notice	No penalty	15% of tax
2	Tax & interest within 30 days of show cause notice	No penalty	25% of tax
3	Tax & interest paid within 30 days of order	Higher of 10% of tax “or” Rs. 10,000	50% of tax
4	Tax & interest paid after 30 days of order	Higher of 10% of tax “or” Rs. 10,000	100%



DRC-01: Summary of Show Cause Notice

DRC-02: Summary of Statement

DRC-03: Intimation of Payment made Voluntarily or
made against the Show Cause Notice or Statement

DRC-04: Acknowledgement of
Acceptance of Payment made Voluntarily
DRC-05: Intimation of Conclusion of Proceedings





DRC-06: Reply to the Show Cause Notice



DRC-07: Summary of the order



DRC-08: Rectification of Order



DRC-09: Orders for Recovery through specified officer U/S 79



DRC-10: Notice for Auction of
Goods U/S 79(1)(b) of the ACT





DRC-11: Notice to Successful Bidder →
DRC-12: Sale of Certificate





DRC-13: Notice to third person U/S 79(1)(c)



DRC-14: Certificate of Payment to a
third Person





DRC-15: Application before the Civil Court requesting
Execution of a Decree





DRC-16: Notice for attachment and sale of
Immovable/Movable goods/shares u/s 79

DRC-17: Notice for Auction of Immovable/Movable
Property u/s 79





DRC-18: Certificate to the Collector or Deputy Commissioner of the district or any other officer authorized to recover from the person concerned



DRC-19: An application before the appropriate Magistrate in accordance with the provisions of clause (f) of sub-section (1) of section 79



DRC-20: Application for Deferred Payment/Payment in Instalments



DRC-21: Order for acceptance/rejection of application for Deferred Payment/Payment in Instalments





DRC-22: Provisional attachment of Property U/S 83



DRC-23: Restoration of Provisionally attached
Property / Bank Account U/S 83

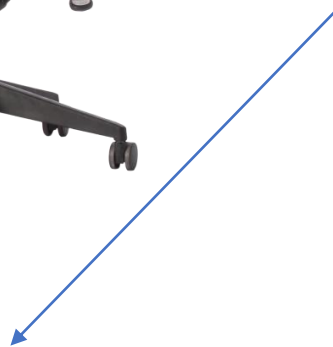


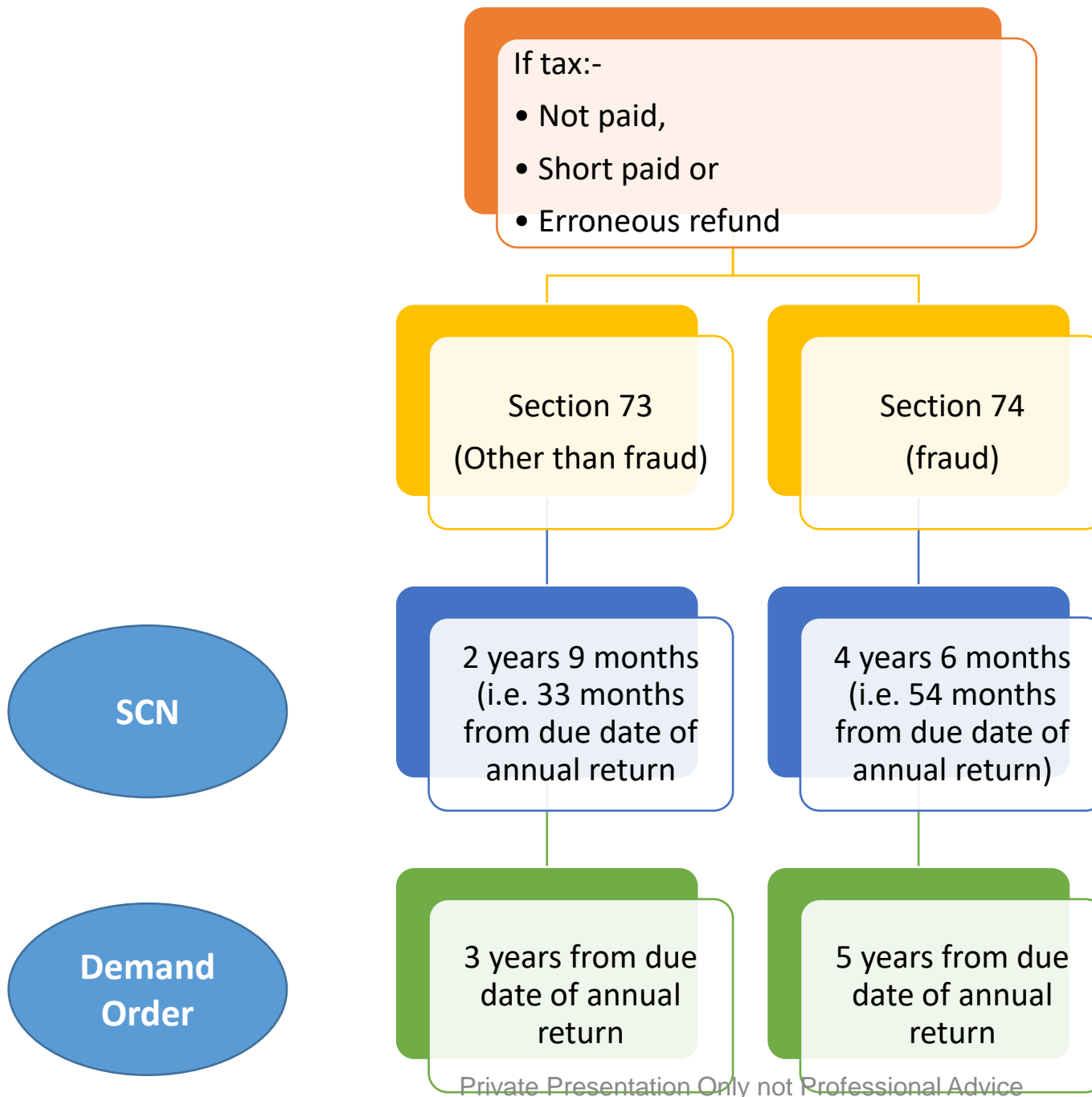
DRC-24: Intimation to liquidator for recovery of Amount



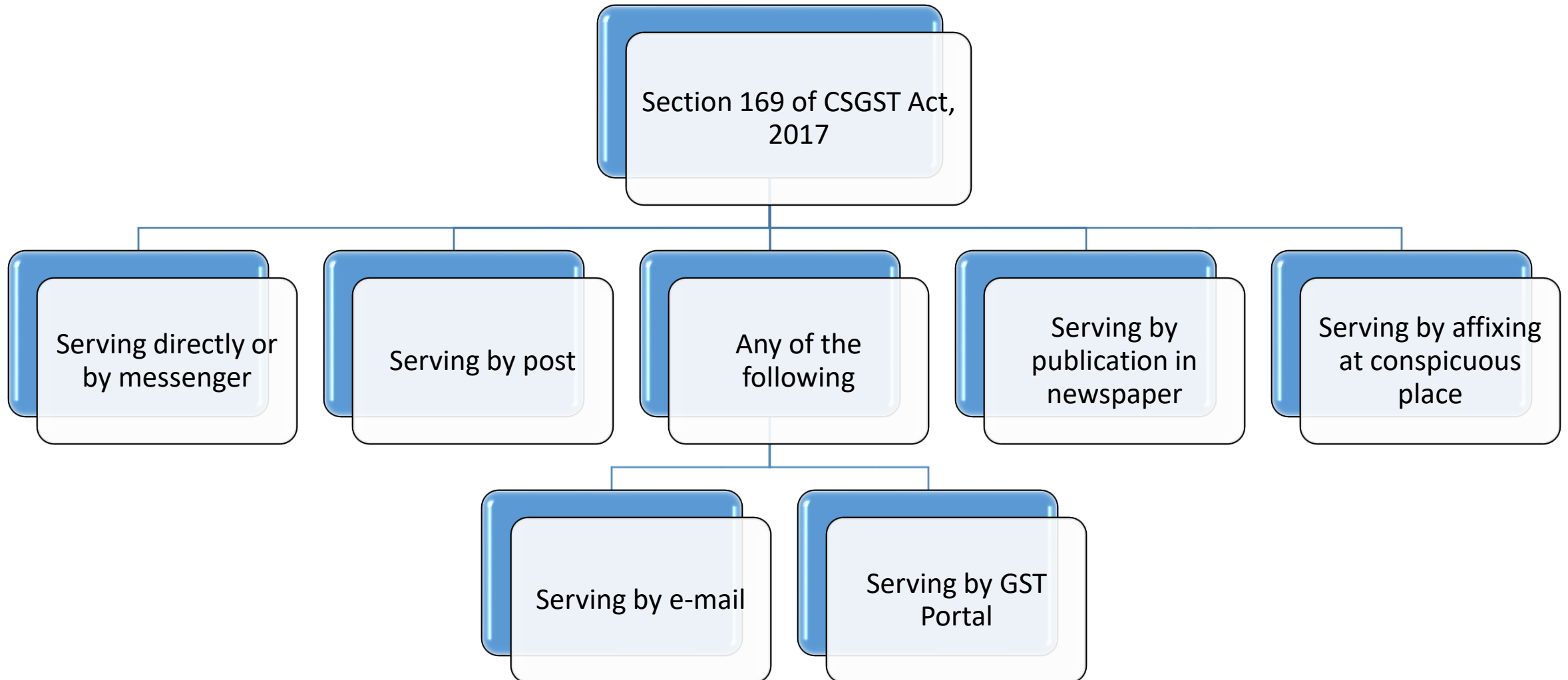


DRC-25: Continuation of Recovery Proceedings





Service of Notice in certain circumstances



Question???

Thanking You

This presentation was meant for private participation and any circulation of the same without permission of Team GSTpanacea &/or Abhishek Raja is an offence.

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Thank You!!!