

GOVERNMENT OF NCT OF DELHI
DEPARTMENT OF TRADE AND TAXES
POLICY BRANCH,
VYAPAR BHAWAN, IP ESTATE,
NEW DELHI-110002.

F. No.3(523)/GST/POLICY/2024/1543-51

Dated: 22/5/24

INSTRUCTION

Sub: Protecting the interest of the Government revenue while issuing refund under GST and DVAT Act.

The Insolvency and Bankruptcy Code (IBC), 2016 has been enacted to consolidate and amend the laws relating to reorganisation and insolvency resolution in a time bound manner for maximisation of value of assets, to promote entrepreneurship, availability of credit and balance the interests of all the stakeholder. IBC has recognised three types of creditors i.e. Financial Creditor, Operational Creditor and Other Creditor and Government dues fall under the category of "Operational Credit" for which a claim is required to be filed before the Insolvency Resolution Professional (IRP) or Liquidator, as the case may be, in the prescribed form.

It has come to the notice that Proper Officer(s) are sanctioning refund under DVAT Act and GST Act without ascertaining the status of any pending insolvency/liquidation proceedings against the Registered Person(s) and status of pending dues/claim of the Department. Therefore, in order to protect the interest of the revenue, it is directed that before sanctioning refund amount under DVAT Act or GST Act, Proper Officer(s) shall confirm that whether any insolvency/liquidation proceeding is pending or concluded against the Registered Person(s) and shall also ascertain the status thereof.

The status of above said proceedings may be ascertained from Registered Person(s) OR web portal of IBBI or web portal of NCLT/NCLAT OR may also be confirmed from Law & Judicial Branch of this Department. In case, any such proceeding is pending/concluded, it shall be brought in the knowledge of the concerned Zonal In-charge for further processing of refund claim in consultation with the Law & Judicial Branch. It is also directed that while sending the file for ECS under the DVAT Act, concerned Ward In-charge shall also provide a certification as under:

"In view of the Instruction No. ___ dated ___ issued by Department, it is certified that as on date, no insolvency/liquidation proceeding is pending/concluded against the Dealer."

This is issued with the approval of the Competent Authority

Kriti
21/05/24
(Kriti Garg, IAS)

Spl. Commissioner (Policy)

For Uploading

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F. No.3(523)/GST/POLICY/2024/ 1543-51

Dated: 22/5/24

Copy forwarded for information and necessary action to:

1. All Spl./Addl./Joint Commissioners, Department of Trade & Taxex, GNCT of Delhi, Vyapar Bhawan, I.P Estate, New Delhi-02.
2. Special Commissioner, (PR), Department of Trade & Taxes, GNCT of Delhi, Vyapar Bhawan, I.P Estate, New Delhi-02 for publicity of the contents of this instruction.
3. Sr. System analyst, IT for uploading the circular on website of the Department.
4. The President/General Secretrary, Sales Tax Bar Association(Regd.), Vyapar Bhawan, I.P Estate, New Delhi-02
5. All Assistant Commissioner/GSTOs Department of Trade & Taxes, GNCT of Delhi, Vyapar Bhawan, I.P Estate, New Delhi-02 through Zonal Commissioners.
6. PS to the Pr. Commissioner, Department of Trade & Taxes, GNCT of Delhi, Vyapar Bhawan I.P Estate, New Delhi-02.
7. Guard File.


GSTO (POLICY)