


GST probe wing told not to directly call CEOs, CFOs

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THE CENTRAL BOARD OF Indirect Tax and Customs (CBIC) has directed officials in the Directorate General of Goods and Services Tax Intelligence (DGGI) to follow a "bottom-up" approach while investigating tax liability of multinational companies (MNCs).

In internal guidelines issued recently, the indirect tax board instructed officials at field formations to first question the "authorised person" in an MNC, responsible for ensuring tax compliance, instead of directly summoning the company's chief executive officer (CEO), chief financial officer (CFO) or directors at the first instance.

"Several MNCs had approached the finance ministry earlier, and had mentioned the issues the top management face in the hands of DGG officials... the new guidelines are expected to address such con-



PROBE PROCESS

■ **MNCs had approached finance ministry on issues top management faces with DGG officials**

■ **Directors/CEOs asked to be present in person in GST probes** may be unable to respond due to busy schedule

■ **CBIC tells officials to first question "authorised person" responsible for ensuring tax compliance**

cerns," a senior official said, on condition of anonymity.

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OFTEN DURING GST investigation, directors/CEOs are asked to be present in person, and are unable to respond to these calls all the time due to their busy schedule. Though they would be conversant with the business, they may still not be able to clarify on the questions regarding the tax liabilities of the firms they lead or compliance issues being raised by the taxman, say independent tax analysts.

MNCs thus usually appoint someone from their staff or external advisers to attend to tax investigations. The top management gets involved only in rare cases wherever suitable explanations about the business are not being furnished, or the tax department stumbles on some serious violations, and confronts the company with proof.

There are several instances of GST authorities questioning top brass of the MNCs, sources said, and cited the recent case of secondment charges. Secondment or deputation of expatriates is subject to GST, if the expatriate employee is being reimbursed by the Indian arm of the foreign company for the services provided to the subsidiary. While this created a flutter among the MNC community, the CBIC in December had directed GST authorities to follow a more nuanced approach towards determining the tax liability of Indian subsidiaries of MNCs with regards to secondment charges.

Tanushree Roy, director, Nangia Andersen India, said the practice of DGGI officials directly questioning CEOs and

CFOs had numerous negative effects on company operations, including disrupting work schedules, causing legal and compliance burdens, and impacting investor confidence.

In 2022, the CBIC had told field officers that issuance of summons to senior management officials/promoters should be "avoided" unless there are clear indications that their involvement has resulted in "revenue loss". But this hasn't led to any significant change in the operational conduct of field officers, from the perception of company managements.

Sandeep Sehgal, partner, AKM Global, said: "The new guidelines will reduce the time and efforts of the company's top management as the authorised personnel (for tax matters) will be able to provide the targeted answers to the queries of the DGGI."

Experts further said that top officials of a company are often summoned by the authorities at short notice to a unit of the DGGI, which is not close to that of the assessee. This creates additional issues for the top brass. "Therefore, serious thought should be given to conducting investigations through the unit of DGGI that is proximate to the registered office of the assessee," said Sanjeev Sachdeva, partner, Luthra and Luthra.

"At a time when courts are encouraging hybrid working, DGGI should further consider recording statements, where possible through online mode. This would contribute to ease of doing business," he added.