**Anti-Profiteering Standard Operating Procedure (SOP) for CGST and SGST field formations**

1. **Role to be played by officers posted in CGST & SGST field formations as soon as any GST-rate reduction/ additional ITC benefit is announced:-**
2. **Record Keeping:-**

All executive Commissioners of CGST and SGST may utilise all available resources, including human resources, at their disposal to maintain a list of Notifications allowing change in tax rate or any additional ITC benefit, with effective date thereof, and identify, within their jurisdiction, the specific goods along with HSN codes and services which are going to be affected.

1. **Identification of Suppliers:-**

Commissioners shall identify top twenty suppliers under their jurisdiction (manufacturers/ distributors/ and service providers) in respect of which the prices/ MRP and availability of Input Tax Credit are likely to be impacted by change in tax rate or any additional ITC benefit. The first B2B invoices of these suppliers’ value chains, for the relevant period, may be checked, for any prima facie violations of anti-profiteering provisions.

1. **Data Collection:-**

Commissioners shall get the data collected, from such suppliers across all levels of the supply chain and collect pre-rate-reduction evidences, such as invoices, which would help them to establish the facts of the case. For this purpose, Commissioners may either use the jurisdictional field functionaries or set up specialised anti-profiteering cell for the purpose of operationalizing and coordinating the anti-profiteering work in their jurisdictions and to help increase awareness regarding the anti-profiteering provisions amongst consumers and other stakeholders.

1. **Mock Purchases:-**

Commissioners may also cause purchase of any goods or services affected by a rate change. Section 67(12) of the Central Goods and Services Tax Act, 2017, which is reproduced below, authorises the Commissioners to make mock-purchases so as to gather invoices for evidence.

“67(12) The Commissioner or an officer authorised by him **may cause purchase of any goods or services** or both by any person authorised by him from the business premises of any taxable person, to check the issue of tax invoices or bills of supply by such taxable person, and on return of goods so purchased by such officer, such taxable person or any person in charge of the business premises shall refund the amount so paid towards the goods after cancelling any tax invoice or bill of supply issued earlier.”

This provision of the Act may be proactively used to collect the evidence for profiteering made by any such supplier.

1. **Role to be played by officers posted in CGST & SGST field formations after any GST-rate reduction/ additional ITC benefit is implemented:-**
2. **Verification of first B2B invoices:-**

Commissioners shall identify top 20 suppliers under their jurisdiction (manufacturers/ distributors/ retailers /job workers and service providers) in respect of which the prices/ MRP and availability of Input Tax Credit got actually impacted by change in tax rate. The first B2B invoices of these suppliers’ value chain, for the relevant period, may be checked, for any prima facie violation of any anti-profiteering provisions, within a reasonable time. Commissioners and jurisdictional officers may supply the details of any such prima facie violation, along with prima facie estimation, of the profiteering amount involved, if any, to the State-level Screening Committee for further action thereon.

1. **Documentation to be checked for Identification of Potential Cases of Profiteering:-**

Commissioners shall get the possible cases of profiteering identified, by study of the following data depending on the requirement-

* changes in prices/ MRPs before and after any reduction in tax rates/ increase
* changes in the availability of input tax credit.

Also, they may get specific cases of profiteering identified by studying the changes in cases of increase in tax credit of inputs of suppliers. Scope of these documents may inter alia include:

1. Sale price lists/ MRP Lists of each product / SKU/ Service – pre and post GST change/reduction of rate
2. Invoice data, GSTR-1 Invoices (Pre & Post)
3. New MRP stickers with reduced rates affixed (Both Pre & Post)
4. GSTR-2A to check for pre and post rate changes on inputs
5. ITC ledger of the taxpayer.
6. **Checking the fixation of stickers with revised MRPs:**-

Commissioners shall get it checked that the sale prices/MRPs have been revised / MRP stickers fixed, in cases of reduction of tax rate at all levels of the supply chain, and ascertained as to whether such change in MRP/ prices is prima-facie commensurate with the change in tax rates.

1. **Premise Visits by field officers:-**

In case of any probable profiteering, the field officers, whenever they find any such eventuality, may visit the GST registrant/taxpayer, after approval by competent authority, to collect specific prima facie evidences.

1. ***Centralized Public* Grievance Redress And Monitoring System (*CPGRAMS)/* Other Complaints:-**

Any CPGRAM or other complaints of the nature of the non-reduction of products’ prices even after a GST rate reduction shall be duly forwarded to the Standing Committee on Anti-Profiteering, or to the State Screening Committee on Anti-Profiteering, as the case may be.

1. **Role of Investigative Agencies/ Verification Teams and Audit:-**

GST officers conducting anti-evasion verifications, audits and similar checks, including inspections and search operations, in respect of taxpayers may also include checks from the perspective of identification of cases of profiteering within the scope of Section 171 of the CGST Act, 2017. Necessary instructions may be issued by the CBIC and Commissioners of SGST to the field functionaries in this regard.

While such checks could include scrutiny of multifarious records and returns of the taxpayer, especially the books of accounts, selling price/MRP Lists of each SKU before and after announcement of any tax rate changes, Invoice Data (GSTR-1) and Input data (GSTR-2 or GSTR-2A), officers may actually look for the following pointers -

* 1. sudden swelling up of the ITC for the quarters immediately succeeding any GST rate-reduction or changes in tax structure of inputs.
  2. abrupt increase in the net profits for the quarters immediately succeeding any GST rate-reduction or changes in tax structure of inputs.
  3. any enhancement of the base price of any product (at the SKU level) immediately after announcement of a GST rate reduction/ additional ITC availability, in a manner that the final price/ MRP of the product, being paid by the recipient/ consumer is not reduced commensurately at any level of the supply chain and the ultimate consumers is denied the benefit.

1. **Role of field functionaries at the local/Range/Circle Level:-**

Local field officers shall also identify possible cases of profiteering through study of the periodic returns, specifically price data, Input Tax Credit, etc. filed by the GST registrants and through interaction with trade and industry.

1. **Complaint Filing by Jurisdictional Office, as per Rule 128:**-

In case of a prima-facie detection of a case of profiteering by any taxpayer, the concerned jurisdictional Commissioner or any officer authorized by the Commissioner, may file, at the earliest and preferably within a reasonable period of one month of such detection, an application under Rule 128 of CGST Rules along with necessary details and evidence, with the concerned State level Screening Committee.

1. **Role to be played by Senior Officers Monitoring the Performance of Field Functionaries**

Officers conducting inspections and monitoring performance of field functionaries/ offices may also monitor and review/ inspect the performance of the field functionaries from the perspective of anti-profiteering work.