

DESAI SAKSENA & ASSOCIATES

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Friday Tax Alert

From:

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GST Notice for dealing with Non-Genuine Taxable Persons (NGTP)

Nowadays, many taxpayers are receiving notices under GST for their dealings with NGTP (Non-Genuine Taxable Persons). This surge in notices highlights the increasing focus of tax authorities on combating fraudulent activities within the GST ecosystem.

Let's Understand in details the concept of NGTP and how to avoid dealing with NGTP persons

1. What is an NGTP case under GST?

An NGTP (Non-Genuine Taxable Person) case under GST refers to situations where **a registered taxpayer is found to be non-genuine or fake** based on investigations by the tax authorities. Such cases typically involve fraudulent activities like fake invoicing, tax evasion, or non-existent businesses used to claim illegal Input Tax Credit (ITC).

2. What are the cases considered non-genuine by GST authorities?

- **Fake Registration:** The business does not exist at the registered address or was registered using false documents.
- **Bogus ITC Claims:** The entity issues invoices without actual supply of goods/services to fraudulently claim ITC.
- **Non-Filing of Returns:** The taxpayer is not filing GST returns for an extended period despite being registered.
- **Mismatched Transactions:** Discrepancies between GSTR-1 (outward supplies) and GSTR-3B (tax liability/payment).
- **Suspicious Banking Transactions:** Unusual financial activity indicating a fake business setup.

3. Consequences of Being Declared an NGTP?

- Cancellation of GST Registration under Section 29 of the CGST Act, 2017.
- Blocking of ITC for recipients who have transacted with such an entity.
- Penalty & Interest under Section 122 & 74 for fraudulent ITC claims or tax evasion.
- Prosecution & Arrest under Section 132 for severe fraud cases.
- Demand & Recovery Proceedings under Section 74.
- Receiving notice from income tax department as data will be shared by GST Department to Income Tax Department.

4. How NGTP Cases Are Identified?

GST authorities identify such cases through:

- GSTIN verification & physical inspections.
- Data analytics & AI-based scrutiny.
- Mismatch reports between GST returns & e-way bills.
- Information from banks, Income Tax Department, or other sources.
- Audit by GST Department under section 65

5. Cases When a tax-payer will be receiving notices regarding his dealing with an NGTP?

A. When it has purchased goods or services from such a person, and that person

- Has failed to file GST return i.e. GSTR-1 and GSTR 3B
- Such person has filed GSTR-1 with data but has not filed GSTR-3B
- Such person has filed GSTR-1 with data and has passed the ITC to GSTR2B of the recipient but has filed GSTR3B Nil.
- Such person has filed GSTR 1 with data and passed the ITC to GSTR 2B of the recipient but has filed GSTR 3B by claiming fake ITC which is not auto populated in his GSTR 2A/2B.

In all the above cases, you will receive notice from the GST department for depositing tax along with interest and penalty u/s 74 since it has passed the ITC to you which you have utilised but on which tax is not received to the GST department.

B. No E-way bill generated for exceeding limit more than 1,00,000 / 50,000.

In cases where goods valued at more than ₹50,000 are sold in an inter-state transaction without the generation of an E-way Bill, such transactions may be classified as fake invoicing under GST regulations. The absence of an E-way Bill raises concerns regarding the authenticity of the supply, potentially indicating tax evasion or fraudulent ITC claims. As a result, both the supplier and the recipient may receive notices from the GST department, requiring them to justify the transaction and provide supporting documentation. Failure to comply with E-way Bill provisions can lead to penalties, ITC denial, and further legal consequences under the GST law.

C. Fake GST registration

If the GST department conducts a physical verification of the address mentioned in the GST registration certificate and finds that the address either does not exist or the registered person is not available at the given location, such a taxpayer may be classified as non-genuine. In such cases, any goods or services received from that person may be considered invalid, leading to the denial of Input tax credit (ITC) for the recipient. Additionally, the GST department may suo motu cancel

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the GST registration of the said taxpayer under the relevant provisions of the GST law.

6. How to avoid dealing with NGTP persons?

- Verify suppliers on GST portal to avoid dealing with fake entities
- Reconcile GSTR-2B with books of accounts before claiming ITC
- If dealing with a new supplier, visit their registered business premises to ensure its existence
- Regularly verify if the supplier is filing GST returns (GSTR-1, GSTR-3B, and GSTR-9 on time.
- Check E-Way Bill Compliance
- Conduct Regular Vendor Due Diligence