

Circular No.16/2022

PP2/(IW3)/8975/2020

Office of the Principal Secretary/
Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai – 600 005.

Dated: 22/12/2022

CIRCULAR

Sub: TNGST Act, 2017-conduct of test purchase under sub-section 12 of Section 67 of TNGST Act, 2017- certain guidelines already issued - modification - Reg.,

Ref:

1. Additional Chief Secretary/Commissioner of Commercial Taxes, Notification No 1/2022 (PP2/GST/15/20/2022), dated 07.03.2022
2. Additional Chief Secretary/Commissioner of Commercial Taxes Circular No. 05/2022 (PP2/(IW3)/8975/2020), dated 07/03/2022.
3. G.O. (2D) No. 57, Commercial Taxes and Registration Department, dated 25/07/2022.

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In G.O. read in the reference third cited, the Government have sanctioned Rs.20 lakhs towards permanent advance for conducting test purchase as provided under Section 67(12) of the Tamil Nadu Goods Service Tax Act, 2017. Each of the Territorial and Intelligence Joint Commissioners have been sanctioned Rs. One lakh to conduct the Test purchase.

2. In supersession of the circular issued in the second cited, with regard to provisions contained in sub-section (12) of section 67 of the TNGST Act, 2017 relating to conduct of test purchase by the field officers in Territorial and Intelligence Divisions and in exercise of the powers conferred under section 168 of the TNGST Act, 2017, the following guidelines are issued for the purpose of uniformity in the implementation of the above said provisions of the Act.

3. Provisions under the TNGST Act, 2017:

i. Section 67(12) of the TNGST Act 2017 states that, 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 invoice 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 / bill of supply issued earlier.

ii. As per Notification No. 4 dated 12-07-2017 issued by the Commissioner, the Joint Commissioners concerned have been authorised for the purpose of Section 67 of the TNGST Act, 2017.

iii. Further, Section 31 of the TNGST Act, 2017, mandates the issuance of tax invoice or a bill of supply by a registered person for every supply of goods or services or both, other than supplies with a value of less than two hundred rupees.

iv. Section 122(1)(i) of the TNGST Act, 2017, states that, a taxable person who supplies any goods or services or both, without issue of any invoice or issues an incorrect or false invoice, with regard to any such supply, shall be liable to pay a penalty of ten thousand rupees or an amount equivalent to the tax evaded or the tax not deducted under Section-51 or short deducted or deducted but not paid to the Government or tax not collected under Section 52 or short collected or collected but not paid to the Government or Input Tax Credit availed of or passed on or distributed irregularly, or the refund claimed fraudulently, whichever is higher.

v. As per definition in section 2(107) of the TNGST Act, 2017 "taxable person means a person who is registered or liable to be registered under section 22 or 24 of the GST Act."

4. Purpose of Test Purchase:

- i. To ensure compliance in issuing tax invoice / bill of supply by the registered person.
- ii. To create awareness among the trading community and increase the practice of issuing invoices for the supplies effected by them.
- iii. To prevent composition taxable persons from collecting tax from the customers.
- iv. Thereby, prevent possible evasion of tax.

5. Standard Operating Procedure for Test Purchase:

I. Delegation of Powers:

1. The Joint Commissioners (Territorial) / (Intelligence) are designated as the Authorizing Authority to conduct of Test Purchase.
2. Prior approval for conducting the Test Purchase shall be given by the

Joint Commissioners (Territorial) / (Intelligence) concerned, in each case, duly specifying the amount proposed to be spent on such test purchase.

3. The Joint Commissioners (Territorial) / (Intelligence) shall conduct test purchase to check the issue of tax invoice or bill of supply by registered person, to check the issue of tax invoices or bills of supply by such registered 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.

II. Funds sanctioned and Controller of Funds:

1. Taking into consideration, the various factors involved, such as the market price, nature of commodities involved and the number of units involved, vide G.O. read in the reference third cited, an amount of Rs. One lakh has been sanctioned to each Territorial and Intelligence Division, to conduct Test Purchases.

2. The Joint Commissioners (Territorial) / (Intelligence) are assigned the responsibility of holding control of the funds to be spent on test purchase operations. For test purchases conducted in respect of service sector, the Joint Commissioners (Territorial) / (Intelligence) is allowed to recoup the funds accordingly.

3. The Joint Commissioners (Territorial) / (Intelligence) shall maintain a Register along with cash book and subsidiary finance registers for the test purchase operations and proper acknowledgement shall be obtained from the officers concerned, for receipt and return of test purchase amount. Further, the details of the denomination of cash issued for the test purchase operations and the Currency Number shall also be noted in the said Register.

4. While organising Test purchase in geographically spread areas like Uthagamandalam, Kanyakumari, Hosur etc., considerable travel time would be spent by the authorised officers to collect the fund for conducting Test purchase from the Territorial headquarters. In order to reduce travelling time to the Divisional headquarters by field officers, the Joint Commissioners' (Territorial) are instructed to distribute the amount of test purchase fund to the Territorial Deputy Commissioners'. Thereafter, whenever the Joint Commissioners' (Territorial) issues authorisation to the field officers, the Territorial Deputy Commissioners' shall issue the test purchase amount to the authorised officers for conducting Test purchase. The territorial Deputy Commissioners' shall also maintain the register as mentioned in Sl.No.3 above.

III. Selection of Cases:

The criteria for selection of cases shall include the following:

1. Registered persons who are known to be doing business in large volume, but paying very meagre amount of tax, as cash by showing low turnover.
2. Evasion prone commodities and retail business, for which, mostly estimation slips are issued, like, Cement, Tiles, Granite, Hardware, Paints, Electrical Goods, Electronic Goods, Iron & Steel, Timber, Jewellery, House Hold Articles, Furniture, Automobile Spare Parts, Edible Oil, Construction Materials, FMCG, Groceries, Bakery products, Medical Shops etc.,
3. Evasion prone Services offered in Hotels, Restaurants, Sweet Stalls, Educational Institutions, Amusement Parks, Personal grooming Services, Rental Services etc.,
4. E-way bill analytics, information through informers, third party information or other sources like complaints, petitions, etc

IV. Officers to be Assigned:

In respect of Intelligence wing, a team comprising of one State Tax Officer and one Deputy State Tax Officer has to be formed by the Joint Commissioner (Intelligence), for conducting the test purchase and the State Tax Officer shall be the Team Head.

In respect of Territorial wing, the constitution of team as above shall be formed by the Joint Commissioner (Territorial) considering the distance between the station of team officers and place of test purchase to be conducted.

V. Procedure to be followed:

1. The Joint Commissioner (Territorial) / (Intelligence), shall authorize a Group consisting of officers, as proposed above, for conducting the test purchase, at the business premises of any registered person, within their jurisdiction.
2. In respect of cases, where the test purchases are to be conducted at multiple places of business, such as Head Office and additional places of business like branches etc., the manner of operation and time must be

followed, uniformly, at all such places of business, so as to prevent leakage of information regarding the test purchase operations.

3. Test purchases must be conducted for a value more than Rs.200/-, since, as per section 31(3)(b) / Proviso to 31(3)(c) of the TNGST Act, 2017, the registered persons need not issue tax invoice / bill of supply, if the value of the goods or services or both supplied is less than Rs. 200/-.

4. The Group of officers conducting the test purchase shall not cause any disturbance to the business activity. They shall behave like normal customers and shall not give any indication to the effect that they are officers of the Department.

5. If proper tax invoice / bill of supply is issued by the taxable person, during the test purchase, then, the amount spent by the officer on test purchase, shall be refunded by the taxable person on return of goods, after cancelling the tax invoice / bill of supply issued earlier.

6. In this regard, necessary documents such as a copy of original invoice, cancelled invoice and a statement of witness, available, if any, shall be obtained by officers conducting the test purchase.

7. If proper tax invoice / bill of supply is not issued by the taxable person, during the test purchase, then, the Group Head shall record a statement, after disclosing the identity of Inspecting Group and shall initiate penal action, as per section 122 (1) (i) of the TNGST Act, 2017.

8. The proceedings of the test purchase should be recorded in writing by the Proper officer concerned for appropriate follow up action.

9. (i) In respect of test purchase conducted by Intelligence wing officers in above case, the Team head shall submit report on the result of test purchase to the Joint Commissioner (Intelligence) concerned for proceeding further with Inspection in fit cases.

(ii) In respect of test purchases conducted by Territorial wing officers in above case, the Team head shall submit a report on result of test purchase to the Joint Commissioner (Territorial) concerned along with the grounds on which the place of business needs to be inspected. The Joint Commissioner (Territorial) would refer the case, after due examination, to the Joint Commissioner (Intelligence) concerned for conducting inspection in such case.

10. Likewise, during the test purchase, if a composition taxpayer is collecting tax and contravening the provisions of the Act, the detailed facts

shall be recorded, then action shall be initiated to recover the entire tax that has been collected by the taxpayer, by way of adjudication.

11. The Joint Commissioner (Territorial) / (Intelligence) shall share among themselves, the details of test purchase conducted cases (name of the taxable person, GSTIN (if any), Address of the taxable person and Circle jurisdiction, date of test purchase on daily basis to avoid overlapping of the test purchases and plan the frequency accordingly.

12. The Joint Commissioner (Territorial) shall refer the details of successful test purchases cases to Joint Commissioner (Intelligence) to proceed further under Section 67, of the TNGST Act 2017, within 3 days of conduct of test purchase.

13. The Joint Commissioner (Intelligence) concerned shall analyse and proceed action under Section 67, in respect of successful test purchase cases on those cases referred by the Joint Commissioner (Territorial) as well as Test Purchases conducted by Intelligence Officials.

14. In respect of those test purchase conducted cases, where the registered tax person belongs to Central jurisdiction, the result of the such test purchase shall be informed to the concerned Central Authority, immediately by the concerned Joint Commissioner.

VI. Reporting Procedure:

1. The report on test purchase shall be submitted by the Group Head, to the concerned Joint Commissioner (Territorial) / (Intelligence) within a day, on conclusion of the test purchase operation in the format enclosed in Annexure-I.

2. A periodical Report on the test purchases conducted during the month, shall be submitted to the Commissioner, on or before 5th of succeeding month, in order to monitor the outcome of test purchases.

VII. Monitoring Procedure:

1. A test purchase number shall be assigned serially as per syntax in Annexure-II for each test purchase authorisation.

2. All the communications in respect of the test purchase related activities, carried out by the officials, are to be communicated to the Commissioner, in the existing mail ID viz. cct.inspfollowup@ctd.tn.gov.in, prescribed form

sending result of test purchases by both Territorial and Intelligence Wing and inspection conducted by Intelligence Wing, duly mentioning the test purchase number, in the aforesaid format, for easy identification and further follow-up of the actions taken on each test purchase, by the officials concerned.

VIII. IT Requirements in relation to Test Purchase:

1. Generation of DRC-07 has to be enabled in the Back Office Portal, for the authorized officials conducting test purchase, in order to raise a demand, in the case of imposition of penalty.
2. The details of the offences booked and the amount collected as penalty, in respect of test purchase operations, should be linked to the tax payer's profile and made available under a separate head "Test Purchase".
3. The Joint Commissioner (IT), shall provide necessary assistance in the back office system for this item of work and provision of MIS reports.

Sd/- Dheeraj Kumar,
Principal Secretary/
Commissioner of State Tax

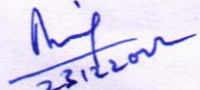
To

All the Joint Commissioners (ST)
(Territorial) / (Intelligence) in the State

Copy to:

1. All Additional Commissioners, O/o the PS/CCT, Chennai.
2. All Joint Commissioners, O/o the PS/CCT, Chennai.
3. The Director, Commercial Tax Staff Training Institute, Chennai-35
4. The Joint Commissioner (Computer System), Chennai-35 for uploading in the intranet website.
5. Copy to Stock-file.

//Forwarded by order//


Joint Commissioner (P&P)

Annexure-I

Format for Test Purchase Report

1.	Authorization Number and Date	
2.	Authorized by Designation	
3.	Date and Time (Starting and Ending) details to enforce the provision under section 67(12)	
4.	GSTIN of the Registered person	
5.	Trade Name/Legal name of the Taxable Person with complete address.	
6.	Whether the place is Principal place of business /Additional place of business.	
7.	Jurisdiction of Taxable Person.	State (Division)/ Central
8.	Jurisdiction of Intelligence Wing.	
9.	Officers authorized to enforce the provision under Section 67(12) (Name/Designation).	
10.	Denomination & Serial No. of Currency issued for the Test Purchase Operation.	
11.	Goods purchased / Services availed with HSN/SAC code.	
12.	Units purchased.	
13.	Value of Goods Purchased / Service availed (Assessable Value/Tax Rate /HSN or SAC Code / CGST & SGST Tax).	
14.	Details of Tax Invoice / Bill of Supply issued, while enforcing the provision under Section 67 (12) of TNGST Act, 2017.	
15.	Name and Designation of the Person in-charge of the place of business, at the time of test purchase, along with address.	
16.	Time at which goods were returned by the Official.	
17.	Time at which the Taxable Person refunded the Bill/Invoice amount.	
18.	Denomination & Serial No. of Currency refunded by the taxable person, after the conduct of test purchase.	
19.	Details of violation noticed, if any.	
20.	Whether Statement has been recorded from the person in-charge of the place of business.	
21.	Details of action taken on the outcome of test purchase, by the officials, who conducted the test purchase, along with remarks on the follow-up action to be pursued as per the provisions of TNGST Act, 2017.	

Annexure-II

Syntax for assigning serial number in authorisation for Test purchase

Sl. No.	Name of the Division	Format of starting Sl. No.
1.	Chennai (Central)	T-CHC-TP-YYYYMMDD-001
2.	Chennai (East)	T-CHE-TP-YYYYMMDD-001
3.	Chennai (North)	T-CHN-TP-YYYYMMDD-001
4.	Chennai (South)	T-CHS-TP-YYYYMMDD-001
5.	Coimbatore	T-CBE-TP-YYYYMMDD-001
6.	Erode	T-ERD-TP-YYYYMMDD-001
7.	Madurai	T-MDU-TP-YYYYMMDD-001
8.	Salem	T-SLM-TP-YYYYMMDD-001
9.	Tirunelveli	T-TNV-TP-YYYYMMDD-001
10.	Trichy	T-TRY-TP-YYYYMMDD-001
11.	Vellore	T-VLR-TP-YYYYMMDD-001
12.	Chennai (Intelligence)-I	I-CH1-TP-YYYYMMDD-001
13.	Chennai (Intelligence)-II	I-CH2-TP-YYYYMMDD-001
14.	Coimbatore	I-CBE-TP-YYYYMMDD-001
15.	Erode	I-ERD-TP-YYYYMMDD-001
16.	Madurai	I-MDU-TP-YYYYMMDD-001
17.	Salem	I-SLM-TP-YYYYMMDD-001
18.	Tirunelveli	I-TNV-TP-YYYYMMDD-001
19.	Trichy	I-TRY-TP-YYYYMMDD-001
20.	Vellore	I-VLR-TP-YYYYMMDD-001

