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**TRADE NOTICE No. - 01/2022-23**

**Dated : 04/11/2022**

**Subject: Pre-deposit payment method for cases pertaining to Central Excise and Service Tax - reg.**

Attention of all the Trade Associations alongwith Chamber of Commerce & Industry is invited to the Instruction No. CBIC-240137/14/2022-SERVICE TAX SECTION-CBEC dated 28.10.2022 issued by Central Board of Indirect Tax and Customs (CX & ST Wing) regarding pre-deposit payment method for cases pertaining to Central Excise and Service Tax.

2 . It was brought to the notice of the Board that appeals had been rejected by some Commissioner (Appeals) for non-compliance of pre-deposit requirements as mandated under section 35F of the Central Excise Act, 1944 (CEA) and Section 83 of the Finance Act, 1994 read with section 35F of the CEA, where such payments were made through Form GST DRC-03 on common GST portal, by holding that it was not a prescribed method of payment of such pre- deposit.

3. Subsequently, the matter has been examined by the Board and it may be seen that 'Form GST DRC -03' is prescribed for payment of tax, interest, penalty under Sub-Sections (5) and (8) of both Sections - 73 and 74, and Section 129 (1) of the CGST Act, 2017 or any other payment due in accordance with the provisions of the CGST Act, 2017 as specified in rule 142 (2) and 142 (3) of the CGST Rules, 2017. Further, in GST regime, in connection with the appeal mechanism under Section 107 of the CGST Act, 2017, Rule 108 (1) of the CGST Rules, 2017 provides Form 'GST APL-01' for filing an appeal with the option of payment of admitted amount and pre-deposit through electronic cash/credit ledger. Thus, under GST Act also, 'Form GST DRC-03' is not a prescribed mode for payment of pre-deposit.

4. Attention is also invited to Miscellaneous transitional provisions Sub-Section (6)(b), Sub Section (7)(a) and Sub-Section (8)(a) of Section 142 of the CGST Act, 2017, which, inter alia, provides that any credit, tax, interest, fine or penalty recoverable from the person before, on or after July 01, 2017 under the existing law (Central Excise Act and Chapter-V of

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Finance Act, 1994) shall be recovered as an arrears of tax under CGST Act. It is, however, settled that pre-deposit as a requirement for exercising the right to appeal neither is in the nature of duty nor can be treated as arrears under the existing law and hence cannot be said to be covered under transitional provisions of CGST Act.

5. In view of above, it is clarified that payments through DRC-03 under CGST regime is not a valid mode of payment for making pre-deposits under section 35F of the Central Excise Act, 1944 and Section 83 of Finance Act, 1994 read with section 35F of the CEA. There exists a dedicated CBIC-GST Integrated portal, <https://cbic-gst.gov.in> (Board's Circular No. 1070/3/2019-CX dated 24th June, 2019 refers in this regard), which should only be utilized for making pre-deposits under the Central Excise Act, 1944 and the Finance Act, 1994.

6 . All the Office bearers of the Trade Associations and Chamber of Commerce & Industry, Gandhidham, Kutch are hereby requested to circulate the same to all the members of their organization.

Hindi Version follows.

(P. Anand Kumar)  
Commissioner  
CGST & CX, Kutch

**Copy to:**

1. The Office Bearers of various Trade Associations/Professional Bodies as per mailing list.
2. The Superintendent (Systems), CGST Kutch to upload copy of Trade Notice on Website of CGST Kutch Commissionerate.