

Body

**Circular No. F.16 (752)VAT/Tax/CCT/2022-23/Part-IV/646, Dated 24th August 2022**

**Standard Operating Procedure (SOP) for write-off  
of irrecoverable outstanding demands**

To give effect to the same, the following amendments were made on 30.03.2022 in the Rajasthan Finance Act, 2022:-

**"5. Amendment of section 174, Rajasthan Act No. 9 of 2017.-**

After the existing subsection (2A) and before the existing sub-section (3) of section 174 of the Rajasthan Goods and Services Tax Act, 2017 (Act No. 9 of 2017), the following new sub-section shall be inserted, namely:-

"(2B) Notwithstanding anything contained in the Acts repealed under subsection (1),-

(i).....

(ii)....

(iii)where a demand of any amount payable under the repealed Acts including the Central Sales Tax Act, 1956 (Central Act No. 74 of 1956) pertaining to any period upto 30th June, 2017, has been outstanding for any length of time and is irrecoverable for want of any kind of property for being attached and sold, in such cases, demand may be written off through an order in writing, in the manner specified by the Commissioner, Commercial Taxes."

The Committee constituted in this regard recommends the following Standard Operating Procedure to write-off the outstanding demands of any amount payable under the repealed Acts including the Central Sales Tax Act, 1956 (Central Act No. 74 of 1956) pertaining to any period upto 30th June, 2017 for the goods which have been subsumed in the GST and have been declared irrecoverable for want of any kind of property which can be attached and sold. For all arrears pertaining to non-subsumed goods, the procedure shall be carried out as per section 52 (as amended by the Rajasthan Finance Act, 2022) of the Rajasthan Value Added Tax Act, 2003.

**1.Pre-requisites**

The eases for write-off shall be initiated after adequate steps for recovery of demand have been undertaken. The foremost task for recovery of outstanding demand is the identification of movable or immovable property of a defaulter that can be attached and sold for recovery of outstanding demand(s). The demand(s) may be pending either with the regular Assessing Authority (from where dealer is registered) or other than regular Assessing Authority (like enforcement wings / audit wings), hereinafter both will be called as Assessing Authority in respect of pending demand in their respective jurisdiction. Assessing Authorities will explore all means for identifying the property belonging to the defaulter from their records. For tracing the defaulters and identification of their property and its location, the sources of information will include the official record (including records of other location where the demand is pending i.e enforcement wing/audit wing) /documents/official websites/internet searches etc. supplemented with human intelligence. The assessing authorities must get the enquiries completed at all known addresses of the defaulters to ascertain movable or immovable properties that can be identified for recovery.

In case of companies, whether public limited/private limited or LLP, the Company data, registered business address and other details of the company such as Director's details, DIN and other companies (if any) where the person is a director, its address etc. may be obtained from the Registrar of Companies.

In cases where the dealer has migrated to GST at any point under any name, GST backend modules may be explored in this regard.

Following reports are to be prepared before proceeding to write-off the outstanding demand:-

- 1.Report of efforts made for recovery of demand(s) and identification of movable and immovable properties.
- 2.Report about closure of business and business place(s).
- 3.Report about dealer being non-traceable at the known addresses including residential address and enquiry from sureties.
- 4.Report about closure / non-operation of bank accounts from the bank, if known.
- 5.Surety amount has been recovered from the surety or report about closure of the surety.
- 6.Report about non-existence of property, at the known address on the record.
- 7.Search report of other registrations on the GSTN portal, using the parameters such as name, mobile number, e-mail ID etc.
- 8.Search report of registration based on PAN Number.
- 9.Report from ROC in case of Pvt. Ltd., LLP and Limited companies.

On the basis of above reports, the Assessing Authority will determine the eligibility to write-off the outstanding demand(s).

Where all the reports and recovery proceedings are already available on record, enumerating the efforts that have been done to trace the dealer and to recover the demand in such matters, fresh enquiry' and report may not be required if already done in this regard.

**2.Eligibility criteria**

To initiate a case for write-off, the concerned Assessing Authority must ensure that adequate steps have been taken for recovery of demand(s).

Outstanding demand(s) which is to be considered for write-off should pertain to the period prior to 30.06.2017 and should be related to goods subsumed in GST and is irrecoverable due to any of the following reasons:-

a)where all the modes of recovery in accordance with the provisions laid down in the Act and Rules against the defaulter have been exhausted

and the demands are still pending;

b)where the assessee's business is discontinued/closed and/or registration has been cancelled;

c)where proprietor/partners has/have died or are not traceable or partnership dissolved or they have left India; and

d)where there are no known attachable (movable or immovable) assets.

### **3.Procedure for Write-off of outstanding demands**

There will be three steps to write-off any outstanding demand(s). Firstly, concerned Assessing Authority will prepare an irrecoverability certificate to write-off outstanding demand(s). Secondly, the Competent Authority as per pecuniary power will give approval to write-off the irrecoverable demand(s). Lastly, on the basis of approval of Competent Authority, concerned Assessing Authority will issue the order to write-off the irrecoverable demand(s).

#### **(i) Procedure for issuing Irrecoverability Certificate to write-off outstanding demand(s) by Assessing Authority in Form WO-1:**

For the demand(s) that are eligible for write off, the Assessing Authority of the dealer shall certify the irrecoverability of demand in the prescribed "Certificate of irrecoverability of demand" in Form WO-1 on the Raj-vista module.

Dealer-wise certificate of irrecoverability of all pending outstanding demand(s) has to be prepared on Rajvista module by concerned Assessing Authority in the given format for all pending demands of his jurisdiction. There will be an option for adding row for entry of all outstanding demands pending against a dealer which is to be completed by concerned Assessing Authority. A print of above certificate will be kept on record. In cases where the demands against a single dealer lie with more than one authority, report regarding irrecoverability of demand shall be mutually shared between such Assessing Authorities. Accordingly, the Assessing Authority shall proceed to issue certificate of irrecoverability of demand(s).

#### **(ii) Pecuniary powers for grant of approval to write-off outstanding demand(s) in Form WO-2:**

The pecuniary powers for grant of approval to write-off the aggregate demand(s) against a dealer, the authority shall be as below:-

(a)by the Assistant Commercial taxes Officer, if it does not exceed rupees ten lac;

(b)by the Assistant Commissioner or the Commercial Taxes Officer, as the case may be, if it does not exceed rupees twenty five lac;

(c)by the Deputy Commissioner (Administration), on the recommendation of Standing Committee which is constituted of AC / C I O of Business Audit of that Zone and AC / CTO of that Circle for which the demand pertains, if it exceeds rupees twenty five lac but does not exceed rupees one crore; and

(d)by the Commissioner, on the recommendation of the Committee constituted at Headquarter, if it exceeds rupees one crore.

The Committee, as mentioned in clause (d) above, shall be constituted at Headquarter of the following members:-

1.Additional Commissioner (MEA) - Chairperson

2.Additional Commissioner (Tax) - Member

3.Deputy Commissioner (Adm.) of the concerned zone - Member

4.Deputy Commissioner (IT), HQ -Member

5.Deputy Commissioner (MEA) - Member Secretary

The Committee so constituted at Headquarter shall examine the proposals and on the basis of the recommendation/decision of this Committee, the Competent Authority i.e. Commissioner shall take decisions for grant of approval to write-off the outstanding demand(s). Cases for this Committee will be sent by concerned Assessing Authority through respective Dy. Commissioner (Adm.).

The approval in this regard shall be issued by Competent Authority and will be uploaded on Raj-vista in Form WO-2.

#### **(iii) Order for Write-off of demand:**

Without prejudice to the provisions or other laws or rules to write-off a demand, once Certificate of Irrecoverability is generated on Raj-vista module and the Approval to write-off has been issued by the Competent Authority and duly uploaded, the order for write-off of demand shall be generated in Form WO-3 by concerned Assessing Authority. Copy of the same shall be kept on record and thereafter effect shall be given in the online Demand and collection register (DCR) by reducing the demand under the head write-off.

### **4. Write-off Register in Form WO-R:**

List of all demands thus written off shall be entered in a separate register in the Form Write-off Register (WO-R) which shall be maintained on the Rajvista module. The act of writing off of outstanding demand(s) does not absolve the defaulter from the liability to pay the outstanding demand(s). In future, if any new facts come into notice, all modes of recovery can be invoked including prosecution even when the demand has been written-off. Therefore, consequent action, if any, may be initiated by the concerned Assessing Authority. Regarding the write-off of interest amount, it is clarified that once tax involved is written off, accrued interest due thereon would automatically get written off.

This SOP shall not apply to those outstanding demands which are sub-judice before any Court.

The names of non-traceable dealers whose demand is more than Rs. 10 lakh may be published on the official website (Rajtax) to garner information from website visitors.

(Dr. Ravi Kumar Surpur)  
Commissioner, Commercial Taxes,  
Rajasthan, Jaipur.

Certificate of Irrecoverability of Demand

S. No.	Name of task	Remarks				
1.	Name of dealer / person with address					
2.	Registration No.					
3.	GSTIN (If the dealer has migrated to GST)					
4.	Brief facts of the case					
5.	Detail of the demand (add row option)	Date of assessment order	Financial Year	Amount	Name of Act	Date of Service of Demand notice
6.	Report of efforts made for recovery of outstanding demand(s)					
7.	RC Inquiry Report					
8.	Details of Property as given in RC Inquiry Report (Individual and Parental)					
9.	Report about closure of business and business place has been prepared.	Uploading the report on Raj-vista module.				

10.	Report about non-traceable at the known addresses including residential address	Uploading the report on Raj-vista module.
11.	Report about closure / nonoperation of bank accounts has been obtained from the bank, if known	Uploading the report on Raj-vista module.
12.	Surety amount has been recovered from the surety or report about closure of the surety has been obtained.	Amount recovered Rs ...../- or uploading the report of non-availability of surety on Raj-vista module.
13.	Report about non-existence of property has been obtained of the known addresses on the record.	Uploading the report on Raj-vista module.

14.	Search report of other registrations on the GSTN portal, using the parameters such as name mobile number, e-mail ID etc. has been obtained	Uploading the report on Raj-vista module.
15.	Search report of registration based on PAN Number has been obtained	Uploading the report on Raj-vista module.
16.	Report from ROC in ease of Pvt. Ltd, LLP and Limited companies have been obtained.	Uploading the report on Raj-vista module.
17.	Any other comments by authority	

I, hereby, certify that as per the above proceedings, the outstanding demand is declared irrecoverable.

Signature  
(Name of the Assessing Authority)  
Ward, Circle, Zone.

Form WO-2  
Approval to Write-off the Demand(s)

S. No.	Name of task	Remarks
1.	Name of firm and address	
2.	Registration No.	
3.	GSTIN (If the dealer has migrated to GST)	
4.	Brief facts of the case	

5.	Detail of the demand	Date of assessment order	Financial Year	Amount	Name of Act
6.	Serial Number of Certificate of Irrecoverability				
7.	Total Amount to be written-off				
8.	Name and designation of authority issuing the certificate of irrecoverability				
9.	Name and designation of authority approving for Write-off				
10.	All required reports available on record and / or uploaded	Yes/no			
11.	Remarks of approving authority / Committee				
12.	Approval	Yes/No			

I, hereby, give approval that as per the facts submitted by the jurisdictional authority and / or recommendation of the Committee, the outstanding irrecoverable demand shall be written-off.

Signature

(Name & Designation of approving authority)

Form WO-3

Write-off order of outstanding demand(s)

As per acknowledgement number-----, the Certificate of irrecoverability of demand has been generated for M/s-----,Tin-----,Year-----, Date of order -----, Demand (Rs.)-----, Act-----, DCR entry no.-----.

The demand thus rendered irrecoverable and on approval by competent authority is being written-off from the Demand and Collection register, as per the manner laid down in the Standard Operating Procedure vide order number.....dated.....

The demands shall only be written off in the departmental books (DCR) and the act of writing-off shall not lead to release or waiver by the Government of its claim. The Government shall have the right to recover the amount outstanding from such dealers whose demand is written-off, at any time, from the date of writing off the demand, if it appears to the Government that such dealer has assets or means to pay the demand.

Signature

(Name of the assessing authority)

Ward, Circle, Zone.

Form WO-R

Write-off Register

S. No.	Name of task	Remarks
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1.	Name of firm and address				
2.	Registration No. (TIN / Other) / GSTIN (If the dealer has migrated to GST)				
3.	Detail of the demand	Date of assessment order	Financial Year	Amount	Name of Act
4.	Demand and Collection Register (DCR) Number				
5.	Total Amount written-off				
6.	Name and designation of authority issuing the write off order				