

Standard Operating Procedure (SOP)

[For the conduct of *Search & Seizure* under Section 67(2) of APGST Act, 2017]

- 1) **Introduction :-** The search of a place and seizure of goods/documents/books/things is conducted in terms of Section 67(2) of APGST Act, 2017. The search and seizure, if necessary, can be conducted after conducting of inspection under Section 67(1) or otherwise. The procedural aspects are dealt under Rule 139 of APGST Rules, 2017.
- 2) **Need for the Standard Operating Procedure :-** It is observed that uniform procedure is not being followed by the Proper Officers in the State in respect of conducting Search & Seizure. Hence in order to bring uniformity in the procedure for search & seizures the following SOP is issued for guidance of the officers.
- 3) **Circumstances under which the Search & Seizure are conducted :-** The search & seizure may be taken up under Section 67(2) of APGST Act, 2017 if the proper officer, empowered to issue Search Authorisation, has the reasons to believe that
 - (i) any goods liable to confiscation are secreted in any place; or
 - (ii) any documents or books or things which in his opinion shall be useful for or relevant to any proceedings under this Act are secreted in any place;
- 4) **Who can issue Authorisation for Search & Seizure & to whom the search & seizure Authorisation can be issued :-** As per the A.P. Gazette Notification No. 216, dated 09.12.2019, the Proper Officer to issue Search & Seizure Authorisation is an officer not below the rank of Joint Commissioner in respect of Divisions & Officer not below the rank of Additional Commissioner in the office of the CCST entrusted with the Enforcement activities. Such Search & Seizure authorisation may be given to their subordinate officers not below the rank of Deputy Assistant Commissioners. The Proper Officer himself is also authorised to conduct such search of any premises and seize such goods, documents or books or things as per Section 67(2) of the APGST Act, 2017.
- 5) **Conditions prescribed before issue of Search & Seizure Authorisation :-** Before authorising the search of the any premises, the Proper Officer is required to come to a reasonable conclusion in terms of Section 67(2) of APGST Act, 2017, that any goods liable to confiscation or any documents or books or things which in his opinion shall be useful for or

relevant to any proceedings under this Act are secreted in any place. The Proper Officer shall record his reasons in the note file in each case in order to issue Search & Seizure Authorisation to any subordinate officer not below the rank of Deputy Assistant Commissioner.

- 6) **Procedure for issue of Search Authorisation** :- For the purpose of conducting Search, the Proper officer empowered to issue Search Authorisation may either himself (suo moto) identify that any goods liable to confiscation or any documents or books or things which in his opinion shall be useful for or relevant to any proceedings under this Act are secreted in any place and can search for himself the premises & seize the goods/documents /books/things by duly recording the reasons in a separate file maintained with him for each case before causing such Search & Seizure. In case if any Officer subordinate to him not below the rank of Deputy Assistant Commissioner has identified that any goods liable to confiscation or any documents or books or things which shall be useful for or relevant to any proceedings under this Act are secreted in any place in accordance with Section 67(2) then such subordinate Officer shall move the note file to the Proper Officer clearly indicating the reasons for recommending the case for taking up Search & Seizure. Only upon examination of the contents of the note file submitted by such subordinate Officer, and after satisfying himself that the conditions specified under Section 67(2) are satisfied, the Proper Officer shall issue the Search & Seizure Authorisation to the Officer subordinate to him in Form GST INS-01 by duly recording such reasons to belief in the note file maintained by such Authorised Officer for such Search & Seizure in each case.
- 7) **Issue of System based Search Authorisation** :- The Search Authorisations in Form GST INS-01 issued shall be serially numbered containing System Generated Document Identification Number (ARN Number) and such number shall be generated in the Enforcement Module compulsorily on each and every Search Authorisation. No manual GST INS-01 shall be issued by Proper Officers. If any Search Authorisation does not contain the System Generated Document Identification Number then it shall be presumed as unauthorised one.
- 8) **Maintenance of Search & Seizure Registers** :- The Proper Officer issuing Search Authorisation shall maintain the Search & Seizure Registers indicating the details of name of the Search Authorised Officer, Designation, Date of issue of Search Authorisation, Name of the assessee, GSTIN, Brief description of reasons to believe in authorising the Search, Result of the Search, details of goods/ documents/books/things seized during search, etc., Similarly the Authorised Officer shall record in his Search & Seizure Register the details of search viz., name of assessee, GSTN, Result of search, goods/documents/books/things seized by him during search etc., in each case.

9) Procedure to be followed by Authorised Officer after receiving the Search & Seizure

Authorisation :- The procedure prescribed under Rule 139 of APGST Rules, 2017 shall be followed for conducting Search & Seizure. Upon possessing the Search & Seizure Authorisation in Form GST INS-01, the Authorised Officer shall conduct the search of the authorised premises by drawing the Panchanama and Annexure containing the recovered documents/data/books. The detailed procedure to be followed while conducting search is enclosed in the annexure to this SOP. The Proper Officer may issue the Order of Seizure in Form GST INS-02 seizing the goods/documents/books/things recovered by the Authorised Officer during search. If the Authorised Officer is of the opinion that it is not practicable to seize any such goods, then, after obtaining necessary permission from the Proper Officer, he may serve 'Order of Prohibition' in Form GST INS-03 on the owner or the custodian of the goods informing that he shall not remove/part with/otherwise deal with the goods except with his previous permission. After the completion of the search of the premises, the Authorised Officer shall immediately surrender the executed Search & Seizure Authorisation along with the Panchanama and Annexure and goods/documents/books/things recovered by him along with copy of Order of Seizure in Form GST INS-02 (or) Form GST INS-03 to the Proper Officer along with his findings in the form of a report in the note file. If the goods seized are perishable in nature (or) of hazardous in nature (or) depreciation in the value of the goods with the passage of time (or) constraints of storage in space for goods or any other relevant considerations, then the action under Section 67(8) may be followed. The entire action taken as above shall be recorded in the proper registers. The copies of such model registers are herewith enclosed.

10) Post Search & Seizure procedure to be followed by Authorised Officer :-

Consequent upon the conduct of search, if the Authorised Officer is of the opinion that any further information is required from the assessee and/or statement is required from the assessee regarding the transactions in the recovered documents/books/things/goods, then he shall put up the file to the Proper Officer to obtain written permission to issue summons in terms of Section 70 of APGST Act, 2017. If the summons are issued to the assessee only for obtaining the information/data/documents then in case the same is not submitted by the assessee then fresh summons shall be issued to the assessee only after obtaining the written permission from Proper Officer every time in the note file indicating the fact of non-furnishing of the information/data/documents by the assessee. If the summons are issued to the assessee for personal appearance of assessee, and if the assessee has appeared for the summons then the statement shall be recorded from him. If the assessee did not appear for summons then fresh summons shall be issued to the assessee only after obtaining the written permission from Proper Officer every time in the note file indicating

the fact of non-appearance of the assessee. The Standard Operating Procedure (SOP) for issue of Summons is issued separately which shall be followed.

11) Initiation of Assessment proceedings after completion of Search & Seizure process :-

Consequent upon the Search of the premises and Seizure of the documents/books /things/goods and gathering of required information/data/documents by the Authorised Officer and after consolidating the findings based on the material evidences gathered, the entire facts along with the proposals to issue Assessment authorisation shall be put up by the Authorised Officer to the Proper Officer in the same note file. The Proper Officer shall examine the entire material on record and findings of the Authorised officer and upon satisfaction of himself about the sustainability of the case, he may issue written permission to the same Authorised Officer or to any other Assessing Authority to issue Show Cause Notice to the assessee. Only after obtaining such written permission to initiate assessment proceedings, the Officer so authorised shall initiate the assessment proceedings against such assessee. The assessment proceedings shall be continued by the Assessing Authority as per procedure.

Approved vide Circular dt.15.09.2020.

**Chief Commissioner (ST),
A.P., Vijayawada.**

Standard procedure to be followed while conducting search of a premises

- 1) The Proper Officer may issue Search Authorisation Authorisation to their subordinate Officer not below the rank of Deputy Assistant Commissioner to search a premises if he has reasons to believe that the conditions stipulated under Section 67(2) are satisfied to issue such authorisation. The Authorisation shall contain an annexure indicating the material for which the search is to be conducted and also the points to be observed during the search. Necessary entries shall be made in the appropriate Registers by the Proper Officer issuing Search Authorisation. He shall arrange all the facilities to the Authorised Officer viz., items to be carried to the authorised premises, arrangement of vehicles, white papers, stationary, etc., It is advisable to brief the Authorised Officer the purpose of issuing the Search Authorisation, things to be searched, etc., in order to save time during search. Utmost secrecy shall be maintained by the Proper Officer and also the Authorised Officer regarding conduct of search. The Authorised Officer shall also record the details of Search Authorisations received by him in a register.

- 2) **Conduct of search:-** After obtaining search authorisation the Authorised Officer shall prepare himself for conducting search. He shall keep with him the search note i.e., the items/things for which the search is to be conducted as briefed by the Proper Officer. The required material to conduct search shall be kept ready by him viz., the white papers, seal, carbon papers, pens, lac, cloth, covers, file pad, Act Books, Identity cards of officers participating in search, etc.,. Before conducting the search the panch witnesses shall be kept ready with him. Precaution should be taken to avoid those persons as panch witnesses who are dependent for their livelihood on the investigating Department viz., Department hired vehicle owners, department hired vehicle drivers, their family members, etc., It shall be ensured that atleast one lady officer is there in the search team while conducting search of a house. Upon reaching the search premises, the Authorised Officer shall inform the person incharge of the premises about the purpose of search, show him their identity cards. The Authorised officer shall commence the search of the premises only after showing the Search Authorisation to the person incharge of the premises. The signatures of panchas, person incharge of the premises shall be taken on Search Authorisation in token of having shown it to the person incharge of premises. Before start of search the search team shall offer themselves for their personal search to the person incharge of the premises in front of panchas and the same shall be recorded in the panchnama. Similarly after conclusion of search the search team shall again offer themselves for their personal search to the person incharge of the premises in front of the panchas and the same shall be recorded in the panchnama. The search shall be conducted in a professional and peaceful manner. No religious sentiments shall be hurt during search. The honour of family members, especially women family members and children present in the searched

premises shall be respected. No damage to the property shall be done during search. If a situation comes to break open the locks of any closed container or premises, proper procedure shall be followed before the panch witnesses. All the incriminating material gathered during search shall be kept at one place with proper numbering and it shall be entered in the Annexure to the Panchnama. If quantification of goods is to be done then the same shall be done scientifically so as to arrive at the exact quantities. After completion of search, Panchanama shall be written in a proper format. In the Panchanama the signatures of Panchas, the person incharge of the premises searched and also the signature of the head of the search team shall be taken in every page. There is no need to give a copy of search authorisation to the person incharge of the premises. Before leaving the premises, a copy of Panchanama along with the copy of Annexure of items/documents/books recovered shall be handed over to the person incharge of the premises under proper acknowledgement. After conducting search, the Authorised Officer shall come to office as soon as possible and he shall surrender the original Search Authorisation to the Proper Officer who has issued Search Authorisation along with copy of original Panchanama & items/documents/books recovered by them duly mentioning in the backside of the Search Authorisation along with his observations made if any during the search. Proper entries shall be made in the registers by both the Proper Officer and Authorised Officer.

PANCHANAMA

Date & Time : 24-10-2020 & 11.00 hrs

Name & Address of the premises : M/s. XYZ Furniture (P) Limited,
Door No. 4-2-205 to 216,
Somasundaram Street, Lane beside Subhash Theatre,
Patamata, Vijayawada – 512 072.

Name of panchas :

- | | |
|---|--|
| 1. Shri P.Anil kumar S/o P.Kishore Kumar
aged 43 years,
Resident of H. No. 42-2-39, M. K. Lane,
Near Ganesh Temple, PWD Grounds,
Vijayawada – 64.
Mobile No. | 2. Shri V.Khageswara Rao S/o V. Ramaiah
aged 25 years,
Resident of H.No. 2-34/B,
Opp ; Hanuman Temple, SN Puram,
Vijayawada – 512 078.
Mobile No. |
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Today i.e., on 24-10-2020 at around about 10.45 hrs., some officers approached us and introduced themselves as Officers from Enforcement Wing of Commercial Taxes Department, Government of Andhra Pradesh, Vijayawada. The officers requested us to witness certain official proceedings that are going to take place in a nearby premises. On being accompanied, we were informed that they are going to search the business premises of M/s. XYZ Furniture (P) Ltd., in Patamata, Vijayawada. At the time of our visit, one person was available in the said premises who identified himself as Sri. Kalluri Ramesh Rao, alias Shri. K. Ramesh Rao, Managing Director of M/s. XYZ furniture (P) Ltd.,. There after the officers, in our presence, informed Sri. K. Ramesh Rao, about the purpose of their visit and showed the Search Authorisation signed by Special Commissioner of Commercial Taxes, Enforcement Wing of Andhra Pradesh Commercial Taxes Department. Sri. K. Ramesh Rao has gone through the said Search Authorisation and signed on it in token of having seen the same and we too appended our signatures on it in token of having seen the same. There upon immediately the officers have shown their official Identity Cards to Shri. K. Ramesh Rao who has gone through them and satisfied himself about the bonafides of the officers. The officers before commencement of the search proceedings offered themselves for personal check, for which Sri. K. Ramesh Rao, had politely declined. The officers then in our presence commenced the search proceedings in the entire premises consisting of cellar, ground, 1st, 2nd, 3rd and 4th floor. Office of M/s.XYZ Furniture (P) Ltd is located in the 1st floor of the building. The officers during search proceedings found some incriminating documents pertaining to purchase, stock transfer, sale of furniture, GST returns, Balance Sheet copies in the office premises and certain loose papers in the said premises. Then, the officers on reasonable belief that the said documents contain incriminating evidence regarding evasion of tax, expressed their intention to recover these documents for further verification, for which Sri. K. Ramesh Rao has accepted. Then the officers in our presence segregated these

documents and detailed them serially numbered from 1 to 174 in the Schedule/Annexure enclosed to this Panchanama. We have appended our signatures on the first and last page of the records recovered and also on the Schedule/Annexure. The officers have not recovered anything other than those records mentioned in the Schedule/Annexure. After completion of the search proceedings, just before leaving the premises, the officers once again offered themselves for personal check, for which Sri. K. Ramesh Rao politely declined. Proceedings under this panchanama are conducted in a calm and peaceful manner and there is no harm or damage is caused by the officers either to person or property during the search proceedings. No religious sentiments were hurt during the search proceedings conducted by the officers. The Panchanama was typed by one of the officers as narrated by Shri. K. Ramesh Rao in our presence. Proceedings under this Panchanama are concluded at 21.00 hours on 24-10-2020. Before leaving the premises, a copy of the Panchanama along with the copy of Schedule containing the details of records/documents/material recovered were given to Shri. K. Ramesh Rao who has gone through the same and satisfied himself about the contents.

Gone through the panchanama and agree that it is as per our narration.

Scribe :

(I. Bhaskar),
Assistant Commissioner
Enforcement Wing,
Commercial Taxes Department
[signature with seal]

In my presence

(M.Srinivas)
Deputy Commissioner
Enforcement Wing,
Commercial Taxes Department
[signature with seal]

Witnessed :

1) P. Anil Kumar

2) V. Khageswararao

(K.Ramesh Rao)

SCHEDULE/ANNEXURE

[Inventory of items recovered and seized (or frozen)]

Panch witnesses :

- 1. Shri P.Anil Kumar S/o P.Kishore Kumar
aged 43 years,
Resident of H. No. 42-2-39, M. K. Lane,
Near Ganesh Temple, PWD Grounds,
Vijayawada – 64.
- 2. Shri V.Khageswara Rao S/o V. Ramaiah
aged 25 years,
Resident of H.No. 2-34/B,
Opp ; Hanuman Temple, SN Puram,
Vijayawada – 512 078.

[signature with date]

[Signature with date]

- 1.....
- 2.....
- 3.....
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-
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[Signature of the person searched]

(Authority)
Signature with seal

(Received copy)
[Signature of the person searched]

1) Search Authorisation Register to be maintained by Proper Officer issuing Search Authorisation :-

Sl. No.	Search Authorisation Number (ARN Number) generated by System	Date of issue of Search Authorisation	Name & Designation of Authorised Officer	Name of the Assessee to be searched	GSTIN of the assessee	Address of the Premises to be searched	Brief reasons to believe that warranted issue of search authorisation	Date of resubmission of the Search Authorisation by the Authorised Officer after conduct of search	Brief description of the result of search i.e., items/books, seized etc.,
1	2	3	4	5	6	7	8	9	10

2) Search Authorisation Register to be maintained by Authorised Officer receiving Search Authorisation :-

Sl. No.	Search Authorisation Number (ARN Number) generated by System	Date of receipt of Search Authorisation	Name & Designation of the Proper Officer who issued Search Authorisation	Name of the Assessee to be searched	GSTIN of the assessee	Address of the Premises to be searched	Names and Designations of the search team members	Names and addresses of the panch witnesses	Date of conduct of Search of the premises	Date of resubmission of the Search Authorisation to the Proper Officer after conduct of search	Brief description of the result of search i.e., items/books, seized, whether the goods are perishable, details of order of seizure in Form INS-02 or order in INS-03 etc.,
1	2	3	4	5	6	7	8	9	10	11	12