



## CONTENTS

• GST Audit Certification	.....	09
• GST Annual Compliances – A Walk-through	.....	16
• Auditor's perspective on Cross Charge and inter Branch transactions	.....	22
• Tax deducted at Source under GST	.....	26
• Reconciliations & Rectifications under GST	.....	30
• GST Annual Return, GST Audit and Reconciliation – Are we ready??	.....	34
• AUDIT at a glance under the GST Law	.....	38
• Some Unanswered Issues under GST	.....	44
• Checklist of Details required for preparation of GST Audit, Annual Return & Reconciliation	.....	46
• Descriptive analysis of Auditor's Recommendations in GST Audit	.....	49
• Incentivising Industries under the Gst Regime	.....	54
• Religion in the New Machine Age	.....	57
• Best Business Advice and Tips for Success Compiled	.....	59
• Case Laws	.....	62
• Legal Updates	.....	68
• Compliance Calendar GST, Income Tax & ESI	.....	71
• Members at the Helm	.....	74
• ACAE Membership Application Form	.....	75
• Press Clippings	.....	76



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The Association does not own any responsibility for the information and view published in the journal which are of the contributors.



ACAE, a premier professional body in the Eastern part of the country, has always strived to service its members with high quality professional inputs that can be utilised by them in their business and profession. The in house Journal is one such medium to help the members in this endeavor. I am thankful to the President and all the Committee Members in reposing faith in me and giving me an opportunity to serve the members, by nominating me as the Chairman of the Journal Sub Committee.

We are coming out with this first issue of this year's Journal and the theme of this issue is "**Goods & Services Tax (GST)**". This Journal will be released in the upcoming GST Conclave on the Topic: Annual Return, Reconciliation and Audit; to be held at Williamson Magor Hall on Nov 30, 2018.

In this issue of the Journal, apart from the regular features like news from ACAE, glimpses of past programmes, ACAE in Press, articles from eminent experts, etc. we have introduced three more sections; which are (1) Members at the Helm – An update on achievements of our members; (2) Contributions from our Members; and (3) Feedback on the Journal. Members are encouraged to contribute to the Journal so that the same can be enriched with the views of respective members for larger professional growth. A mail requesting the members to contribute to the Journal was sent in the first week of this month.

Before ending, I would like to quote the famous Swami Vivekananda, wherein he had said:

"Make that one idea your life - Take up one idea. Make that one idea your life – think of it, dream of it, and live on that idea. Let the brain, muscles, nerves, every part of your body, be full of that idea, and just leave every other idea alone. This is the way to success."

I request the members to come up with their ideas so that we can take it up in our Journals and see that the same is enriched with larger professional wisdom. I am thankful to the writers of articles, ACAE office and other contributors to ensure that the Journal sees the light of the day.

Greetings for the ensuing festive season and Best wishes.

**CA Tarun Kr. Gupta**

*Chairman – House Journal Sub Committee*

Editorial



Dear Members,

This is my first communication through this platform, wherein we enlighten all our members regarding the various challenges in our professional world and the upcoming events of our prestigious Association.

As the season of compliances and all the festivities come to a conclusion, now it is time for the professionals to take upon the challenge of updating themselves and to work upon widening their knowledge.

Our association is recognised as a leading professionals' organisation, dedicated towards the study of all contemporary issues related to fiscal and monetary policies i.e. Direct Tax, GST or any other related legislation e.g. Banking, NBFCs, Capital Market, Corporate Laws and IBC.

This involves taxpayers, their advisors, industry, Government Officials and academicians. ACAE is a unique forum for discussion on all National and International Tax issues as well.

From the stroke of midnight of July 1, 2017, The GST Era had begun which brought in a new landscape of indirect taxation. Almost year and a half later, GST still remains a major challenge to cope up with. Though the benefits gained from seamless flow of input tax credit is benefiting a lot of business houses, the burden of over 25 detailed returns has made compliance with indirect taxation a challenge for all. Initially, there was a lot of confusion and problems regarding the understanding and implementation of GST which was primarily due to inefficient execution. However, over the past year and a half, these problems have been resolved by the active role of the Central Government and GST Council. ACAE played a very active role in educating and updating its members regarding the latest amendments flowing in on a daily basis.

For the period ended 31st March, 2018, many returns were to be filed on a monthly or quarterly basis, and now to close the financial year 2017-18, GST audit along with Annual Return is to be filed on or before 31st December, 2018. To conduct the GST Audit and file Annual Return, a number of challenges lie in the path of the professionals. To overcome these challenges, we have organised this Conclave on GST Annual Return, Reconciliation and Audit. We have invited a number of learned speakers from all around the country to enlighten us upon this subject. Mr. D. Nagvenkar, Commissioner, CGST and CX, Kolkata North Commissionerate, will grace the occasion as Chief Guest. I encourage all the members to actively participate in the Conclave so that they can benefit from it.

I am very thankful to the Editorial Board under the Chairmanship of CA Tarun Kr. Gupta for the first journal in the year 2018-19 under my tenure as President. I congratulate all the members of the Editorial Board and thank them again for their sincere and active role in coming out with this Journal in such a short notice. Hope this special edition of the journal will be helpful to our members and be appreciated.

Finally, I would like to take this opportunity to wish all the members and their families a very Happy New Year 2019. May each day of the New Year bring you luck, joy, happiness and prosperity.

With warm regards,

**CA Vasudeo Agarwal**  
*President*



Dear friends,

We are extremely happy to welcome you to this GST Conclave, a program organized by Eastern India's premier professionals' body, ACAE. At ACAE we always strive to organize programs that are need of the hour and provide a platform to our members so that they can enrich

their knowledge. This Conclave is one such programme which I personally feel is very well timed and very well structured. The Conclave focuses on GST – Annual Return, Reconciliation and Audit, that needs to be filed by all assesseees, with a few exceptions. These compliances need to be filed by December 31, 2018 for the FY 2017-18.

In the Conclave, we have invited Government officials from CGST, SGST and GSTN to tell us about their perspective of the annual compliances. We also have two learned speakers, one from Bengaluru and the other from Jaipur, both members of the Indirect Tax Committee of our Institute. The Conclave also has a focused session for question-answer so as to provide an opportunity to our members to ask specific questions on the subject.

The House Journal has also been focused on the theme GST Annual Return, Reconciliation and Audit. The Journal has articles dedicated on GST and also has regular updations on other corporate laws and ACAE's activities I am sure, this Conclave, will provide a valuable learning opportunity to all the members in general and participants in particular.

Best Regards,

**CA Arun Kumar Agarwal**

*Chairman - GST Conclave Sub-Committee*

# GOODS & SERVICES TAX (GST) CONCLAVE

## PROGRAMME

**Topic : GST Annual Return, Reconciliation and Audit**

**Friday, the 30th November, 2018**

**Venue : Williamson Magor Hall**  
The Bengal Chamber of Commerce & Industry (BCCI)  
1st Floor, 6, N.S.Road, Kolkata 700 001

**2:00 PM to 8:00 PM**

**6 CPE  
HOURS**

### INAUGURAL SESSION

**Topic**

**GST-Overview of Annual Filings**

**Chief Guest**

**Mr. D Nagvenkar, IRS, Commissioner  
CGST & CX, Kolkata North  
Commissionerate**

### 1ST TECHNICAL SESSION

**Topics**

**GST Annual Return**

**GST Reconciliation and Audit**

**Speakers**

**CA A Jatin Christopher, Bengaluru**

**CA Jatin Harjai, Jaipur**

### HI-TEA

### 2ND TECHNICAL SESSION

**Topics**

**Workflows for filing GST  
Annual Return, Reconciliation and Audit**

**GST- Importance of Annual filings  
towards better compliance**

**Speakers**

**Mr. Sarthak Saxena IRS, GSTN, New Delhi**

**Mr. Khalid Aizaz Anwar  
Jt. Commissioner, SGST, West Bengal**

### QUESTION & ANSWER SESSION

**GST Annual Return, Reconciliation and Audit**

**Moderator :**

**CA Arun Kr. Agarwal, Kolkata**

**Panelists : All Speakers**

## **Executive Committee 2018-19**



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**Nitesh More**



**Pramod Dayal Rungta**



**Ravi Jain**



**Vikash Jain**

## Sub-Committees for the year 2018-2019

S.No	SUB-COMMITTEES	CHAIRPERSON	CO-CHAIRPERSON
1	Direct Tax	CA Ramesh Kr Patodia	CA Mohit Bhuteria
2	GST/Indirect Tax	CA Tarun Kr Gupta	CA Sushil Kr Goyal
3	Corporate Laws	CA Beena Jajodia	CA Madan Kr Maroti
4	Accounts & Audit	CA Vivek Agarwal	CA Niraj Jhunjunwala
5	ACAE CA Study Circle	CA Anup Kr Sanghai (Convenor)	CA Niraj Agrawal (Dy. Convenor)
6	ACAE CS Study Circle	CS S M Gupta	CS Yogina Kochar
7	Group Discussions	CA Pramod Kr Mundra	CA Samya Sengupta
8	Corporate Executive Programmes	CA Niraj Agrawal	CA Gaurav Agarwal
9	Theme Conclave [Real Estate]	CA Rishi Khator	CA Vijay Kr Sarawagi
10	Theme Conclave [Capital Market]	CA Madhav Prasad Sureka	CA Ravi Jain
11	Theme Conclave [GST]	CA Arun Kr Agarwal	CA Sushil Kr Goyal
12	Annual Conference	CA Santosh K Roongtaa	CA Madhav Prasad Sureka
13	Prof. Sukumar Bhattacharya Memorial Lecture	VP- CA (Dr.) Debashis Mitra	CA Anup Kr Sanghai
14	ET Bengal Corporate Awards	CA Jinesh S Vanzara	(1) CA Anand Chopra (2) CA Kamal Nayan Jain (3) Mr. Arvind Agrawal
15	Insolvency & Bankruptcy Study Group	CA Kamal Nayan Jain	CA Anup Kr Banka
16	Students Development	CA Pramod Dayal Rungta	CA Naveen Bardia
17	Fellowship	CA Niraj Harodia	CA Amitabh Saraogi
18	Sports	CA Pramod Kr Mundra	CA Vinay Chowdhary
19	Residential Seminar	CA Indu Chatrath	Mr. Arvind Agrawal
20	Ladies Wing	CA Beena Jajodia	(1) CS Yogina Kochar (2) CA Vijayant Agrawal
21	Membership Growth	CA Kamal Nayan Jain	CA Pramod Dayal Rungta
22	Information Technology	CA Jitendra Lohia	(1) CA Niraj Agrawal (2) CA Rahul Rungta
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24	Infrastructure	CA Anand Chopra	CA Jitendra Lohia
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27	House Journal	CA Tarun Kr Gupta	CA Anup Kr Banka
27A	Research & Publications	CA Ram Ratan Modi	(1)CA Ramesh Kr Patodia (2) CA Mohit Bhuteria (3) CA Pramod Dayal Rungta (4) CA Sumit Binani
28	Website updation	CA Vivek Agarwal	CA Niraj Agrawal
29	Public Relations	CA Ranjeet Kr Agarwal	CA Sanjib Sanghi
30	Press & Media	CA Sumantra Guha	CA Nitesh Kr More
31	Vision Development	CA Jinesh S Vanzara	-
32	Members- Co-ordination & Service	CA Ketan Satnalia	CA Rakesh Jain
33	Corporate Social Responsibility	CA R N Rustagi	CA Ratan Lal Sethia
34	Department Co-ordination Committee :		
34A	Direct Tax	CA Madhav Prasad Sureka	CA Anup Kr Sanghai
34B	Indirect Tax/GST	CA Arun Kr Agarwal	CA Rajeev Kr Agarwal
34C	SEBI,NCLT, MCA-ROC	CA Ram Ratan Modi	CA Jitendra Lohia
35	Nomination	Immediate Past President - CA Arun Kr Agarwal	(1) President - CA Vasudeo Agarwal (2) Vice President - CA (Dr.)Debashis Mitra

### ACAE OFFICIALS

Ms. Niti Dasgupta	4060 8353	98305 55232
Mr. Amitava Mishra	2210 7724	98740 74194
Mr. Sital Chatterjee	2210 7724	93394 18687
Mr. Ajoy Mishra	2210 7724	74308 71260
Mr. Debdatta Sardar	2210 7724	83360 16855





**Mr. Devendra Nagvenkar**

Mr. Devendra Nagvenkar is from the Indian Revenue Service (IRS). He is currently occupying the position of Commissioner of CGST & Central Excise, Kolkata North Commissionerate. He is from Mumbai, where he did his schooling. Thereafter, he went to IIT (Mumbai) and qualified as an Electrical Engineer. Mr. Nagvenkar has a degree in Law and is also a Cost Accountant.

Mr. Nagvenkar has served in various positions under the erstwhile Central Board of Excise & Customs, including an important stint at CESTAT, Mumbai. As the Commissioner of CGST, Kolkata North, he is responsible for the administration of one of the most crucial CGST Commissionerates. Mr. Nagvenkar has attended many seminars on GST since its inception and continues to extend his co-operation to trade and industry whenever sought for.



**CA. A Jatin Christopher**

CA. Jatin Christopher is a Chartered Accountant, Cost Accountant and Law graduate. He qualified in 1996 and specializes in 'indirect tax' laws. He is an invitee to the Indirect Tax Committee of ICAI, New Delhi. He has been in practice since 2000 and specializes in advisory and litigation matters in indirect tax legislations. He is a Partner in JCSS – a full service firm with presence across India.

He is a resource person for the Institute in its various post-qualification programs on indirect taxation. He has contributed towards publication of educational and research material by ICAI on various indirect tax topics.



**CA. Jatin Harjai**

CA. Jatin Harjai is a Practicing Chartered Accountant based at Jaipur. Through his more than fifteen years of career, he has become recognized for his contribution and expertise as a knowledgeable professional, advisor and consultant in the field of financial consultancy and tax advisory.

Mr. Harjai is actively engaged in representing Industry before department at various levels. He is member of national Indirect Tax Committee of PHD Chamber of Commerce & Industries for year 2018-19. He has represented in the 'Tax Advisory Committee' before Chief Minister of Rajasthan for giving recommendation and suggestion before state budget(s). Apart from TAC he has represented Institute of Chartered Accountants of India, Rajasthan Tax Consultants Association, Tax Consultants Association Jaipur before Commercial Taxes Department at various levels in relation to modification in VAT laws of the state and development of GST. He is Special Invitee member of National Indirect Tax Committee of the Institute of Chartered Accountant of India. He is Co-Opted member of National DT Committee of the Institute of Company Secretaries of India.



### Mr. Sarthak Saxena

Mr. Sarthak Saxena is IRS officer of 2012 batch and Civil Engineer from SGSITS, Indore, 2009 pass-out. He was posted in Pune, Maharashtra for three years as Assistant Commissioner & Deputy Commissioner. He is a Master Trainer on GST, and has conducted numerous seminars & sessions on GST for the trade and the Central & State Tax officers at Pune.

Mr. Sarthak Saxena worked for implementation in key areas of GST, including taxpayer facilitation, grievance redressal, and co-ordination with Maharashtra State Tax officials. He is presently posted in GSTN from May 2018 as Officer on Special Duty (OSD) to CEO, GSTN. He is involved in key projects like designing of simplified return for GST, Annual Return & Reconciliation Statement, and the Fraud Analytics module of GSTN.

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### Mr. Khalid Aizaz Anwar

Mr. Khalid Aizaz Anwar is a 1990 BATCH West Bengal Civil Service Officer who joined Commercial Taxes in 1991. Has worked in different departments of Commercial Taxes, like Investigation, Industrial Incentive, Public Relations, Audit etc. He is currently posted at Commissioner's office at Beliaghata, Kolkata & heads the GST PPU Cell and STDS Cell of the Directorate.

Mr. Khalid Aizaz Anwar is a member of the Law Committee consisting of Central and State Officers that drafted the IGST, CGST & SGST laws and the rules and post introduction of GST looking into different procedural and compliance issues concerning GST. He is also a member of the Fitment Committee that work on the rates of tax for goods and services. He was awarded a letter of appreciation for his contribution in GST Law drafting by Dr. Hasmukh Adhia, Revenue Secretary, GOI in 2017.

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### CA. Arun Kumar Agarwal

CA. Arun Kumar Agarwal is a practising Chartered Accountant. He is a regular speaker on the subjects GST, VAT, Service Tax and Central Excise. He is a member in the Indirect Taxes Standing Committee of ICAI Central Council, New Delhi and a faculty in the Board of Studies of ICAI, and an empaneled resource person in its Technical Directorate. Mr. Agarwal is the Chairman of the Indirect Taxes Committee of Merchants Chamber of Commerce and Industry, Kolkata, Immediate Past President of Association of Corporate Advisers & Executives, Kolkata, Executive Committee member in the Committee, Eastern Zone of AIFTP in 2016-17 and visiting faculty in various Institutes & Universities.

CA. Arun Kumar Agarwal authored first book on WB VAT titled "Commentary on West Bengal VAT" and "Practical Guide to WB VAT Audit". He prepared the basic draft of the 'Technical Guide on West Bengal VAT' as also "Background Material on Seamless Credit" and also contributed in the "Handbook for Accounting for GST" published recently by ICAI.



# GST Audit Certification

CAA Jatin Christopher  
Bengaluru

*A Form prescribed under a rule, in furtherance of the purposes of the section, supplies the precise extent and meaning that ought to be ascribed to words in the section that are capable of meaning something more or something else. That's the guidance of Hon'ble SC in CIT v. Ajanta Electricals (1995) 4 SCC 182.* And section 35(5) of the CGST Act may continue to use liberal expressions like 'Every registered person.... shall "get his accounts audited".... and submit a copy of the audited account...'; whether registered person had to 'get' another audit done of the financials or simply 'submit' the audit already carried out, is quite clear now. Without having to look into the audit of financials, the auditor's work is cut out in Forms that have been notified right when yet another audit under Income-tax Act was underway. Here's a look at 'the ask' of the Government through this exercise of Annual Return and Reconciliation Statement.

## GSTR 'new' Forms

### Annual Return

Every person with a GSTIN needs to prepare Annual Returns, even if no transactions are carried out during 9-month financial year 2017-18. No such return is required by holders of registration as ISD, TDS-TCS, casual and non-

resident taxable persons. Annual Return is a 'summation' of data reported for the year (or GST period) 2017-18. Interesting to see that, Form GSTR 9 refers to data filed 'during' the year. Considering that returns for 2017-



**Every person with a GSTIN needs to prepare Annual Returns, even if no transactions are carried out during 9-month financial year 2017-18. No such return is required by holders of registration as ISD, TDS-TCS, casual and non-resident taxable persons.**

18 were permitted to be filed 'belatedly', returns filed 'during' alludes to returns 'for' 2017-18. Annual Return admits that GSTR 1 and GSTR 3B are in harmony with each other. That is, no turnover reported in GSTR 1 has been omitted in GSTR 3B while paying tax. And no turnover that is taxed in GSTR 3B has gone unreported in GSTR 1. That's to explain concerns whether data from GSTR 1 or 3B should flow into GSTR 9. Annual Return is not the place to rectify errors in the data reported in GSTR 1 / 3B. It's the experience with VAT that seems to fuel this expectation that GSTR 9 will be that fix-it-all chance. But consider if everyone were to start rectifying in GSTR 9, GSTR 1/3B would be otiose.

Someone said Garbage-in-Garbage-out, to borrow analogy from computer software industry, is the key to GSTR 9. And it doesn't seem all that far from the truth when we see that a 'system generated' GSTR 9 would

be available for preparing Annual Returns. There's another place for rectification, that's GSTR 9C. But then, what about registered persons who are not required to file GSTR 9C. There cannot be a different requirement for such persons,

GIGO and administration will address errors that went unresolved even after due date for GSTR 1 was extended to Oct 31, 2018. But that is no reason to permit registered persons to rectify, to some extent, in GSTR 9 and some more in GSTR 9C. Data hygiene is about continuity of link from one form to next.

### **GSTR 9A**

Annual Return for taxable persons who have opted for composition of tax is required in GSTR 9A which contains a truncated information flowing from GSTR 1. Credit related information does not appear in GSTR 9A as it pertains to composition taxable persons who are not eligible for input tax credit.

### **GSTR 9B**

With the introduction of TCS from 1 Oct, 2018 these transactions will need reporting for 2018-19 and not now.

### **Reconciliation Statement**

Everyone whose 'aggregate turnover' for the entire 12 months of 2017-18 exceeded Rs.2 crore is required to submit GSTR 9C. And yes, 'turnover' is used in section 35 but is not defined; 'financial year' is used in section 44 but is not stated whether 12 months or 9 months. So, it's suggested that everyone whose 'aggregate turnover' for 12 months of 2017-18 exceeded Rs.2 crore, to submit GSTR 9C. And the rest can wait and agitate as this is only a suggestion. One-GSTIN-one-GSTR 9/9A-9C, no-GSTIN-no-GSTR 9/9A-9C. There are several situations where Rs.2 cr can be reached in Apr-Jun and Rs.0 in Jul-Mar. It's for this reason that professional judgement is invited. Any additional suggestion would only be a view rather than information from the law.

About GSTR 9C, it's a reconciliation and as a reconciliation, it requires two data points with some differences the need to be explained. Financial statements of the registered person are 'derived' from that of the Entity. And reconciled with GSTR 9. And with GIGO, so that all reconciliations will appear in one place, here. Deriving financial statements has been discussed in detail in the Technical Guide (draft) issued by ICAI. Of course, it would be a 12-month data that will be reduced to 9-months by an exclusion in 5G. Reconciliation is a not an effort to 'make it tally' but explain 'why' after admitting it 'doesn't'. So, please don't be anxious if it doesn't tally because there are inherent differences in the way revenue is recognized in books and way turnover is arrived at in GST. In fact, there's reason to worry if they tally. There will be reconciliation differences



and that needs to be explained, even though no tax is due on such difference.

### **Authorship**

#### **GSTR 9-9A**

Registered Person retains authorship to Annual Returns. Auditor may have advised but authorship does not shift. Unless registered person claims expertise in GST law, admittedly there's a reliance on the work of experts in identifying, recording and reporting transactions in the returns filed 'for' the year. Such advice may be as to:

- Supply 'categorization' as goods or services
- Determination of 'supply' itself
- Identifying 'time' of supply
- Admitting 'place' of supply
- Documenting 'value' of supply
- Declaring it to be 'sole' consideration
- Claiming 'credit' as permitted
- Restricting claim to 'extent' eligible
- Maintaining record of all the above

Unless these and some more are disclosed, one might assume GST expertise resides in-house!

#### **GSTR 9C**

Reconciliation with financial statements, whether audited by the same or different auditor, is left entirely to authorship of auditor. The word authorship is used so as to understand in the context of audit Authorship is not limited to the 'numerals' reported but everything, numerals, supply (classification and valuation), tax payable, et al except data furnished to auditor in GSTR 9. Data exchange is like a 'relay', where one user prepares data and hands over to the next user who works upon the data handed and prepares

incremental data set only to hand it over to the next user. A garment cannot but carry the characteristics of the cloth from which it was cut. GSTR 9C will also carry effects of estimation and assumptions made in preparing financial statements as well as own (or guided) understanding of GST law in preparing GSTR 9. Annual Return and Reconciliation Statement must be prepared (and read) mindful of the extent of expertise available with its authors.

### Audit or Certificate

#### Nature of Exercise

GSTR 9C requires certain 'particulars' furnished '..... are true and correct subject to.....'. Auditor's opinion is where 'subject to' begins and qualifies data declared to be 'true and correct'. If there are extensive qualifications, it may belie the truth-and-correctness of the 'particulars' furnished. So, the engagement would be extensive to derive *prima facie* comfort about its truth-and-correctness and then call-out the areas where one or other aspect is wanting.

#### Assurance

Regardless of the words used to express the level of assurance, whether true-and-correct or true-and-fair, the nature of the exercise itself determines the degree of assurance possible. Extracts from SA 200 state it best:

- *"Reasonable assurance is a high level of assurance"*
- *"...reasonable assurance is not an absolute level of assurance, because there are inherent limitations of an audit which result in most of the audit evidence on which the auditor draws conclusions and bases the auditor's opinion being persuasive rather than conclusive"*
- *".....Judgements about materiality are made in the light of the surrounding circumstances, and are affected by the auditor's perception of the financial information needs of users...."*

As regards the approach to the work by an auditor, it is expected that his training as a Chartered Accountant, knowledge of standards published by ICAI, methods applied in validating data to reach an opinion and experience in exercising professional judgement must be brought to bear.

So, call it what you want but it seems to be 'reasonable assurance', no more, no less.

#### Approach

As regards the approach to the work by an auditor, it is expected that his training as a Chartered Accountant, knowledge of standards published by ICAI, methods applied in validating data to reach an opinion and experience in exercising professional judgement must be brought to bear. And cannot be stated better than relying on more extracts from SA 200 :

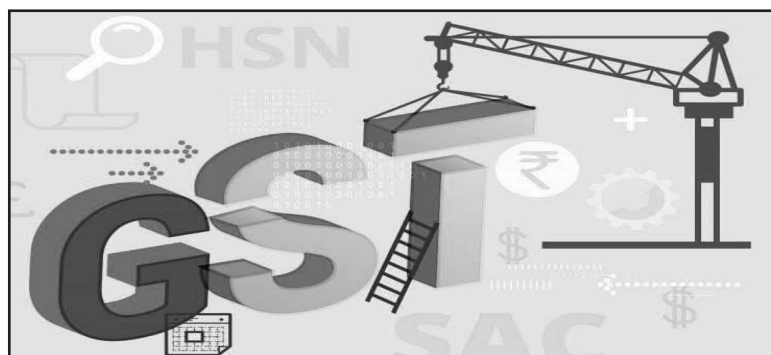
- *"The Standards on Auditing (SA) establishes the independent auditor's overall responsibilities when conducting an audit of financial statements in accordance with SAs."*
- *"SAs are written in the context of an audit of financial statements by an auditor. They are to be adapted as necessary in the circumstances when applied to audit of other historical financial information"*
- *"....An audit conducted in accordance with SAs and relevant ethical requirements enables the auditor to form that opinion."*

Although the exercise is an 'audit', the extent of reporting is a 'certificate' and this seems to be certification by carrying out an audit – audit certificate.

### Maintenance of Books

#### Maintained or Prepared

Responsibility to 'maintain' books and records are that of the registered person. Maintenance indicates regularity and timely. With the pervasiveness of information technology, each registered person does not 'maintain' books and records pertaining to its operations. In fact, all information is available but with the Entity. Only such information as it relates to the Registered Person are furnished after it is 'extracted, compiled and specially prepared'. There lies





the expectation-compliance gap. And this ought not to be frowned upon as that's the doing of increased use of IT but not unreliable by any standard. However, a clear disclosure of this fact, would hold Registered Person-Auditor in good stead so that the 'user' is mindful of the nature of the compliance.

#### **GAAP Effect**

Of the various concepts and conventions in book-keeping, 'money measurement' needs special mention in the context of GST. Books of accounts do not permit recording of transactions that are not reflected by a financial measure. Money measurement means a transaction that is undertaken in monetary terms are only permitted to be recorded.

GST is not fettered by such things and travels far beyond to impose tax on 'barter and exchange' which do not enjoy a financial measure. And then there are transactions in GST that are at 'notional value' where the transacted value is not acceptable in certain situations and remedial measurement is provided in the rules. So, GST contains transactions that need to be identified and reported even when GAAP does not even permit recording them in the books.

#### **UQC applied**

Goods imported in 'square meters' and supplied domestically in 'square feet' and scores of other differences on account of unit-of-measurement, or unit quantity code (UQC). Do records maintained (regularly and timely) reflect quantitative information in either or both? Worse still, if it's in only one of them, is a conversion factor used to reflect information in the other and what about restatement differences? There will be differences that are not indicative of any wrong doing. Disclosure continues to save the day.

#### **AS-ICDS-IndAS divergence**

Then there's the aspect of relevant standards applied for accounting. IndAS varies in many respects with Accounting Standards (ICAI) that continues to be applicable if the requirement for conversion, either by threshold or timeline, are not applicable to the enterprise.

Divergence in information carried in financials are bound to cause concern to a user unless the auditor makes suitable disclosure. For example, IndAS 116 requires Lessee to capitalize assets in its books at the NPV of MLP (net present value of minimum lease payments). "Auditor to explain!"

ICDS (Income Computation and Disclosure Standards) is also not free from variance with AS. For example, ICDS II does not call for exclusion of 'recoverable taxes' paid on purchase of goods whereas AS2 does. Interestingly, ICDS V excludes such taxes in line with AS10. "Auditor to please explain again!"

And there's more which cannot but be accepted by users if it weren't for the auditor to come forward with clear disclosure of the extent of variance and reasons for the same.

#### **Reporting in GSTR 9-9A**

##### **Garbage in-Garbage out (GIGO)**

It's an IT-terminology that is unmistakably clear in stating what the output is all about. Annual Return will carry data reported in GSTR 1/3B. No new tax liability will be admitted and reported in GSTR 9-9A. No new credit will be discovered and claimed in GSTR 9.

It's the 15-month period (Jul 2017 to Sept 2018) over which data has been permitted to be reported 'for' 2017-18, that requires a consolidation in GSTR 9-9A. Some experts hold the view that Annual Return can contain 'new' information because it's not a pre-filled form and that view may be proved right, but the authors feel reluctant to accept such view for reasons stated later in this article.

##### **Rectifications – where?**

Rectification whenever error is discovered. Rectification by anyone who discovered the error (Registered Person or Auditor). Whether rectification was carried out or not would require yet another reconciliation. So, it seems that all data lying all over the 15 months that data was reported be complied in one place and all rectification reported after verification by auditor.

GSTR 9-9A is not the last word on tax compliance. Registered Persons above the threshold permitted to get

their compliances verified by the auditor. And those below the threshold liable to verification by authorities. Seems simple, plausible and workable but time will tell if this is the Government's view too

### Reconciliation in GSTR 9C

#### Turnover 'derived'

Financial statements provide the 'start' to this reconciliation. And 'turnover' for 2017-18 is to be 'derived' from audited annual financial statements of the Entity. This is a clear indication that the Government admits that the audited financial statements will be that of the Entity and not of the Registered Person. And for this reason, it's to be derived. To derive, no new method is to be applied except the information pertaining to Registered Person that are 'extracted, compiled and specially prepared' from the that of the Entity. Of course, information so derived will have its own estimation and assumptions that would beg to be disclosed so as to ensure completeness when information of all other registered persons is added up.

#### Adjustment signs "+ / -"

Reconciliation does not mean any one of the information is incorrect. Reconciliation means that one is explainable 'subject to adjustments' to reach the other. Attention must be paid to the 'sign' assigned to each adjustment. For example, '+' sign against 5B requires 'increase' in turnover of registered person (as stated in financial statements) by amount already reported as turnover in the previous year (unbilled revenue) in respect of which GST-invoice is issued only now and included in 5Q. This reconciles 5A with 5Q.

But, 5E requires 'increase' in turnover by amount of credit notes issued after the financial year that is (somehow) reflected in annual returns. If credit note is not reflected in financial statements (issued after financial year), turnover in 5A will be higher than in 5W. By increasing 5A with the amount such credit note, the gap will only widen.

And then, 5J requires 'decrease' in turnover (as stated in financial statements) by amount of credit notes accounted in financials but not permissible in GST. If credit note so issued has already been accounted, turnover in 5A is already lower than in GSTR 1 (hence GSTR 9). Now, by decreasing turnover in financials, it will further widen the gap between 5A and 5Q.

So, care must be taken to ensure the correct 'adjustment' effect is given, that is, plus or minus, depending on the effect it is to have in bringing turnover in financials to reconcile with turnover in returns. Blindly relying on the

'sign' is not advised, especially, when an expert is assigned this task.

And when no specific row is prescribed, 5O is the one where 'all other' adjustments need to be made. Reference may be had to the Technical Guide (draft) issued by ICAI to support members as they undertake this reconciliation.

#### Not permissible under section 34

5J makes mention of 'credit note not permissible under GST'. Much has been said about permissibility of 'financial credit note' that is without GST-effect. And that the same will not attract the ire of credit reversal as non-payment to supplier to this extent. Whether recipient will be denied input tax credit or not, the supplier who issued credit note 'not in accordance with section 34' is brought into focus here.

From the earlier discussion about 5E and 5J, it appears that the sign is to be 'reversed' or if the sign is maintained, then a 'negative' value must be applied in these places. On this assumption, authors would submit a view that where such financial credit notes are issued, that is, credit note without GST, the same is liable to increase the turnover



**Reconciliation does not mean any one of the information is incorrect. Reconciliation means that one is explainable 'subject to adjustments' to reach the other. Attention must be paid to the 'sign' assigned to each adjustment.**

and be liable to be tax as an unreconciled difference.

Surely, this view will evoke strong reactions, but it is submitted that member's look out for any clarification that may be issued in this regard that puts this anxiety of the authors to rest.

### **Working Papers**

This reconciliation is not possible without detailed

working papers explaining the 'source' of data and its interpretation/treatment to arrive at the 'end' data reflected in GSTR 9C. Something like a bridge to be constructed between the source and the end. This bridge document or worksheet will come in handy when the data reported is called in for a review.

### **Management Representation**

Any exercise of 'audit' involves review of the information (books and records or explanations) furnished by the Registered Person. To this end, the working papers would also need to contain detailed representation on matters affecting compliance that are reviewed.

Broad representations may not suffice. For example, time of supply is well understood along with the requirement to issue invoices timely. But, whether date of invoice coincides with time of supply as per law, is a question that cannot, but be explained by a representation. Hence, care must be taken to go into detailed aspects that registered person has followed that the auditor is to rely upon. The Technical Guide (draft) issued by ICAI discusses these aspects extensively, though not exhaustively, which may be referred.

### **Responsibility of Auditor**

#### **Investigation by Auditor**

Auditors have known for long that they are not bloodhounds to sniff out clever devices that are deliberately blended into regular transactions that has not real substance except to produce an economic advantage that would otherwise not be available.

But that does not permit auditors to be blind to transactions that are admittedly missing an accounting entry. There's an earlier discussion about limitations from GAAP-based accounting. Now, transactions that are (rightly) missing

**Auditors have known for long that they are not bloodhounds to sniff out clever devices that are deliberately blended into regular transactions that has not real substance except to produce an economic advantage that would otherwise not be available.**

in the accounts must be specifically examined by the auditor. Transactions lacking consideration (5D) or transactions requiring notional valuation (5M or 5N) will need to be examined and reported. Omitting these on the basis of the books not reflecting such transactions would not be advisable.

However, transactions that don't appear as a

reconciliation difference, that is, where either a taxable supply is omitted in the books as well as GSTR 1/3B or impermissible credits are included in the books as well as in GSTR 3B, these are bound to go unnoticed, even by the auditor.

Unless the techniques of auditing applied by the auditor enables discovery of such 'omissions or inclusions', the auditor can hardly be faulted. A word of caution, insight into the business of each auditee and experience of the auditor can tide over possibility of raising questions about the auditor's work in the event of any subsequent discovery by revenue authorities.

### **Extent of Responsibility**

Although it's only a reconciliation, auditor's responsibility extends from validating numerals against each line-item but also their categorization into each of those lines. For example, is the turnover exempt or nil-rated or non-GST or no-supply (table 7). In fact, there are expressions here that are unknown in the law. And only the auditor is to furnish the value by identifying their meaning based on the instructions or insight.

The total taxable turnover (7E) will need to be unfolded into various rates with values in table 9. Here, the auditor becomes responsible not just to report facts as recorded but report his concurrence with those facts. Understanding HSN is inescapable to discharge this responsibility. Of course, it is not to launch into an investigation, but audit is no less an inquiry into the reliability of information certified and reported.

This being the first year of GST implementation, exclusion of transactions initiated prior to 1 Jul, 2017 cannot be based on reason but based on admission made in transition declaration filed along with turnovers reported in the



erstwhile returns. Transactions taxable under earlier laws are saved to some extent and are taxed by legal fiction to some extent.

Auditor may well find that overlapping transactions seem to have slipped through and attract GST. Caution is to be exercised while excluding pre-GST transactions, not based on reason, but based on their treatment permitted by law.

### Auditor's Report in Part B

#### Modules

Part-B of GSTR 9C makes room for two different situations. That is, where the same auditor has carried out the audit of the financial statements as well as carrying out the GST audit. And where different auditors are involved in each of these audit exercises. While this is not new to auditors as ICAI has published SAs dealing with each aspect of such collaborative or interdependent work by members. It is important to consider that auditors may need to identify which module each engagement falls under. The eventual responsibility of the audited under GST law is identical, whichever module applies in each case.

#### "Subject to"

This is an area where auditors are experienced in. And for this reason, it seems the form permits auditors opportunity to 'fill in' or 'annex' their observations or qualifications. As to whether 'observation' is correct or 'qualification' is correct or there's yet another expression – attention invited to – are not fettered by the format. Auditor must use expressions that best described their opinion in each

instance. This is no place to pursue brevity. Information in sufficient detail to help users obtain a clear picture of each situation would be welcomed. Auditors are expected to bring to bear their knowledge and experience here to make clear the situation.

#### Difference of Opinion

Differences of opinion with auditee are not uncommon and there are ways to address these. Where differences are resolved by agreement, then the liability admitted and duly reported. If differences are unresolved, then reliance may be placed on expert opinion and suitably disclosed. Disclosure helps not only revenue authorities but also registered persons regarding the interpretation followed. There are experts but there's no finality to views (yet).

#### Conclusion

GST audit seems to be a 'certification by way of audit' and no one's missing yet another audit of the financials. Everyone holding a registration is required to file Annual Returns for each registration. And everyone crossing the threshold is required get their auditor to certify a Reconciliation Statement. Whether there's any tax due or not, no financial information of a registered person appears to lie beyond the knowledge of revenue authorities. And GST audit certification seems to be that exercise that allows minimally invasive view of all that's gone on in 2017-18. And the Government's ask is clear in these forms, that if experts were to take a look at the information that's reported 'for' 2017-18 and explain it with audited financials, then that's one step closer to doing business with ease!

\* \* \* \* \*

*Jawaharlal Nehru gave this iconic speech that every Indian knows :*



**"LONG YEARS AGO. WE MADE A TRYST WITH  
DESTINY AND NOW THE TIME COMES  
WHEN WE SHALL REDEEM OUR PLEDGE.  
AT THE STROKE OF THE MIDNIGHT HOUR.  
WHEN THE WORLD SLEEPS.  
INDIA WILL AWAKE TO  
LIFE AND FREEDOM."**

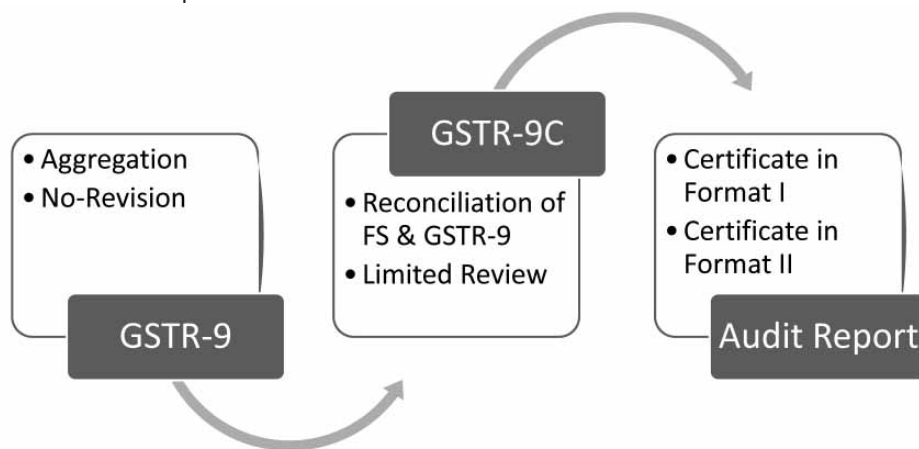


# GST Annual Compliances – A Walk-through

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## Background :

Apart from regular monthly compliance, unlike service tax, GST law envisages annual compliances too, which are filing of annual return (GSTR-9/9A), reconciliation statement (GSTR-9C) and certification by a practicing chartered accountant or cost accountant. Concept is broadly in line with VAT Laws, whereas requirements are significantly different. Due date for filing of the all three documents for Financial Year 2017-18 (From 1st July 2017 to 31st March 2018), is December 31, 2018 however till now utility for filing of documents are still not available on GSTN web portal. Since it shall be first annual compliances under GST and time may not be appropriately available, it is important to start preparation of Annual Return and GST Audit as soon as possible.



## Annual Return :

Sec. 44(1) provides for filing of annual return by all registered persons except;

- Casual Taxable Person or Non Resident Taxable Person (Requires monthly filing of return in form GSTR-5)
- Input Service Distributor (Requires monthly filing of return in form GSTR-6)
- Registered persons paying TDS or TCS (Requires monthly filing of return in form GSTR-7 & GSTR-8 respectively)

All other registered persons, than mentioned above, annual return is to be filed in form GSTR-9, except for persons opted for composition scheme u/s 10 who are supposed to file annual return in GSTR-9A. GST Annual return is precisely

aggregation exercise, i.e. summing up of statements and returns filed during the year, along with adjustments made in later months. Following are major information required in form GSTR-9 :

- Details of outward supplies on which tax is payable (including advances for services and inward supplies liable to pay tax under Reverse Charge Mechanism).
- Details of outward supplies on which tax is not payable (eg. supply to SEZ unit/ developers and export against LUT & Exempt supplies)
- Details of Input Tax Credit availed through monthly return GSTR-3B bifurcated in Inputs, Capital Goods and Input Services.
- Details of transitional credit, and reversal thereof, if any.

- Details of ineligible Input tax credit or reversal of input tax credit already taken.
- Claim of ITC vis a vis GSTR-2A Information.
- Details of taxes paid through ITC & Cash.
- Amendments made in supply and claim of ITC in returns of April to September of immediately succeeding financial year (eg April to Sep 2018 for FY 2017-18).
- Differential tax payment on account of amendments.
- Details of Refunds.
- Details of supplies received from Composition taxpayers.
- HSN wise summary of inward and outward supplies.

#### Some Issues in GSTR-9 :

1. Annual return form expects details of availed ITC to be given in bifurcation of Inputs, Input Services and Capital Goods. Such description was neither warranted by rules nor records were expected to be kept in accordance with such description. It will be difficult to extract details in such bifurcation from accounts which has already been made.
2. On the same line, detail of HSN wise inward supply and supplies received from composition dealer was never warranted to be maintained separately and will be difficult to compile before filing of annual return.
3. Outward supply details are reported by registered persons at two places, firstly through monthly return GSTR-3B and secondly through GSTR-1. Ideally there should not be any gap in these two, however practically there are difference between two in many cases. Outward supply to be reported in GSTR-9 (refer column no. 4) specifically suggest to take figures from **Returns** filed. Column no. 4 is drafted in such a manner that outward supply details should be taken from GSTR-1, whereas the same is not a return as per legal provisions, its only a statement of outward supply. It is to be noted that tax is being paid on the basis of turnover declared in GSTR-3B and not on the basis of GSTR-1.

#### Reconciliation Statement :

Sec. 44(2) read with Rule 80(3) provides for filing of a duly certified reconciliation statement along with filing of annual return wherever GST audit is required as per sec. 35(5). Notification no. 49/2018 Central Tax dated September 13, 2018 prescribes GSTR-9C as standard format

for Reconciliation statement. Form GSTR-9C provides for reconciliation of two things, as under:

- Turnover as per financial statements and turnover as declared in Annual Return GSTR-9.
- Input Tax Credit availed as per audited financial statements and Input Tax Credit claimed in Annual Return GSTR-9.

Normally reconciliation refers to **identification of reasons** of differences between two figures reported at different places or in different documents of the same commercial activity or transaction. Bank reconciliation statement is classic example of it, whereby reasons are being identified for difference between balance of bank as per books of accounts and as recorded by bank. On the same parity this exercise is to be done in GSTR-9 for Turnover and Claim of input tax credit in specified format. It's a kind of journey whereby we are to start from financial statements and destination is amounts reported in annual return i.e. GSTR-9. There can be many reasons due to which turnover recorded in financial statements and reported in annual return be different, broadly we can classify in three major heads:

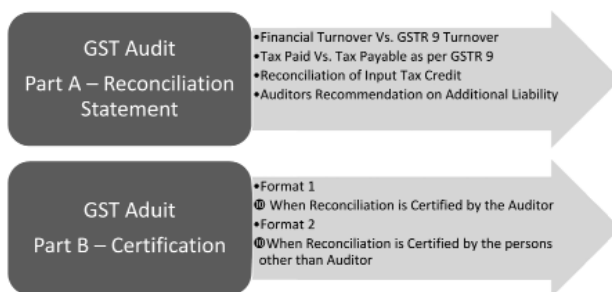
1. Transactions reported as turnover in GST Annual Return, but are not in Financial Statements. Some of examples can be:
  - a. Supply made to Consignment Agent
  - b. Services to HO by marketing branch situated in another state etc.
  - c. Supply to employees without any consideration
  - d. Supply of Capital Assets
2. Transactions covered in Financial Statements, but are not reported in GST Annual Return. Some of examples can be:
  - a. Turnover for Q1 of FY 2017-18, i.e. before implementation of GST
  - b. High Seas Sale, Merchant Trade (Cross Border), Supply from bonded warehouse
  - c. Sale of Land and/ or completed building by real estate developer
  - d. Profit or Loss on Sale on sale of Fixed Assets
3. Transactions covered by Financial Statements and reported in Annual Return as well, but recorded or reported at different value. Some of examples can be:
  - a. Supply of used goods by dealer dealing in Second

Hand Goods (Rule 32(5), and/or Supply of used car by any person (Notification no. 8/2018(CTR))

- b. Supply to employees at concessional rate
- c. Transactions with related parties (where ITC is not completely available to recipient)
- d. Supply by Air Travel Agent and/or Forex Conversion by Authorised dealer.

On the same analogy there can be many reasons for difference in Input Tax Credit availed in books of accounts and claimed in return. Some of examples can be :

- a. Goods Supplied by vendor but not invoice not received or booked by the recipient.
- b. Tax Invoices Received, but goods/ services not received.
- c. Goods are supplied in parts against single invoices in different time frame whereas the same is reflected in GSTR-2A on the basis of invoice and GSTR-1 of vendor.
- d. Input Tax Credit not eligible, though appearing in GSTR-2A on the basis of invoice and GSTR-1 filed by vendor.



## CERTIFICATION :

Apart from GSTR-9C, a certification in prescribed form is to be filed. Prescribed certificate(s) and their broad contents are as under:

1. Format-I, is to be used when audit of books of accounts and certification in GSTR-9C is done by the different persons.
2. Format-II, is to be used when audit of books of accounts and certification in GSTR-9C is done by same persons.

Most critical aspect of the certification is auditor is expected to certify that auditee has maintained (or not maintained) all books of accounts, records and documents as required

by the CGST/ SGST/ IGST Act, Rules and notifications issued thereunder. If we compare it with Tax Audit u/s 44AB of Income Tax Act 1961, auditor is expected to certify that proper books of accounts are maintained and not, without referring to any legal binding, which gives auditor reasonable liberty to exercise his judgment looking to the nature & size of the business. It appears that certification, as prescribed, doesn't give any liberty to auditor and expect same level of compliance check in small, medium and large entities. It is important to note that certification specifically requires comment about gathering of information from registered taxable person. GST auditor should be very careful in certifying that all books of accounts, records and documents as required by the GST law are kept and maintained. Sec. 35 read with Rule 56 prescribes following accounts, document and records to be maintained by registered persons:

### ➤ True and Correct Account of

- Monthly Production or Manufacturing Account (Including details of waste, scrap and by products)
- Inward Supply of goods or services
- Input Tax
- Input Tax Credit Claimed
- Input Tax Credit Availed
- Outward Supply of goods or services
- Output Tax Payable
- Output Tax Paid
- Supplies attracting payment of tax under Reverse Charge
- Stock of Goods describing Opening Stock, Closing Stock, Purchase, Sale, waste, lost, free sample and gift (Other than composition dealers).
- Goods or Services Imported
- Good or Services Exported
- Advances Received, Paid and Adjustment thereof

### ➤ Documents & Records

- Tax Invoices, Bill of Supply
- Delivery Challan
- Credit Notes, Debit Notes
- Receipt Vouchers
- Payment Vouchers
- Refund Vouchers

- Name & Complete Address from whom supplies has been taken
- Complete Address of premises where goods are stored

**SUMMARY :**

At one side GST audit gives ample opportunity to professionals whereas on the other side it comes with great responsibility. It is important for auditor to understand the scope and coverage of the GST audit. GSTR-9C, to a great extent, is only a reconciliation statement except for ITC eligibility and Rate of Tax purposes. Other observation of law such as Valuation, payment of tax on deemed supplies are not covered by GSTR-9C but are very well within scope of GST Audit and are to be reported in Audit Report.

**Relevant Statutory Provisions (For Reference)****Sec. 35.**

(1) Every registered person shall keep and maintain, at his principal place of business, as mentioned in the certificate of registration, a true and correct account of—

- production or manufacture of goods;
- inward and outward supply of goods or services or both;
- stock of goods;
- input tax credit availed;
- output tax payable and paid; and
- such other particulars as may be prescribed:

*Provided that where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business:*

*Provided further that the registered person may keep and maintain such accounts and other particulars in electronic form in such manner as may be prescribed.*

- (2) Every owner or operator of warehouse or godown or any other place used for storage of goods and every transporter, irrespective of whether he is a registered person or not, shall maintain records of the consigner, consignee and other relevant details of the goods in such manner as may be prescribed.
- (3) The Commissioner may notify a class of taxable persons to maintain additional accounts or documents for such purpose as may be specified therein.
- (4) Where the Commissioner considers that any class of taxable person is not in a position to keep and maintain

*accounts in accordance with the provisions of this section, he may, for reasons to be recorded in writing, permit such class of taxable persons to maintain accounts in such manner as may be prescribed.*

- (5) Every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant and shall **submit a copy of the audited annual accounts**, the reconciliation statement under sub-section (2) of section 44 and such other documents in such form and manner as may be prescribed.
- (6) Subject to the provisions of clause (h) of sub-section (5) of section 17, where the registered person fails to account for the goods or services or both in accordance with the provisions of sub-section (1), the proper officer shall determine the amount of tax payable on the goods or services or both that are not accounted for, as if such goods or services or both had been supplied by such person and the provisions of section 73 or section 74, as the case may be, shall, *mutatis mutandis*, apply for determination of such tax.

**Sec. 44.**

- (1) Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return for every financial year electronically in such form and manner as may be prescribed on or before the thirty-first day of December following the end of such financial year.
- (2) Every registered person who is required to get his accounts audited in accordance with the provisions of sub-section (5) of section 35 shall furnish, electronically, the annual return under sub-section (1) along with a copy of the audited annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the **audited annual financial statement**, and such other particulars as may be prescribed.

**Rule 80(3)** Every registered person whose aggregate turnover during a financial year exceeds **two crore** rupees shall get his accounts audited as specified under sub-section (5) of section 35 and he shall **furnish a copy of audited annual accounts** and a reconciliation statement, duly certified, in **FORM GSTR-9C**, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.

**Rule 56. Maintenance of accounts by registered persons.**

- (1) Every registered person shall keep and maintain, in addition to the particulars mentioned in sub-section (1) of section 35, a true and correct account of the goods or services imported or exported or of supplies attracting payment of tax on reverse charge along with the relevant documents, including invoices, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers and refund vouchers.
- (2) Every registered person, other than a person paying tax under section 10, shall maintain the accounts of stock in respect of goods received and supplied by him, and such accounts shall contain particulars of the opening balance, receipt, supply, goods lost, stolen, destroyed, written off or disposed of by way of gift or free sample and the balance of stock including raw materials, finished goods, scrap and wastage thereof.
- (3) Every registered person shall keep and maintain a separate account of advances received, paid and adjustments made thereto.
- (4) Every registered person, other than a person paying tax under section 10, shall keep and maintain an account, containing the details of tax payable (including tax payable in accordance with the provisions of sub-section (3) and sub-section (4) of section 9), tax collected and paid, input tax, input tax credit claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period.
- (5) Every registered person shall keep the particulars of -
  - (a) names and complete addresses of suppliers from whom he has received the goods or services chargeable to tax under the Act;
  - (b) names and complete addresses of the persons to whom he has supplied goods or services, where required under the provisions of this Chapter;
  - (c) the complete address of the premises where goods are stored by him, including goods stored during transit along with the particulars of the stock stored therein.
- (6) If any taxable goods are found to be stored at any place(s) other than those declared under sub-rule (5) without the cover of any valid documents, the proper officer shall determine the amount of tax payable on such goods as if such goods have been supplied by the registered person.
- (7) Every registered person shall keep the books of account at the principal place of business and books of account relating to additional place of business mentioned in his certificate of registration and such books of account shall include any electronic form of data stored on any electronic device.
- (8) Any entry in registers, accounts and documents shall not be erased, effaced or overwritten, and all incorrect entries, otherwise than those of clerical nature, shall be scored out under attestation and thereafter the correct entry shall be recorded and where the registers and other documents are maintained electronically, a log of every entry edited or deleted shall be maintained.
- (9) Each volume of books of account maintained manually by the registered person shall be serially numbered.
- (10) Unless proved otherwise, if any documents, registers, or any books of account belonging to a registered person are found at any premises other than those mentioned in the certificate of registration, they shall be presumed to be maintained by the said registered person.
- (11) Every agent referred to in clause (5) of section 2 shall maintain accounts depicting the, -
  - (a) particulars of authorisation received by him from each principal to receive or supply goods or services on behalf of such principal separately;
  - (b) particulars including description, value and quantity (wherever applicable) of goods or services received on behalf of every principal;
  - (c) particulars including description, value and quantity (wherever applicable) of goods or services supplied on behalf of every principal;
  - (d) details of accounts furnished to every principal; and
  - (e) tax paid on receipts or on supply of goods or services effected on behalf of every principal.
- (12) Every registered person manufacturing goods shall maintain monthly production accounts showing quantitative details of raw materials or services used in the manufacture and quantitative details of the goods so manufactured including the waste and by products thereof.
- (13) Every registered person supplying services shall maintain the accounts showing quantitative details of goods used in the provision of services, details of input

services utilised and the services supplied.

- (14) Every registered person executing works contract shall keep separate accounts for works contract showing –
  - (a) the names and addresses of the persons on whose behalf the works contract is executed;
  - (b) description, value and quantity (wherever applicable) of goods or services received for the execution of works contract;
  - (c) description, value and quantity (wherever applicable) of goods or services utilized in the execution of works contract;
  - (d) the details of payment received in respect of each works contract; and
  - (e) the names and addresses of suppliers from whom he received goods or services.
- (15) The records under the provisions of this Chapter may be maintained in electronic form and the record so maintained shall be authenticated by means of a digital signature.
- (16) Accounts maintained by the registered person together with all the invoices, bills of supply, credit and debit notes, and delivery challans relating to stocks, deliveries, inward supply and outward supply shall be preserved for the period as provided in section 36 and shall, where such accounts and documents are maintained manually, be kept at every related place of business mentioned in the certificate of registration and shall be accessible at every related place of business where such accounts and documents are maintained digitally.
- (17) Any person having custody over the goods in the capacity of a carrier or a clearing and forwarding

agent for delivery or dispatch thereof to a recipient on behalf of any registered person shall maintain true and correct records in respect of such goods handled by him on behalf of such registered person and shall produce the details thereof as and when required by the proper officer.

- (18) Every registered person shall, on demand, produce the books of accounts which he is required to maintain under any law for the time being in force.

**80. Annual return --**

- (1) Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return as specified under sub-section (1) of section 44 electronically in FORM GSTR-9 through the common portal either directly or through a Facilitation Centre notified by the Commissioner:

Provided that a person paying tax under section 10 shall furnish the annual return in FORM GSTR-9A.

- (2) Every electronic commerce operator required to collect tax at source under section 52 shall furnish annual statement referred to in sub-section (5) of the said section in FORM GSTR -9B.
- (3) Every registered person whose aggregate turnover during a financial year exceeds two crore rupees shall get his accounts audited as specified under sub-section (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in FORM GSTR-9C, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.

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Sardar Patel reminds us why the current climate of communalism and regionalism is destructive:

**“LITTLE POOLS OF WATER TEND TO BECOME STAGNANT AND USELESS. BUT IF THEY ARE JOINED TOGETHER TO FORM A BIG LAKE THE ATMOSPHERE IS COOLED AND THERE IS UNIVERSAL BENEFIT.”**



## Auditor's perspective on Cross Charge and inter Branch transactions

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### Introduction

GST Audit is unique from other audits of an organisation. While other audits considers the entity as a single unit, the GST auditor is fundamentally clear that branches or establishments in different states of a person shall be considered as distinct person and the transactions per se between such branches shall be exigible to GST.

GST has deemed existence of branches of different units across India as different persons (multiple branches under one GSTIN in a state are considered as one person). The relevant provisions under the CGST Act, 2017 and IGST Act, 2017 reads as under:

### Section 25 of CGST Act

(2) A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.

(3) Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union

territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.

### Section 8 of IGST Act

*Explanation 1.*— For the purposes of this Act, where a person has,—

(i) an establishment in India and any other establishment outside India;

(ii) an establishment in a State or Union territory and any other establishment outside that State or union territory; or

(iii) an establishment in a State or Union territory and any other establishment [\*\*]<sup>1</sup> registered within that State or Union territory, then such establishments shall be treated as establishments of distinct persons.

*Explanation 2.*—A person carrying on a business through a branch or an agency or a representational office in any territory shall be treated as having an establishment in that territory.

Thus, following branches shall fall into the category of deemed



**GST has deemed existence of branches of different units across India as different persons (multiple branches under one GSTIN in a state are considered as one person).**

distinct person:

- Foreign branches
- Branches in different states

1 Omitted words "being a business vertical" vide IGST Amendment Bill, 2018 with effect from a date to be notified by Central Government.



- Branches under different GSTIN whether in same state or not.

Having understood the legal provisions of such branches being considered as distinct person, the auditor need to understand the consequences that emerge from such deeming fiction, some of which are as under:

- Any provision of goods or services by one branch to another constitute supply to other branch
- Any provision of goods or services on behalf of another branch constitute supply to other branch
- Any ITC on expense belonging to another branch cannot be availed by other branch even if invoice is in its name and such ITC should be given to the other branch by the mechanism of Input Service Distributor
- Any expenses which are incurred at a branch but whose outcome is used by different branches require cross charge

There are fundamental differences between Cross charge and ISD but we are not bringing or highlighting them in this discussion but shall discuss them separately. We shall in this discussion focus on the last limb – Cross charge.

**Identification of Cross Charges by the Auditor**

Generally one of the offices of a Company houses one or many management functions of an organisation like administrative, administrative, marketing etc. The Company expends a lot of money on such managerial functions while the services of such functions are used by all or many branches. The said office having housed such function cannot be said to have used such expenses for its output supply solely but such expense belongs to all units of the Company. It is important to mention that cross charge moves across not only branches but also subsidiary and other group companies for eg., where many offices of different group companies are run from the same premises, a cross charge to all such companies for business support is a must.

Examples of some of the common expenses are :

- **Sales and Marketing expense:** Sales, Marketing expense including brand development of the Company

are expended centrally on major advertisements like sponsorship, media spending, PR expenses etc. Even when offices which perform mere marketing expenses are required to cross charge.

- **Managerial functions:** Generally, the top management of a company is stationed at one place but looks after the functioning of all offices. Such office is basically a sort of management office and thus, the entire cost of the management team including rent, salary, consumables etc are to be cross charged from other offices.
- **Engineering, Designing and Technical team:** The expense is basically for a team which provide technical support in terms of designing, concept to all those involved in execution and thus, the entire expense need to be cross charged.
- **Tax, Legal and general counsel functions:** These functions are generally housed at one place not only

for a Company but also for a group of companies and thus, its cross charge requires a through investigation in the nature of such expenses and off counsel fees.

- **Accounting and finance Management:** Many Companies manage their accounting functions centrally and primary accounting team is located out of one office, such teams are responsible for all

branches and not merely one and thus, their expenses are required to be cross charged.

- **Licensing and other expenses :** Many a times a Company acquires royalty, licenses at a single location but production / use of such license is made across other locations and accordingly, a suitable mechanism of cross charge should be there.
- **Insurance expenses / AMC :** Such expenses if taken on a overall basis like employee group insurance policies, asset policies, embezzlement policies, then a cross charge to different locations is a must.
- **Purchasing and logistics management:** The name says it all as one of the offices generally issues all purchase order and negotiates and control vendor payment and movement of material to various locations in the



Country.

➤ **Treasury administration including Cash management and finance charge:**

In many cases, loans are taken by banks centrally but such facility is used for many locations, and thus, cross charge is required for all such expenses as well. A special mention to corporate guarantees is inevitable in finance charge.



It would be not out of context to mention that Companies will not find themselves in a pure agent situation between different branches as such expense would directly be linked to the unit in whose name the privity exists and invoice is received from the vendor.

**Decision of AAR in the case of Columbia Asia on the subject**

The position of incurrence of common costs at the Head office has been upheld as Supply of Services to other units IN RE : M/S Columbia Asia Hospitals Private Limited [2018 (8) TMI 876 -AAR Karnataka].

In the said case, the applicant carried out activities from its Management Office (MO) for accounting and other administrative functions with respect to other units. The question raised by the Applicant before the AAR was whether the provision of such services by the employees at MO to other units amount to supply of services between distinct persons without consideration as per Entry 1 of Schedule I.

The Applicant also argued that the word ‘employee’ cannot be restricted to employment with the registered person as per Section 2(94) of the CGST Act merely on account of the location from where he renders his employment services. The employment relationship exists between the employee and employer, i.e. legal entity as a whole and not confined to the location of registered person from where the said employee renders services.

However, AAR held that services provided by the employer shall be called to supplier to the employer which shall be that location where employee is based. For other locations, since the locations are distinct persons, the employee cannot be said to have provided services as an employee. Accordingly, it was held that the activities

performed by corporate office such as accounting, other administrative and IT system maintenance for the units located in the other states as well shall be treated as supply as per Entry 2 of Schedule I of the CGST Act.

**Auditing the basis of division of such cross charge:**

Every transaction of cross charge would require an individual examination and no uniform formulae can run

for all expenses and branches. A judicious application is required for proper cross charge. Some of the examples are as under:

- a. Property insurance could be allocated on the basis of asset values while product liability insurance could arguably be allocated on the basis of sales.
- b. Finance Charges may be divided on the basis of capital used by various branches, while some specific costs can be directly charged like financing of a particular machine from the common available limits.
- c. Legal department can measure some costs as related to specific cases directly. While common expenses for legal and secretarial can be divided on the basis of turnover.
- d. Measurable direct costs in IT department like personal computers provided to each department, data storage volume, data transmission volume, and transaction volume can form basis of charge.
- e. Service Centres can again cross charge their costs on the basis of turnover of different units.
- f. General Management Costs can create a cross charge on the basis of again turnover including inter state turnover of different units.
- g. Other suitable method depending on case to case basis.

**Review the value of such cross charge:**

Section 15 of CGST Act, 2017 read with CGST Rules, provides for the method for determination of valuation of supply of goods or services between branches, which is as follows:

- (a) be the open market value of such supply;
- (b) if the open market value is not available, be the

value of supply of goods or services of like kind and quality.

“open market value” of a supply of goods or services or both means the full value in money, excluding the integrated tax, central tax, State tax, Union territory tax and thcess payable by a person in a transaction,

where the supplier and the recipient of the supply are not related and the price is the sole consideration, to obtain such supply at the same time when the supply being valued is made;

- (c) Where the value of a supply of goods or services or both is not determinable by any of the preceding rules of this Chapter, the value shall be one hundred and ten percent of the cost of production or manufacture or the cost of acquisition of such goods or the cost of provision of such services. Supplier of Services can ignore this Rule and go for below mentioned rules directly.

“supply of goods or services or both of like kind and quality” means any other supply of goods or services or both made under similar circumstances that, in respect of the characteristics, quality, quantity, functional components, materials, and the reputation of the goods or services or both first mentioned, is the same as, or closely or substantially resembles, that supply of goods or services or both.

- (d) In all other cases, the value shall be determined using reasonable means consistent with the principles and the general provisions of section 15 and the provisions of determining valuation as provided in rules.

**Exceptions :**

- i. Where the goods are intended for further supply as such by the recipient, the value shall, at the option of the supplier, be an amount equivalent to ninety percent of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person.
- ii. Where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the goods or services.

**Every transaction of cross charge would require an individual examination and no uniform formulae can run for all expenses and branches.**

**Review of other documents related to cross charge :**

Though no single formulae can address all situations, yet the following are suggestive things to be examined to avoid any future disallowance of ITC or demand on count of supply by various organisations:

- a. **Proper Agreements with vendors:** Organisation should clearly define in their agreements as to whether the agreement is for provision of services centrally or directly at various branched but payment to be made centrally. Interse also, a clear policy of expense will help the Company in avoiding a possible demand of GST.
- b. **Clear input output markers:** Organisation should clearly mark cost centres to their income and expenses so that they don't miss to cross charge a common expense or send the ITC thorough input service distributor mechanism.
- c. **Separate Trial Balances for each GSTIN:** A separate trial balance marking all income, expenses, assets liabilities is must for every GSTIN
- d. **Transfer pricing study for organisation as a whole:** A must in GST, a TP study should be conducted to detect all requisite cross charges.

**Consequences of not making cross charge:**

- The potential for GST liability as such supply is taxable and when detected at audit / investigation stage as no double taxation relief is available in CGST / SGST / IGST statues.
- Denial of ITC to unit who has availed credit on common expenses on the ground that such expenses are not used by it wholly in provision of output supply
- Interest and penalty in case of above demands
- Such amounts when paid on detection by department shall also not be available as credit to other branch as ITC is barred for tax paid under Section 74, 129 and 130.
- Other consequential penalties for procedural defaults.

\* \* \* \* \*



# Tax deducted at Source under GST

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TDS is a very widely known term in the finance and taxation world. All this time TDS Tax Deducted at Source was under Income tax, but it has been extended to GST also. In this article we would understand about Tax Deducted at Source a concept under the Indirect Tax Laws.

**Sec 51 of the CGST Act 2018** provides that, Tax deducted at source is the amount deducted by the Government Agencies (herewith after referred to as **Deductor**) or any other person to be notified in this regard.

- From the payment made or credited to the **Supplier** (herewith after referred to as **Deductee**) of **taxable** goods or services or both.
- Where the **total value of such Taxable supply**, under a contract, **exceeds two lakhs and fifty thousand rupees**.
- The amount deducted as Tax is to be paid to the government within 10 days after the end of the month in which deduction is made, along with a return in Form GSTR-7 giving details of deductions and deductees.

Thought this section was part of the CGST Act, but it came into force with effect from **1st October, 2018**, vide Notification No. 50/2018 – Central Tax dated 13th September, 2018.

**Who are the persons liable to deduct TDS?**

Following persons shall be liable to deduct TDS @ 2% (1% CGST and 1% SGST or 2% for IGST):

1. A department or establishment of the Central Government or State Government
  - a. The term 'Government' as defined in clause 26A in section 65B being inserted by the Finance Bill, 2015 means and includes the following-
    - i. Central Government and its departments,
    - ii. State Government and its departments, and
    - iii. A Union Territory and its departments
    - iv. Department of the Government like Revenue, Economic Affairs, or Disinvestment which are attached to respective ministry of Finance of Central Government would be regarded as the deductor



**TDS is a very widely known term in the finance and taxation world. All this time TDS Tax Deducted at Source was under Income tax, but it has been extended to GST also.**

2. Local Authority
  - a. Panchayat as defined in clause (d) of Article 243 of the Constitution,
  - b. Municipality as defined in clause (e) of Article 243P of the Constitution,
  - c. Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central or any State Government with the control or management of a municipal or local fund
  - d. Cantonment Board as defined in section 3 of the Cantonments Act, 2006
  - e. Regional Council or a District Council constituted under the Sixth Schedule to the Constitution;

- f. Development Board constituted under Article 371 [and article 371J]6 of the Constitution.
  - g. Regional Council constituted under Article 371A of the Constitution.
3. Governmental Agencies.  
Example – Bangalore Water Supply and Sewerage Board.
4. An authority or a board or any other body, Set up by an Act of Parliament or a State Legislature); Established by any Government, with 51% or more participation by way of equity or control, to carry out any function. Example – Central Board of Secondary Education.
5. Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860 (21 of 1860) (Central Medical Services Society);
6. Public sector undertakings (Bharat Petroleum Corporation Limited).

#### What is the threshold to deduct TDS?

Tax is to be deducted only if the total value of supply under the contract exceed Rs.2,50,000/-

#### Example 1 –

- a. ABC Contractors received 4-purchase orders from Bangalore Municipality.
  - i. Order 1 for Rs. 2 lakhs + GST 18% = 2,36,000/-
  - ii. Order 2 for Rs. 3 lakhs – Exempted Goods
  - iii. Order 3 for Rs. 2.4 lakhs + GST 5% = 2,52,000/-
  - iv. Order 4 for Rs. 2.6 lakhs + GST 12% = 2,91,200/-
  - v. Order 5 for Rs. 2.5 lakhs + GST 12% = 2,80,200/-
- b. Applicable
  - i. TDS is applicable only to order 4
- c. Not applicable
  - i. Order 1 – Value less than 2.5 lacs
  - ii. Order 2 – Exempted Goods
  - iii. Order 3 – Taxable Value < 2.5 lacs
  - iv. Order 5 - no TDS will be deducted as the limit of Rs. 2.5 lakhs is not exceeded.

As per the explanation provided, the value of supply shall not include central tax, State tax, Union territory tax, integrated tax and cess indicated in the invoice.

#### Example 2 –

ABC Contractors received a purchase order for 4.5 lacs; the

break-up of the supplies are as follows :

- i. 1,00,000 at 5%
- ii. 1,00,000 at 12%
- iii. 25,000 at 18%
- iv. 2,25,000/- is exempted supplies

TDS would not be applicable since taxable value of goods or services or both (**i.e. 2.25lacs**), under a contract (worth 4.5 lacs), does NOT exceed Rs. 2.5 lakhs.

#### TDS is not applicable in the following cases :

1. Total value of taxable supply ≤ Rs. 2.5 Lakh under a contract.
2. Contract value > Rs. 2.5 Lakh for both taxable supply and exempted supply, but the value of taxable supply ≤ Rs. 2.5 Lakh.
3. Receipt of services which are exempted. CTR 12/2017.
4. Receipt of Goods which are exempted. CTR 2/2017.
5. Goods on which GST is not leviable. Eg Petrol, diesel, alcohol for human consumption etc
6. Pre-Oct 2018 transactions
7. LOS and POS is different from state of Deductor
8. Where Tax to be paid on reverse Charge by Recipient.

**LOS and POS** : No deduction shall be made if the location of supplier and place of supply is in state which is different from state or union territory of registration of recipient.

1. Supplier, place of supply and recipient are in the same state. It would be intra-State supply and TDS (Central plus State tax) shall be deducted. It would be possible for the supplier (i.e. the deductee) to take credit of TDS in his electronic cash ledger.
2. Supplier as well as the place of supply is in different states. In such cases, integrated tax would be levied. TDS to be deducted (Integrated tax) and it would be possible for the supplier (i.e. the deductee) to take credit of TDS in his electronic cash ledger.
3. Supplier as well as the place of supply is in State A and the recipient is located in State B. The supply would be intra-State supply and Central tax and State tax would be levied. In such case, transfer of TDS (Central tax + State tax of State B) to the cash ledger of the supplier (Central tax + State tax of State A) would be difficult. So, in such cases, TDS would not be deducted.

Location of supplier	Place of supply	Location of recipient	TDS
Karnataka	Karnataka	Karnataka	Yes
Karnataka	Tamil Nadu	Tamil Nadu	Yes
Karnataka	Tamil Nadu	Andhra Pradesh	No
Karnataka	Karnataka	Tamil Nadu	No
Karnataka	Tamil Nadu	Karnataka	No

### Transition Provisions

There were lot of questions both for the Deductor and Deductee about the Transition provisions since they are not separately spelt out. Here are some examples to understand these provisions better.

**Q: Contract awarded before 30th September, work completed after 30th September.**

*A: TDS is applicable since the bill is submitted after 1st October 2018.*

**Q: Contract awarded before 30th September, work completed before 30th September; bill submitted after 1st October 2018.**

*A: TDS is applicable since bill is submitted after 1st October 2018.*

**Q: Contract awarded before 30th September, work completed before 30th September; bill submitted before 30th Sept 2018, but approved and processed for payment after 1st October 2018.**

*A: TDS is applicable since credit given by the Govt agency is after 1st October 2018.*

**Q: Contract awarded before 30th September, work completed before 30th September bill submitted before 30th Sept 18, approved and processed for payment before 30th Sept 18, but payment is made after 1st October 18.**

*A: TDS is NOT Applicable since credit of this transaction recognised by the Govt party is before 30th Sept 2018.*

*Q: Contract awarded before 30th September, 50% Mobilisation advance paid before 30th September 2018, work completed after 30th September.*

*A: TDS is applicable only to the portion of 50% of the Transaction value, since credit and payment of the balance 50% is happening after 1st October 2018.*

### By When and How TDS has to be deducted?

1. Tax has to be deducted at the time of **payment or credit to the supplier** of taxable goods or services. Since the Act is silent on the point of time, we can consider earliest of both.

2. This shall be deducted at 2% of Transaction Value
  - a. For intrastate transactions it would be
    - i. 1% CGST
    - ii. 1% SGST
  - b. For interstate transactions it would be 2% IGST
3. This 2% has to be deducted on the **NET** amount payable to the contractor. That is, the value of supply shall be taken as the amount excluding the Central tax, State tax, Union territory tax, integrated tax and cess indicated in the invoice.
4. For instance, suppose
  - a. a supplier makes a supply worth Rs. 10,00,000/- to a Govt Recipient and the GST @ rate of 18% is required to be paid i.e. 1,80,000/-.
  - b. So total value of the transaction is 11,80,000/-
  - c. The recipient, while making the payment of Rs. 11,80,000/- to the supplier, shall deduct 1% CGST on Rs.10,00,000/- i.e. Rs. 10,000/- as TDS.
  - d. The value for TDS purpose shall not include 18% GST.
5. Transition Provisions
  - a. There are no Transition provisions set in the Act about TDS
  - b. Going by the applicability we can say the provisions comes into effect from 1st Oct 2018

Point of Taxation can be reckoned as **Payment or Credit** whichever is earlier.

### After deducting by when is it to be deposited to the government?

1. The amount of tax deducted at source should be deposited to the Government account by the deductor by 10th of the succeeding month.
2. The deductor would be liable to pay interest u/s 50(1) at the rate of 18% per annum if the tax deducted is not deposited within the prescribed time limit.
3. This deposit to the Government can be made through the Challan on the common portal
  - a. **Option I** : Generation of challan for every payment made during the month
  - b. **Option II** : Bunching of TDS deducted from the bills on weekly, monthly or any periodic manner
4. The person incharge shall login into the GSTN Portal

(using his GSTIN) and generate the CPIN (Challan). In the CPIN he shall have to fill in the desired amount of payment against one/many major head(s) (CGST/SGST/UTGST/IGST) and the relevant component (e.g. Tax) under each of the major head.

5. While generating the CPIN, the person incharge will have to select mode of payment as either (a) NEFT/RTGS or (b) OTC. In the OTC mode, the person incharge will have to select the bank where the payment will be deposited through OTC mode.

**What is the relevant return to be filed?**

Return to be furnished in GSTR-7. The details of deduction shall also be available to supplier in GSTR2 A/4A. No Annual return is required to be furnished by deductor.

**What is the form and manner in which a deductor is required to issue a TDS Certificate?**

1. A TDS certificate is required to be issued by deductor (the person who is deducting tax) in Form GSTR-7A to the deductee (the supplier from whose payment TDS is deducted), within 5 days of crediting the amount to the Government.
2. Failing which the deductor would be liable to pay a late fee of Rs. 100/- per day from the expiry of the 5th day till the certificate is issued.
3. This late fee would not be more than Rs. 5000/-.
4. The TDS, so deducted, shall be deposited in the account of Government by 10th of the succeeding month.
5. The TDS so deposited in the Government account shall be reflected in the electronic cash ledger of the supplier (i.e. deductee) who would be able to use the same for payment of tax or any other amount.

**What is the remedy for Excess Tax paid by the Deductor or Deductee?**

- a) In the case of excess TDS paid or erroneous deducted, either deductor or deductee can claim the refund.

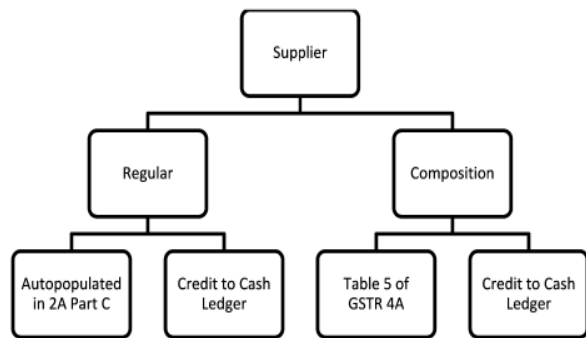
- b) Refund shall NOT be granted to the deductor if the amount deducted has been credited to the electronic cash ledger of the deductee.

**How can the recipient utilize the Tax deducted?**

The deductee (i.e. supplier) shall claim credit, in his electronic cash ledger, of the tax deducted and reflected in the return of the deductor (i.e recipient) furnished under section 39(3).

This TDS can be utilised by the supplier for

- a) Payment of Taxes
- b) Payment of interest, penalty, late fee or any other amount as per Rule 87(1)



**What are the consequences of Non-Compliance?**

1. Non-Filing of the Return's:
  - a. Last fee of Rs.100 per day per Act
  - b. Maximum late fee would be Rs.5000 per month
2. Late payment of Tax Deducted
  - a. Interest to be paid @18% per annum

Deducted but not paid: Deductor can be assed under sec 73 and 74 of the act for the penal provisions on evasion of taxes.

All views expressed in the article are of Author and not of ICAI. Author can be reached at venu@vvnv.ca

\* \* \* \* \*



*BR Ambedkar's wise words on how we should live our lives :*

**“LIFE SHOULD BE GREAT RATHER THAN LONG.”**



# Reconciliations & Rectifications under GST

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## Reconciliations under GST – An Intro

Reconciliations & GST may be said to be the two faces of a single coin. The reason why we may say so is that because there are multiple forms/returns where data needs to be furnished and at multiple points in time. All the data being furnished electronically, it is very vital to do this process of reconciliation.

The GST law, since its introduction on 1st July 2017, has been very dynamic & has been evolving continuously. The plethora of Notifications, Circulars & orders has been an evidence to substantiate the evolution of the law. The stakeholders of GST are also evolving in understanding the law.

The initial mechanism of return filing was envisaged with a perfect matching system. Every input tax credit availed by a registered person must have had a corresponding outward supply declaration by the supplier exception being the input tax credits on inward supplies procured from unregistered suppliers subject to reverse charge mechanism including Imports.

Thus as per the original provisions of the law, 3 forms were required to be furnished by every registered person (Regular registration) namely GSTR 1, GSTR 2 & GSTR 3.

### The Envisaged Process Flow -

#### GSTR-1

- Required Uploading of details of outward supply on 10th of subsequent month

#### GSTR-2A

- Data filed by the corresponding suppliers would be auto populated
  - Make additions, modifications and deletions from 11th to 15th of the subsequent months –
  - 5 options available to the recipient – Accept, Reject, Modify, Add, Do nothing to defer credits

#### GSTR-2

- Addition, modifications and deletions by recipient to be submitted within 15th

#### GSTR-1A

- Corrections made by recipients in Form GSTR-2 will be made available to supplier
- Supplier has to accept or reject adjustments by 17th

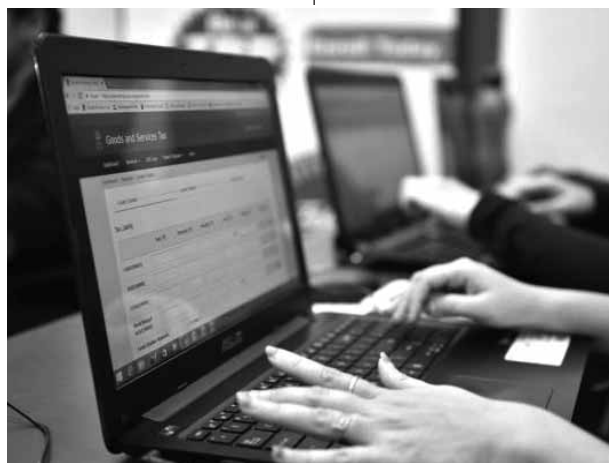
#### GSTR-3

- Auto-populated return will be available for submission along with the payment on 20th between 18th to 20th

However due to reasons best known, GSTR 2 & 3 is kept in abeyance.

### Importance of Reconciliations

**GSTR 3B** – It was introduced to enable the monthly tax collection mechanism. Filing of GSTR 1 was also mandated. On a broad perspective, GSTR 3B may be compared with a challan with few additional fields to be filled. This being the fact, there could always be scope for errors and omissions in GSTR 3B. Further initially the due date for GSTR 1





succeeded that of GSTR 3B. There could have been chances of identification of errors in data furnished in GSTR 3B at the time of filing of GSTR 1.

The Annual Accounts have been finalised in most of the cases and the final data for the financial year 2017-18 has also been solidified.

The Annual Returns - GSTR 9 (for Regular Registered persons) and GSTR 9A (for Composition Registered persons) have been notified vide Notification 39/2018 Central Tax dated 4th September 2018. GSTR 9C – A Reconciliation Statement & Certification Format for the assesseees having aggregate annual turnover exceeding Rs. 2 Crores vide Section 35(5) has been notified vide Notification 49/2018 Central Tax dated 13th September 2018. The due date for both of the above forms for the financial year 2017-18 is 31st December 2018 (as of now).

In the light of all the above aspects it is pertinent to bring about alignment between the various returns filed/ to be filed vis a vis the actual data.

In fact the first step would be to arrive at what constitutes correct data?

A primary question to be posed - Is my GSTR 3B correct or GSTR 1 or my books?

May be all the three require some inclusions, modifications or omissions to bring them in alignment to the actual data.

GST is a trust oriented self-assessment mechanism where in at the first instance whatever the assessee files the same is accepted as it is. However to ensure the safety of exchequer certain checks and balances are envisaged to get assurance of the correctness of the data furnished. Thus as a counter measure Audits, Assessments, Scrutiny, Inspection, Investigation etc are provided for.

The data to be furnished in Annual returns & also the compilation of data in GSTR 9C has to be carefully effectuated so that the future assessments could be smooth & hassle free. Few precautions & effective measures today can definitely ensure a better tomorrow.

**Reconciliations and Rectifications**

The following could be considered as some of the important reconciliations required – Now that the books are finalised, by and large the same may be considered as the correct data & hence corresponding comparison with GSTR 3B, 1 & 2A would be necessitated.

**GSTR 3B Vs GSTR 1 –**

Sl. No.	Description	GSTR 3B Table reference	GSTR 1 Table reference
1.	Outward taxable Supplies (other than zero rated, Nil rated and exempted)	3.1(a)	4 – B2B 5 – B2C Large 6C – Deemed Export 7 – B2C Small 9 &10 - Amendments to the above Tables of earlier tax periods. Debit and credit notes of B2B 11 – Advances
2.	Outward taxable supplies (zero rated)	3.1(b)	6A - Exports 6B – SEZ Supplies
3.	Other outward supplies, (Nil rated, exempted)	3.1(c)	8
4.	Non GST outward supplies	3.1(e)	8

**Exports related verification**

In case of export of goods it would be an extremely useful exercise to check the details of Shipping Bill Number, Shipping Bill Date, Port Code, Invoice Number & Invoice date as appended in the ICEGATE portal. Such verifications may reveal corrections to be made either in the books of accounts, returns or even it may call for amendment in Shipping bills in certain cases. Further such alignments would facilitate smooth flow of refunds too.

Many assesseees would have encountered a scenario wherein GSTR 3B, GSTR 1 & books are not in alignment. It could be due to genuine inadvertent human errors.

Circular No. 26/26/2017-GST dated 29-12-2017 is a very important circular which comes very handy to address & rectify such errors. The gist of that circular is that errors identified at the time of reconciliation could be corrected in the subsequent month returns both in GSTR 3B as well as in GSTR 1.

Possible errors –

1. Liability was Under Reported
2. Liability was Over Reported
3. Liability was wrongly reported ( CGST,SGST instead of IGST & Vice versa)
4. Input tax credit was under reported
5. Input tax credit was over reported

6. Input tax credit of the wrong tax was taken (CGST, SGST instead of IGST & Vice versa)
7. Cash Ledger wrongly updated

### Rectifications in GSTR 3B

Every correction (from Sl.No. 1 to 6) is possible in the subsequent month returns.

However if such rectifications are leading to additional liability then the same must be discharged along with applicable interest as per Section 50 of The CGST Act. As far as wrong deposit into cash ledger is concerned, deposit under correct head must be made & the balance could be adjusted in the subsequent months else refund could be claimed. The process of claiming refund is partly on-line through filing of GST RFD 01A to the extent that cash ledger is required to be debited & the other part is that the requisite documents needs to be furnished to the jurisdictional officer to claim the cash ledger refund.

However the corrections pertaining to July 2017 to March 2018 should have been done within the due date for September 2018 return owing to Proviso to Section 37(3) & Section 16(4).

### Rectifications in GSTR 1

Ideally all the GSTR 1s must have been filed within 31st October 2018, that being the extended due date for filing GSTR 1 both for monthly & quarterly filers from July 2017 up till September 2018. (vide Notifications – Central Tax 43 & 44 /2018 dated 10th September 2018).

Post that the late fee repercussions might imply. The applicable Late Fee is Rs. 200/- (Rs.100/- CGST Late Fee & Rs. 100/- SGST Late Fee) per day per GSTR 1 upto a maximum of Rs.10,000/- per return (Rs.5,000/- CGST & Rs.5,000/- SGST) vide Section 47 of The CGST Act 2017.

### Mode of effectuating corrections through GSTR 1

Status	Action required in Tables of GSTR 1 of current filing month
B2B Invoices Omitted	Could be added in table 4 of the current month
B2B Amendments	Could be amended through Table 9A
B2B Invoice uploaded twice	Can amend all the values to 0 and mention NULL in the Invoice Number
Incorrect Values uploaded	Can amend the details & enter the correct figures
B2B treated as B2C (due to wrong configurations in the software & the like reasons)	Could be added in Table 4 & Amended through Table 10 by making changes to the respective month's figures
B2C details wrongly uploaded	Could be amended through Table 10 of the respective month ( Note – Amendment to Table 10 can be done only once)

Exports related corrections – Shipping Bill No, Shipping Bill date & Port code	Could be amended through Table 9A
Errors in Credit Notes & Debit Notes	Could be amended through Table 9C following the same procedure as discussed for invoices
Table 8 – Exempt Supplies Table 12 – HSN Outward Supplies Table 13 – Document Summary	Cannot be amended in the respective months. May be adjusted in Current month

**Precautionary Note:** While making changes in B2C data using Table 10, it is required to select the month for which changes are to be made. The system will reflect the original data. If only a part of the data needs to be changed, the same is to be amended & it is required to retain the other data unchanged as it is. The same should not be made zero. Otherwise in the process of making corrections, new errors may occur & the time limit for rectification could also get elapsed. Further amendment for a particular month could be made only once.

**Case Study :** August 2017 Details of B2C filed during August 2017-

1. Karnataka 5% - Rs.1,00,000
2. Karnataka 18% Rs.2,00,000
3. Goa 12% Rs. 50,000/-
4. Kolkata 28% Rs.5,00,000/-

Let's say the correct data is

1. Karnataka 5% - Rs.1,00,000
2. Karnataka 18% Rs.2,50,000
3. Goa 12% Rs. 50,000/-
4. Kolkata 28% Rs.4,00,000/-

While making the correction using Table 10 of say September 2018, one must select August 2017 which fetches the data as filed in August 2017. Item No.2 and 4 needs to be edited with the correct values and the other two items must be retained as it is.

Whenever corrections are made in GSTR 3B & 1 it is required to maintain meticulous & exhaustive notes on corrections & rectifications. It will serve as a significant record & help in furnishing explanations in future assessments.

### Note on GSTR 2A

Since the GST law is envisaged based on matching concept, the IT infrastructure is designed in such a way to mirror image the GSTR 1s filed by various suppliers & collate them

in GSTR 2A for every registered person. A question may arise as to whether it is mandatory to reconcile GSTR 3B with GSTR 2A. The answer lies in Table 8 of Part III of GSTR 9 – The Annual return. Table 8 compares data filed as per GSTR 3B & as available in GSTR 2A & also requires the assessee to furnish data with respect to credits available in GSTR 2A but lapsed either due to ineligibility owing to time lapse or for other reasons. Thus the exercise of Reconciliation of GSTR 3B & 2A would be a requisite exercise to enable reporting in Table 8 of The Annual Return.

**GSTR 3B Vs GSTR 2A –**

Sl. No.	Description	GSTR 3B Table reference	GSTR 2A Table reference
1.	Inward Supplies liable to reverse charge (from Registered Suppliers)	3.1(d) & 4(A)(3)	Table 4
2.	Inward Supplies from ISD	4(A)(4)	Table 6
3.	All Other ITC	4(A)(5)	Table 3
4.	Reversals due to Credit Notes issued by the Supplier	4(B)(2)	Table 5
5.	TDS/TCS Credit (applicable from 01-10-2018 vide Notifications 50 & 51 Central Tax dated 13-09-2018)	7	Table 7

**Imports related verification**

Another important verification with respect to Input tax credits could be to check the IGST paid details in the ICEGATE portal pertaining to Import of goods. In future it is expected that there would be auto transmission of data from the ICEGATE portal.

**Input Tax Credits – Other Aspects**

1. Input Tax Credit reversal pertaining to Common credits & those used for either non business purpose or exclusive exempt supply purposes. (Section 17(1), 17(2) read with Rule 42 & 43). Annual Adjustments must also be done.
2. Non availment / reversal of Blocked credits (Section 17(5))
3. Reversal of Credits where payments to suppliers are not made within 180 days (2nd Proviso to Section 16(2) read with Rule 37)
4. Reclaim of credits on payment to supplier post 180 days (3rd Proviso to Section 16(2))

5. Other reversals like in case of Opting to Composition Scheme, A supply becoming wholly exempt from taxable, Sale of a capital asset etc. ( Section 18(4) read with Rule 44)
6. Reversal of Input Service Distributor credits ( Section 20 read with Rule 39(2))
7. Reversals/ Reclaim of transitional credits.

As put across earlier it would be possible to correct the errors pertaining to Input Tax credits owing to Circular 26. However the same needs to be rectified within the stipulated time allowed under the law.

**Reflections in GSTR 2A**

It may be pertinent to understand how reflections in GSTR 2A work in the context of GSTR 1 filings and amendments.

Let us say March 2018 GSTR 1 was filed on 25th October 2018. The B2B invoices filed by supplier would get reflected in GSTR 2A of the recipients for the month of March itself. Thus a fresh GSTR 2A & fresh reconciliation would be necessitated.

On the other hand if a B2B invoice pertaining to March 2018 was missed out to be furnished in March 2018 return but the same was furnished while filing September 2018 return say on 26th October 2018, then in such a case such invoice shall get reflected in GSTR 2A of the September month of the corresponding recipients. Similar would be the scenario in case of Amendments.

However owing to the restrictions in Proviso to Section 37(3) it could be possible that the corresponding reflections in GSTR 2A of the Recipients might not happen post October 31st meaning GSTR 2A might become static after that. But the allowance or blockage by the GSTN portal would be the critical & the decisive factor.

**Conclusive Note**

Once the above reconciliations & rectifications are effectuated, the data as per the books, and the data furnished as per the returns (GSTR 3B & GSTR 1) would be in complete alignment. Thus the above exercises would be part of the preparatory phase to compile & collate the requisite information for the purpose of GST Annual Returns & Audit & so also smoother assessments.

HAPPY LEARNING & HAPPY COMPLIANCES!!!

*Disclaimer - The views expressed above are the personal views of the author.*

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# GST Annual Return, GST Audit and Reconciliation – Are we ready??

This article authored by **CA. Pulak Saha** and assisted by **CA. Shrenik Mehta** and **CA. Neha Newar**



With the thrust of the Government on ease-of-doing business in India, the provisions under Goods and Services Tax (GST) regime focuses on self-assessment procedures whereby, the taxpayers are themselves required to determine the tax liability on the supplies during the tax period and pay off the taxes to the government exchequer within the prescribed due dates. This reduces the interference of the tax officials in the day to day business processes of the taxpayers. However, in order to protect Revenue’s interest, there are additional safeguards in the form of statutory compliances which the taxpayers are required to adhere to. Such statutory safeguards include filing of annual return and GST Audit certification by a Chartered Accountant or Cost Accountant for which the due date is December 31, 2018. Since the implementation of GST, the taxpayers have been filing various monthly/quarterly returns like GSTR 1, GSTR 3B and GSTR 4 by following the self-assessment procedures. To consolidate the monthly /quarterly returns filed by the tax payers and to audit the self-assessment procedures adopted by the taxpayers in order to discharge the tax liability, the statutory provisions for filing of GST Annual Return and furnishing of audited annual financial statements along with reconciliation statement have been laid out in the Central Goods and Services Tax Act, 2017 (CGST Act, 2017).

At the outset, it may be noted that as GST was introduced w.e.f. July 1, 2017, the period for which annual return and audit is required to be done under GST is from July, 2017 to March, 2018. At the same time, it may be noted that for the

period from April, 2017 to June, 2017, a separate VAT audit compliance is also required to be done by the taxpayers in their respective States under the erstwhile State VAT Acts. Therefore, for the financial year 2017-18, every tax payer would be required to undertake two audits from indirect tax perspective – VAT Audit for the period from April, 2017 to June, 2017 and GST Audit for the period from July, 2017 to March, 2018.

## Statutory provisions for GST Annual Return -

Section 44(1) of the CGST Act 2017 states that “Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return for every financial year electronically in such form and manner as may be prescribed on or before the thirty-first day of December following the end of such financial year.”

The Annual Return Forms to be furnished by the tax payers has been laid out in Rule 80 of the CGST Rules, 2017 and the same has been summarized below –



Annual Return	Type of taxpayer who is required to file Annual return
Form GSTR 9	Every registered person, <b>other than</b> - <ul style="list-style-type: none"> <li>• an ISD,</li> <li>• TDS deductor,</li> <li>• TCS collector,</li> <li>• casual taxable person,</li> <li>• non-resident taxable person</li> <li>• tax payers paying tax under composition scheme</li> </ul>

Annual Return	Type of taxpayer who is required to file Annual return
Form GSTR 9A	Tax payers paying tax under composition scheme
Form GSTR 9B	E-commerce operator

**Some interpretational issues in relation to GST Audit and reconciliation :**

**Statutory provisions for GST Audit and Reconciliation -**

Section 35(5) of the CGST Act, 2017 states that *“Every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant and shall submit a copy of the audited annual accounts, the reconciliation statement under sub-section (2) of section 44 and such other documents in such form and manner as may be prescribed.”*

Rule 80(3) of the CGST Rule, 2017 states that *“Every registered person whose aggregate turnover during a financial year exceeds two crore rupees shall get his accounts audited as specified under sub-section (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in FORM GSTR-9C, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.”*

Section 2(6) of CGST Act, 2017 states that “6) “aggregate turnover” means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess;”

In terms of Section 44(2) of the CGST Act, 2017 the audited annual accounts and reconciliation statement is to be furnished electronically by the tax payer along with the annual return. Hence, the timeline for furnishing the audited annual accounts and reconciliation statement, reconciling the value

of supplies declared in the return furnished for the financial year with the audited annual financial statement is same as that of annual return i.e. on or before 31st December following the end of such financial year.

The confusion which emerges out of the conjoint reading of Section 2(6), Section 35(5) of the CGST Act, 2017 and Rule 80 (3) of the CGST Rules, 2017 is that for computation of threshold limit of INR 2 Crore for every registered person whether every registered state GSTIN to be separately considered or the aggregate turnover of all states put together to be considered as the PAN of the entity remain same for all state wise GSTIN. It is worth to note that Section 35(5) of the CGST Act, 2017 uses the word ‘turnover’ which has not been defined anywhere in the Acts whereas, Rule 80(3) of the CGST Rules, 2017 uses the terms “aggregate turnover” which has however been defined in the CGST Act, 2017. As the terms used in Section 35(5) and Rule 80(3) are different, there may arise a confusion in the minds of a taxpayer having multi-state presence. The question which may arise herein would be whether any particular GSTIN having aggregate turnover less than threshold limit but other GSTINs are having aggregate turnover more than INR 2 crores would be exempted from GST Audit, i.e. whether the basis of applicability of obtaining GST audit certificate for a particular State would be on the basis of turnover of all its supplies (taxable, exempt, inter-state supplies to person having same PAN) on all India basis (as mentioned in Rule 80(3)) or on the basis of turnover of that Company in a particular State, i.e. GSTIN wise (as mentioned in Section 35(5)). The author is of the view that the turnover in Section 35(5) of CGST Act, 2017 be read as aggregate turnover and the basis of applicability of GST audit shall be the aggregate turnover computed on all India basis. For example, a

**The confusion which emerges out of the conjoint reading of Section 2(6), Section 35(5) of the CGST Act, 2017 and Rule 80 (3) of the CGST Rules, 2017 is that for computation of threshold limit of INR 2 Crore for every registered person whether every registered state GSTIN to be separately considered or the aggregate turnover of all states put together to be considered as the PAN of the entity remain same for all state wise GSTIN.**

company has registrations in 2 States i.e. State A and State B. The respective turnover of each State is INR 2.6 crore and INR 0.25 crore. Therefore, as per the definition of aggregate turnover, the aggregate turnover of each state shall be INR 2.85 Crs. (INR 2 Crs. + INR 0.25 Crs.). As a result, while passing the test of Section 35(5) of the CGST Act, 2017, the aggregate turnover for the State A shall be computed on all India basis and it shall be INR 2.85 Crs. Therefore, State A shall be liable

to get its books audited in terms of Section 35(5) of the CGST Act, 2017. At the same time, State B (whose turnover for the State is INR 0.25 Crs.), shall also be required to get its books of accounts audited in terms of the definition of aggregate turnover which would be computed on all India basis.

Therefore, to summarize, the implication would be that if the company has an aggregate turnover exceeding INR 2 crores on an all India basis, then irrespective of any GSTIN of the company filing Nil GST returns, GST audit and reconciliation would be required for all the GSTIN of the company under the same PAN. There are divergent views appearing in this regard wherein the requirement of audit is being called for on the basis of turnover of a particular GSTIN in a particular State. Therefore, in order to settle the conundrum, a suitable clarification in this regard is required from the GST Council to clarify the confusion prevailing in the trade.

Brushing aside the confusion prevailing in the industry, the points that emerge out of the statutory provisions are as follows :

1. Annual Return for the Financial Year 2017-18 along with GST Audit and reconciliation is to be furnished on or before 31st December, 2018 (unless the date is extended by the GST Council);
2. Annual Return is required to be furnished by all the tax payers except an ISD, TDS deductor, casual taxable person and non-resident taxable person;
3. GST Audit and reconciliation is required only for those taxpayers whose aggregate turnover in the financial year exceeds INR 2 crores;
4. Annual return is to be filed by each GSTIN. Thus, in case of a multi-location company having 10 GSTIN, 10 annual returns would be filed by the company. Similarly, if the company has aggregate turnover exceeding INR 2 crores, then audit report and reconciliation statements for each GSTIN would be required to be filed by the company;
5. There is no scope for revision of Annual Return. Therefore, annual return once filed would be final for



the financial year 2017-18.

### Points to be taken into consideration at the time of filing GST Annual Return:

1. As laid out in the instructions appended to the Form GSTR 9 and GSTR 9A, the details of outward supplies is summation of all the outward supplies mentioned in GSTR 1/ GSTR 4 filed by the tax payer. Thus, if there is any difference between the taxable values and taxes reported in GSTR 1/ GSTR 4 from the taxable values and taxes reported in GSTR 3B, the same cannot be rectified in the Annual return.
2. Credit notes and debit notes issued against exempt supply, nil-rated supply and non-taxable supply are to be separately reported in the annual return. However, it may be pertinent to note that such bifurcation was not required in GSTR 1 and the value of exempt supply, nil-rated supply and non-taxable supply were shown on a net basis i.e. after adjusting the credit/debit notes. Collation of such details may be challenging at the time of preparing data for annual return.
3. The entire amount availed as ITC by the taxpayer during the financial year would be auto-populated in the annual return. Thereafter, the ITC availed by the tax payer in Form GSTR 3B is to be bifurcated between the ITC on inputs, input services and capital goods. Had GSTR 2 been operational, this would have been possible as GSTR 2 required the taxpayers to distinguish each inward supply as input, input services or capital goods. As such bifurcation is not required at the time of filing GSTR 3B, determining the amounts would be a mammoth task in the absence of sound and effective ERP system.
4. There would be high probability that ineligible ITC in terms of Section 17(5) of the CGST Act, 2017 has been directly expensed out by the companies rather than maintaining separate bifurcation. The annual return requires that the ineligible ITC is separately reported. If this information cannot be readily obtained from the ERP system, then the taxpayer would be required to revisit the vendor wise invoices which would be a tedious exercise.

5. Details of any amendment made in the GST returns filed during the period from April, 2018 to September, 2018 for transactions reported in the returns filed for the period from July, 2017 to March, 2018 is to be reported in the annual return. Hence, the amendments made in the GST returns filed during the period from April, 2018 to September, 2018 has to be bifurcated into those relating to FY 2017-18 and those relating to F.Y. 2018-19.
  6. The ITC pertaining to the F.Y. 2017-18 availed during the period from April, 2018 to September, 2018 is also to be separately reported. Therefore, the ITC pertaining to the F.Y. 2017-18 availed in GSTR 3B filed during the period from April, 2018 to September, 2018 is to be separately identified.
  7. HSN wise summary of inward supply is required to be reported in Annual return, though the same is not required at the time of filing GSTR 3B.
2. Wherever values are to be derived from GST returns, the same refers to the Annual Return i.e. GSTR 9. Hence, GSTR 9C would be filed post filing of GSTR 9;
  3. GST audit would be required even if the taxpayer is audited under any other statute like Income Tax Act, 1961 or Companies Act, 2013;
  4. Unbilled revenue at the beginning and at the end of the financial year should be appropriately identified;
  5. The auditor should ensure that the valuation of transactions between related or distinct person has been done as per CGST Rules, 2017. Similarly, the auditor should ensure that the transaction value for the outward supplies is determined in terms of Section 15 of the CGST Act, 2017 read with the CGST Rules, 2017;
  6. Expense wise reconciliation of total ITC with the eligible ITC availed is required. Therefore, detailed analysis of each item of expense in the audited financial statement would be required by the auditor;
  7. Basis the GST audit carried out by the auditor, he would certify whether books of accounts, records and documents as required under the GST Act has been maintained by the tax payer or not. Further, if any discrepancies/inconsistencies are observed by the auditor, he would report the same in the GST Audit Report.

**Points to be taken into consideration at the time of preparation of Reconciliation Statement and obtaining of GST Audit Report:**

1. GST Audit and preparation of reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement would be required for each GSTIN of the company, if the aggregate turnover of the company on an all India basis exceeds INR 2 crore. Therefore, it would be important that system generated trial balance for each GSTIN is readily available to the auditor at the time of GST audit. Further, it should be ensured that summation of GSTIN wise trial balance tallies with the trial balance of the Company as a whole as on 31st March, 2018 after off course considering the inter-unit supply as the aggregate turnover would include the inter-state supplies within the same PAN i.e. stock transfers. At this juncture, it may be pertinent to note that the aggregate turnover in terms of the provisions of GST would be different from that of turnover appearing in audited financial statements wherein the turnover of inter-state stock transfers would not be appearing separately and not considered as part of turnover reported in Profit and Loss account;

**Conclusion**

While the above are indicative points which would be critical at the time of preparation of annual return, audit certification and reconciliation, there may be many more issues which would come up once the exercise gets rolling and the utility files of the said statements are made available on the GST portal. It would be pertinent to note that though the Forms for Annual Return and GST Audit has been notified by the Government, the offline utility for the same is not yet available on the GST portal. Meanwhile, considering that only 45 days are left for filing Annual Return and GST Audit Report (unless the due date is extended), all tax payers and the auditors should gear up to collate all the necessary information basis the format of Annual Return and GST Audit report notified by the Government.

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# AUDIT at a glance under the GST Law

CA Ramesh Kumar Patodia  
*assisted by CA Megha Agarwal*



The Goods and Services Tax regime which was introduced with effect from the 1st day of July 2017 consolidating most of the indirect taxes with a view to increasing the tax base has been considered to be the most revolutionary move in the arena of indirect taxes. The new tax law has brought about a paradigm shift in the process of levy and collection of taxes with a special emphasis on compliances in the light of which due importance has been given to self-assessment and audit procedures for ensuring proper compliance under law, similar to that as was given in the erstwhile regime.

The previous direct tax and indirect tax legislations provide for audit in various manners in order to ensure compliance of the respective laws and the GST legislation also provides for the same considering the fact that under the GST regime emphasis is given to the self assessment with checks and balances in the light of artificial intelligence available through the modern GST network to ensure that all the concerned assesses under the GST law properly assess and pay the GST so that there is no loss of revenue to the Central and State Governments and with this end in view Section 35(5) of the Central Goods and Services Tax Act, 2017 [CGST Act, 2017] mandates that all registered persons whose turnover during a financial year exceeds the prescribed limit which is Rupees two crores, should get their accounts audited by a chartered accountant or a cost accountant.

The present article seeks to analyse the salient features of the provisions relating to audit under the GST law as well as the amendments that have been carried out in the direct tax laws in so far as they relate to the audit under the Income Tax Act, 1961.

## General meaning of the term “Audit”

An audit is a systematic and independent examination of books, accounts, statutory records, documents and

vouchers of an organization to ascertain as to how far the financial statements as well as non-financial disclosures present a true and fair view of the concern. It also attempts to ensure that the books of accounts are properly maintained by the concern in pursuance of the requirements of law. The auditor perceives and recognises the propositions before them for examination, obtains evidence, evaluates the same and formulates an opinion on the basis of his judgement which is communicated through his audit report.

## Meaning of the term “Audit” under the GST law

Now, after understanding the general meaning of the term “audit” and its importance, it is pertinent to note that audit under the GST law is defined under sub-section (13) of Section 2 of the Central Goods and Services Tax Act, 2017 as examination of records, returns and other documents maintained or furnished by the registered person under this Act or the Rules made thereunder or under any other law for the time being in force, to verify the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed and to assess his compliance with the provisions of this Act or the rules made thereunder.

## Mandate of Audit under the GST Law

### Section 35(5) of the CGST Act, 2017 and Rule 80(3) of the CGST Rules, 2017

In this regard, it is imperative to note that as per sub-section (5) of Section 35 of the Central Goods and Services Tax Act, 2017, every registered person whose turnover during a financial year exceeds the prescribed limit, shall get his accounts audited by a Chartered Accountant or a Cost Accountant and shall submit a copy of the audited annual accounts, the reconciliation statement under sub-section (2) of section 44, and such other documents in such form and manner as may be prescribed. Further, Rule 80(3) of the Central Goods and Services Tax Rules, 2017 states



that “every registered person whose aggregate turnover during a financial year exceeds two crore rupees shall get his accounts audited as specified under sub-section (5) of section 35 and he shall furnish a copy of the audited annual accounts and a reconciliation statement, duly certified, in GSTR 9C, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner”.

**Section 44(2) of the CGST Act, 2017 – requirement to furnish annual return in Form GSTR -9, Reconciliation statement in Form GSTR-9C and a copy of the audited annual accounts**

In this regard, it is further imperative to note that section 44(2) of the Central Goods and Services Tax Act, 2017 provides that “every registered person who is required to get his accounts audited in accordance with the provisions of sub-section (5) of section 35 shall furnish, electronically, the annual return under sub-section (1) along with a copy of the audited annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement, and such other particulars as may be prescribed”.

**Section 44(1) of the CGST Act, 2017 and Rule 80(1) of the CGST Rules, 2017**

In this regard, it is important to note that sub-section (1) of section 44 as referred in sub-section (2) of section 44 as quoted hereinabove provides that “every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return for every financial year electronically in such form and manner as may be prescribed on or before the thirty-first day of December following the end of such financial year. In this regard the relevant Rule 80(1) of the Central Goods and Services Tax Rules, 2017 provides that “every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return as specified under sub-section (1) of section 44 electronically in Form GSTR-9 through the common portal either directly or through a Facilitation Centre notified by the Commissioner”.

**Meaning of terminologies employed in the provisions referred to hereinabove**

Now, after taking note of the relevant provisions of the GST law which specifically deals with audit, in order to

understand the scope of the applicability of audit under the GST law, it is imperative to understand the meaning of certain terminologies as stated herein under and which have been employed in the provisions of GST law as discussed and reproduced hereinabove :

1. Records
2. Returns
3. Other documents
4. Turnover
5. Aggregate Turnover
6. Audited annual accounts
7. Reconciliation statement

**Records:**

The term “records” have not been specifically defined under the Act. Hence, recourse has to be had to the general meaning of the term as given in various legal dictionaries. In this regard, the advanced law lexicon by P. Ramanatha Aiyar [3<sup>rd</sup> Edition, 2005] at page no. 3994 defines record as “documents which a historian would regard as original or primary sources, that is documents which either give effect to a transaction itself or which contain a contemporaneous register or information supplied by those with direct knowledge of the facts”.

Further, the Black’s law dictionary (ninth edition) on page no. 1387 defines record as “1. a documentary account of past events, usu. designed to memorise those events. 2. Information that is inscribed on a tangible medium or that having been stored in an electronic or other medium is retrievable in perceivable form”.

Moreover, in the absence of any specific definition in the GST law, it must be ensured that whatever records are maintained are appropriate to determine a true and correct account of information as prescribed under section 35(1) of the Act which is as under:

- (a) Production or manufacture of goods;
- (b) Inward and outward supply of goods or services or both;
- (c) Stock of goods
- (d) Input tax credit (ITC) availed
- (e) Output tax payable and paid
- (f) Such other particulars as may be prescribed

**Return:**

Further, the term “return” has been defined under section 2(97) of the Act, as any return prescribed or otherwise

required to be furnished by or under this Act or the rules made thereunder.

**Other documents:**

The term “other documents” has again not been defined under the Act but while defining the term “audit” under section 2(13), *ibid.* the language used is “other documents maintained or furnished by the registered person under this Act or the Rules made thereunder or under any other law for the time being in force” which implies that for the purposes of audit under this Act, other documents maintained or furnished under this Act or under any other law for the time being in force may also be examined in addition to documents maintained under the GST law.

**Turnover:**

Further, the term “turnover” has not been defined specifically instead “turnover in State” or “turnover in Union territory” has been defined under section 2(112) as the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis) and exempt supplies made within a State or Union territory by a taxable person, exports of goods or services or both and inter-State supplies of goods or services or both made from the State or Union territory by the said taxable person but excludes central tax, State tax, Union territory tax, integrated tax and cess”;

**Aggregate Turnover:**

Further, the term “aggregate turnover” has been defined under section 2(6) of the Act as “the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess”.

**Audited Annual Accounts:**

The reference to ‘audited annual accounts’ in section 44(2) of the Act, when analysed in the light of the GST law can only be taken to mean the audited annual accounts as required to be maintained by the registered tax payer under the other laws by which the tax payer is governed in absence of any specific definition under the GST law. The relevant provisions of Section 128 and Section 134 of the Companies Act, 2013, Section 44AA and Section 44AB of the Income Tax Act, 1961 therefore assumes importance.

**Reconciliation Statement:**

Reconciliation Statement has been discussed in section 44(2) of the Central Goods and Services Tax Act, 2017 as a statement (which is required to be furnished in Form GSTR 9C) reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement, and such other particulars as may be prescribed.

**Role of the auditor:**

Now, after taking note of the above, it is important to note that since GST audit would be undertaken for the very first time in F.Y. 2017-18, a lot of preparation is required both on the part of the auditor and the auditee and in this regard, it is important to note that an auditor should verify that the following processes *inter alia* have been completed before finalisation of the books of accounts:

<b>1. Registration:</b>	
a.	Whether registration has been obtained in accordance with the provisions of the GST Law and any correction/changes in the particulars incorporated in the application form have been suitably given effect by way of amendment in the registration certificate?
b.	Whether details of each place of business have been incorporated in the registration certificate?
<b>2. Transitional Credit:</b>	
a.	Whether transitional credit as carried forward in Form GST TRAN-1 is in accordance with the law?
b.	Whether credit carried forward inappropriately has been reversed along with applicable interest?
<b>3. Valuation and Payment of tax liability and review of GST returns filed:</b>	
a.	Whether valuation has been done in accordance with the provisions of law and applicable taxes both under forward charge and reverse charge has been correctly discharged under the correct head or not and whether there is any short payment of tax?
b.	Whether payment of GST under forward Charge as well as reverse charge has been made on time?
c.	Whether GST is paid on receipt of advances, requisite documents have been issued at the time of receipt thereof and proper adjustment thereof has been made at the time of issuance of final invoice?
d.	Whether interest liability has been discharged in case of delay in payment of taxes?

e.	Whether all the required GST returns have been filed correctly with complete particulars and within the due date?
f.	Whether GSTR 1 and GSTR 3B tallies with the books of account?
<b>4. Input Tax Credit:</b>	
a.	Whether ITC has been availed as per the provisions of law?
b.	Whether reversal of ITC claimed done if payment not made within 180 days?
c.	Whether the supplier has reported the invoice on the basis of which ITC has been availed by the recipient in his GSTR-1 and the same is being reflected in Form GSTR-2A of the recipient?
<b>5. Turnover</b>	
a.	Whether the turnover declared in the GST returns are in consonance with that declared in the books of accounts?
<b>6. Refund</b>	
a.	Whether the refund claimed, if any has been claimed in pursuance of the provisions of GST law?
b.	Whether the documentation aspect necessary for filing the claim for refund has been undertaken in accordance with law?
<b>7. Documents:</b>	
a.	Whether the tax invoice, debit and credit notes, receipt voucher etc. have been issued in accordance with the provisions of law?
b.	Whether all the tax invoices and other documents issued for the supply of goods or services or both have been accounted for in the books of accounts and reported in the GST Returns?
c.	Whether e-way bill, wherever applicable has been issued and duly recorded in the books of accounts and also to verify whether there is any variance in the data recorded in the e-way bill and the corresponding tax invoice?
d.	Whether HSN code has been correctly mentioned (specifically in case of mandatory cases i.e. where the turnover exceeds Rs. 1.5 crores) in the documents issued or received under the Act?
<b>8. Miscellaneous</b>	
a.	Whether the reconciliation of ITC claimed in GSTR 3B with that available in GSTR 2A has been done and in case of difference to ensure whether any action has been taken to blacklist such suppliers who do not pay GST on time and/or file returns on time so as to protect the interest of the recipient of goods or services or both?

b.	Whether the provisions of Section 171 of the CGST Act 2017 i.e. Anti profiteering are followed and accordingly the benefit of the additional input tax credit as well as the benefit of the tax reduction is passed on?
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Thus it can be seen that there is an onerous responsibility cast upon the auditor while auditing and reporting as per the mandate of section 35(5) of the CGST Act, 2017 r/w Rule 80(3) of the CGST Rules, 2017 and other relevant provisions of the GST law in this regard.

**Consequence of failure to submit the annual return**

Section 47(2) provides that in case of failure to submit the return required under section 44 by the due date, a late fee shall be leviable. The said late fee will be Rs. 100 per day during which such failure continues subject to a maximum of a quarter percent of the turnover in the State/UT.

**Consequence of failure to get the accounts audited**

There is no specific penalty prescribed in the GST Law for not getting the accounts audited by a Chartered Accountant or a Cost Accountant. Therefore, in terms of Section 125 of CGST Act, 2017 which prescribes the provisions regarding general penalty, the person who fails to get his accounts audited as per the mandate of section 35(5) of the Act, shall be subjected to a penalty which may extend to Rs. 25,000/-.

**Offences and penalties under section 122 of the Act**

Besides the above failures and their consequences, it is imperative to note that section 122 of the CGST Act provides for certain offences the penalty for which has been prescribed to be ten thousand rupees or an amount equivalent to the tax evaded whichever is higher. Such offences by a taxpayer which inter alia include:

1. falsification or substitution of financial records or production of fake accounts or documents or furnishing of any false information or return with an intention to evade payment of tax due under this Act
2. suppression of his turnover leading to evasion of tax under this Act;
3. failure to keep, maintain or retain books of account and other documents in accordance with the provisions of this Act or the rules made thereunder;

**Welcome provisions under Section 126 of the Act**

Section 126 of the Act is a welcome provision for genuine cases which states that no officer under this Act shall

impose any penalty for minor breaches of tax regulations or procedural requirements and in particular, any omission or mistake in documentation which is easily rectifiable and made without fraudulent intent or gross negligence, where minor breach has been defined as a breach if the amount of tax involved is less than five thousand rupees; and an omission or mistake in documentation easily rectifiable is defined as an omission or mistake if the same is an error apparent on the face of record.

### Power of the Government to waive penalty or fee or both – Section 128 of the Act

Section 128 of the Act provides that the Government may, by notification, waive in part or full, any penalty referred to in section 122 or section 123 or section 125 or any late fee referred to in section 47 for such class of taxpayers and under such mitigating circumstances as may be specified therein on the recommendations of the Council.

### Changes brought about in the Direct Tax laws in the light of the GST Law

With a view to ensure improvement of compliance under the Income Tax Act, 1961, certain changes have been notified by the Central Board of Direct Taxes vide **CBDT Notification No. GSR 666(E) (No. 33/2018), dated 20.07.2018** under the Direct tax Laws in the light of the new GST Law.

In this regard, it is imperative to note that the aforesaid Notification seeks to amend the **FORM 3CD as appearing in the Appendix II to the Income Tax Rules, 1962**, to provide for certain additional details by amending/inserting two clauses viz. clause 4 and clause 44 respectively, which have been discussed herein under:

#### Amendment of Clause 4 to provide for GST number

Clause 4 of Form 3CD has been amended to seek details of GST number in cases where the assessee is liable to pay GST.

In this regard, the reason for this amendment seems to be to capture the GST related details of the assessee as it was done for other indirect taxes in the existing clause 4. Further, this seems to be important or necessary because in many instances it is observed that a person though liable to pay indirect taxes does not get himself registered under the relevant law even if his turnover exceeds the threshold limit prescribed for obtaining registration solely with a view to evade taxes but declares the turnover exceeding the threshold limit in the Income Tax Return. Hence asking for

GST number where the assessee is liable to pay GST seems to be fair enough to put a check on such evaders in the light of the interest of the revenue. However, this may not be the sole reason.

Further, the auditor while reporting the GST number should verify the same with the registration certificate as well as the details available on the GST portal to ensure that the registration number belongs to the assessee whose constitution as well as other particulars are in accordance with the details which the auditor is already having.

#### Insertion of new clause 44 to seek the break-up of total expenditure

New Clause 44 has been inserted in Form 3CD to provide for the disclosure of the break-up of total expenditure in respect of the entities registered or not registered under GST in the format given herein below:

Sl. No.	Total amount of Expenditure incurred during the year	Expenditure in respect of entities registered under GST				Expenditure relating to entities not registered under GST
		Relating to goods or services exempt from GST	Relating to entities falling under composition scheme	Relating to other registered entities	Total payment to registered entities	
(1)	(2)	(3)	(4)	(5)	(6)	(7)

The purpose behind insertion of the abovementioned clause may be to see whether the expenditure being claimed for deduction under the Income Tax Law has actually been reported under the GST law in the relevant columns as prescribed in the GST returns and that no expenditure which is not allowable under the Act is being claimed by the assessee. Further, another reason may be to put a check on tax evasion which may happen in instances where GST liability has to be discharged under the reverse charge mechanism of tax and which may not have been discharged by the assessee by resorting to non-disclosure of expenditure under the GST law.

Further, it is important to note that the report of the auditor under the Income Tax Act, 1961 in Form no. 3CD would definitely be part of the audited financial statements and other documents which the authorities under the GST law can requisition.

However, it is important to note that in view of representations received by the Board, the applicability of the said clause 44 have been deferred and kept in abeyance till 31st of March, 2019 on account of which the provisions of the said clause will be applicable for the F.Y. 2018-19. [vide Circular No. 6/2018, dated 17.08.2018]

Now, after taking note of the above changes brought in the Direct tax laws, it is imperative to take note of the fact that the auditor while reporting in Form 3CD must bear certain points in his mind:

1. Primarily the auditor has to cross verify the details of expenditure as per the books of accounts with that furnished by the assessee in his GST returns. Any variance in the expenditure reported has to be highlighted by the auditor.
2. Further he has to ensure that the applicable taxes under the GST law have been discharged on the expenditure being claimed.
3. Further, he has to ensure that the assessee has claimed the benefit of either input tax credit or depreciation in case of the expenditure reported and not both.

The changes which have been brought about in Form No. 3CD requiring an auditor to certify certain details in the light of GST law brings us to the following issues:

1. The way the financial statements and audited accounts are required to be maintained under the Income Tax Act, 1961 which can be on cash basis as well as mercantile basis cannot at once enable any person to arrive at a conclusion whether the same are in accordance with both the Acts or otherwise unless detailed scrutiny is made in order to ensure whether the audited annual accounts are in compliance with both the laws.
2. There are several expenditures which are deductible under the Income Tax Act, 1961 but are not liable

for GST under the GST laws like salary. Again, even within a particular head of expenditure, there may be liability to GST for one part and no liability for other part) say where an expenditure is incurred for purchase of exempted goods from a supplier who besides being a trader is also a registered GTA and he supplies both the goods which are exempted under the GST law from the levy of GST and the GTA service to the recipient which is liable to tax under the reverse charge mechanism.

3. The audit related to GST is basically a reconciliation between the accounts maintained as per the Income Tax Act and that maintained as per the GST Act and therefore the question of true and correct creeps in rather than the question of true and fair which is an onerous task on the auditor and the task may get aggravated when two different auditors audit under the different Acts.

**Conclusion**

The provisions relating to audit are relatively new and cast an onerous responsibility on the auditor. The fact that National Financial Reporting Authority (NFRA) have already notified the new rules will keep the auditors on their toes since their audit would be audited not only by ICAI but by NFRA also and above all even though there are no direct provisions under the GST law as is there in the Income Tax Act, 1961 in the form of Section 271J but there is sufficient catch available with the authorities to put a check on the errant assesses as well as auditors.

\* \* \* \* \*

*Although we did have one notable exception in the recent past – APJ Abdul Kalam :*



**“AS A YOUNG CITIZEN OF INDIA,  
ARMED WITH TECHNOLOGY.  
KNOWLEDGE AND LOVE FOR MY NATION.  
I REALIZE. SMALL AIM IS A CRIME.”**



# Some Unanswered Issues under GST

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GST in India celebrated its first birthday on 01/07/2018. It's been a roller coaster ride for the industry, trade, professional bodies and public at large. Coined as our country's largest indirect tax reform, GST brought with it a barge of unanswered queries and confusions. As a GST practitioner, it would be incorrect of me to say that issues have not been clarified. The CBIC, GST council and authorities at the helm of affairs have tried their best to address issues of public and trade bodies. However, there are multiple issues which need clarity and which have probably not been yet mulled over.

In this article, an effort has been taken to list down few of many such issues:

## Export both under letter of undertaking (LUT) and on payment of IGST

The GST law provides for two options for an exporter, viz.:

- Export of goods or services or both under bond or LUT without paying any Integrated Tax and subsequent claim the refund of unutilized input credit
- Export of goods and service or both on the payment of Integrated Tax and subsequent claim the refund of the GST paid on such goods and services so exported. The above-mentioned refunds will be subject to certain rules, procedures, and safeguards as may be prescribed

A query that may arise in the mind of many is whether an exporter is allowed to export under both options

simultaneously in a financial year. It may be noted that no such restriction has been cast under the GST statute, however a clarification in this respect is much needed.



## Pure Agent

The CGST Rules, under Rule 33 very beautifully elucidate the meaning and concept of the term Pure Agent. Vis-à-vis the service tax regime, the 12 conditions have been trimmed down or rather merged into 7, however there looms a large shadow of doubt on the very concept.

Take the example of a security service provider providing security service to various

banks and financial institutions. In the course of provision of services, the service provider receives reimbursement of toll taxes it expends for the client. The service provider keeps no mark up on the reimbursements received. The question that arises is whether such reimbursements received by the service provider fulfill all the conditions provided under Rule 33. This is primarily because the toll tax receipt does not bear the name of the client. Hence the obvious implications of not satisfying the conditions would be levy of GST.

Taking another example, will GST apply on reimbursements of electricity by a landlord from its tenant. Note in such cases, the electricity is reimbursed at actual. However, the electricity meter is not in name of the tenant but the landlord. Some food for thought indeed!

## Section 17(5) of the CGST Act

Another point to mull over is whether section 17(5) of the

Act casts a restriction just on the availment of credit, or does it cast a restriction even on the utilization of credit. Let's take an example of an assessee who is in the business of developing properties and also manufacturing jute. Both businesses are under a common GSTIN. The assessee being into the business of construction, it can very well avail the credit arising on account of input services in respect of construction activities. The question that arises is whether the assessee can utilize such credit against the output tax arising out of the supply of manufacturing jute. Does section 17(5) come into play in cases of utilization of credit?

### Registration

Section 22 of the CGST Act prescribes that every supplier shall be liable to be registered under the Act in the State from where it makes a taxable supply. Considering that GST is a destination based consumption tax, the concepts laid down under section 22 seem very logical. However, will a works contractor having sites at multiple locations across India need to be registered in each such State where it has a site. In other words, from where will he be considered to be providing taxable services? If provisions of section 22 of the Act provide for separate registrations in each State, one can well imagine the plight of such an assessee.

### Valuation

Rule 32(3) of the CGST Rules provide for valuation in case of a travel agent providing services of booking of tickets for travel by air. The Rules using the word 'shall' mention that in case of the above mentioned services, the valuation shall be '5% of basic fare in case of domestic bookings' and '10% of basic fare in case of international bookings'. There have been several judgments which have laid down that the term 'shall' implies a mandate and not a choice. Further, many travel agents earn income from two sources against booking of an air ticket, viz., the commission from the airlines and the service charge / fee from the clients. The Rule provides no clarity on whether the valuation

rules cover both these income or not. Further, many travel agents across board are still wondering whether the law permits them to charge GST on the service fee charged to the client and on the commission respectively or is the valuation given under Rule 32 mandatory.

### Non Taxable supply vs. Non GST supply

Non taxable supplies are those which are not leviable to tax under the GST Act. Further, the CGST Act defines the term non taxable supply under section 2(78). However, the term Non GST supply has nowhere been defined under the Act. Does it imply that schedule III of the Act tantamount to Non GST supply?

Likewise what the difference between Exempt and Nil rated supplies? The term exempt supplies being defined in the Act, but the term Nil rated supplies has not been defined in the Act.

### Import of Service

As per section 13(4) of the IGST Act, the place of supply of services supplied directly in relation to an immovable property, including services supplied in regard by experts, accommodation in hotels etc., shall be the place where the immovable property is located or intended to be located.

Now, taking an example of a travel agent who is to book a hotel (outside India) for its client in India, it has two options. The travel agent may either book the hotel directly or may book through another travel agent located abroad. In the first case, per the provisions of section 13(4) of the IGST Act, the place of supply is outside India. However, in case the hotel is booked through another travel agent outside India, the place of supply, as per provision of section 13(1) will be the location of the service recipient, i.e. India. Hence this will attract the payment of GST under reverse charge mechanism under Import of Services. However, most travel agents across board are not complying with this provision either out of ignorance or sheer will.

*(views expressed are strictly of the author)*

\* \* \* \* \*

"The people you meet in this life, all won't be good to you. Some will criticize, some will de-motivate and some will try to pull you down. All you have to do is ignore them and move on. You don't need to explain them your journey nor let them control your dreams. This is your life, live as you want."

– Ratan Tata



# Checklist of Details required for preparation of GST Audit, Annual Return & Reconciliation Statement

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The time of GST Annual return and GST Audit including preparation of Reconciliation statement for the FY 2017-18 is fast approaching and 31st Dec, 2018 doesn't seem too far now. With regular GST return compliance already in place, this additional filing for the FY 2017-18 has its own importance as this would lead to payment of unpaid taxes if any for the said period. It is very important for us professionals to have a detailed audit checklist ready before we start the job at hand. Thus, in this article, I have tried to present a comprehensive checklist of documents needed to conduct the GST audit as well as prepare the GST annual return and recon.

## General Details required from GSTN Portal

- GSTR-1 & GSTR-3B – July 2017 – September 2018 as filed
- GSTR-2A – July 2017 – September 2018 as on 31st October, 2018
- TRAN-1 & TRAN-2, ITC-01, ITC-02 & ITC-03 as filed
- Copies of Challans for payment in Electronic Cash Ledger
- Electronic GST Ledgers – Cash, Credit, Liability
- Copy of Audited Annual Financial Statements(AAFS)

## Details required for Audit and/or Reconciliation of Outward GST Liability

- Sale Register for Outward Supplies of FY 2017-18 (including Outward RCM Supplies)
  - Sale Register / Statement / Detailed Annexure of FY 2017-18 for Exports Sales, SEZ Sales, Sales to Merchant Exporters and Deemed Exports Sales alongwith details as to whether made with payment of GST or otherwise, alongwith documentation as applicable for each such transaction as per GST Law
  - Sale Register / Statement / Detailed Annexure of FY 2017-18 for Exempted, Nil Rated and Non-GST supplies made
  - Credit Note / Debit Note Register for notes issued and declared including upto September 2018 w.r.t all the above Sale Registers / Statements / Detailed Annexure of FY 2017-18
  - Statement / Annexure for details of amendments made including upto September 2018 w.r.t all the above Sale Registers / Statements / Detailed Annexure of FY 2017-18
- Details and ledgers of all Customers / Clients / Debtors, types of supplies made or to be made to them and



**With regular GST return compliance already in place, this additional filing for the FY 2017-18 has its own importance as this would lead to payment of unpaid taxes if any for the said period. It is very important for us professionals to have a detailed audit checklist ready before we start the job at hand.**



advances received

### Details required for Audit and/or Reconciliation of RCM GST Liability and ITC Availment

- Details of all purchases and expenditure made and booked from 1st July, 2017 upto 13th October, 2017 and details of expenditure made in foreign currency, expenditure in relation to sponsorship, services by GTA, Advocates and Non-Executive Directors, etc.
- Details of inward supplies received on which GST liability was recognised and paid on reverse charge basis (categorised into import of services, supplies from registered persons and supplies from unregistered persons, irrespective of whether u/s 9(3) or u/s 9(4))
- ITC Register (including details of ITC availed on imports of goods, inward supplies received and on which GST was paid on reverse charge basis as above and ITC received for availment from ISD) w.r.t invoices issued upto March 2018 and on which ITC was availed including upto September 2018
- Details of Invoices issued upto March 2018 and treated as Ineligible ITC including upto September 2018 whether as per Sec 17(5) or otherwise
- Details of Reversals and Reclaims for ITC availed in FY 2017-18 including upto September 2018 on account of Non-Payment of Consideration and Subsequent Payment thereof
- Details of Monthly and Annual Reversals and/or Annual Reclaims for ITC availed in FY 2017-18 including upto September 2018 on account of Personal Use or use for Exempted Supplies, as per Section 17, Rule 42 and Rule 43 or Rule 38 (in case of Banks, Financial Institutions and NBFCs)
- Details of Reversals and/or Reclaims for ITC availed in FY 2017-18 including upto September 2018 as per Section 18 as per ITC-01, ITC-02 & ITC-03 filed
- Fixed Assets Register for details of any Sales or Purchases made of Capital Goods alongwith Invoices



received at time of purchase and/or invoices issued at time of sale alongwith other documentations maintained

- Job Work Register for details of any goods and/or capital goods sent for job work alongwith delivery challans

### Details required for Audit and/or Reconciliation of Transitional Period ITC Availment and Other Transactions

- Copies of Excise / Service Tax / VAT / CST / Entry Tax Return filed for period upto 30th June, 2018 as required for TRAN-1 u/s 140(1)
- Statement / Register for Capital Goods on which CENVAT Credit is still available for availment as upto 30th June, 2017 as required for TRAN-1 u/s 140(2)
- Stock Statement / Register for 30th June, 2017 as required for TRAN-1 u/s 140(3), 140(4) and 140(6)
- Purchase Register for goods and/or services received from 1st July, 2017 to 31st July, 2017 as required for TRAN-1 u/s 140(5)
- Details for Distribution of CENVAT Credit as ITC, in case of single Service Tax Registration for multiple premises, as required for TRAN-1 u/s 140(8)
- Details for Credit Notes / Debit Notes issued and received after 1st July 2018 but relating to transactions entered upto 30th June, 2018, whether for return of goods or otherwise
- Details for Goods or Capital Goods remaining with job workers Credit Notes / Debit Notes issued and received after 1st July 2018 but relating to transactions entered upto 30th June, 2018, whether for return of goods or otherwise
- Details of existing litigations settled in FY after 1st July, 2017 but upto 31st March 2018

### Other Details required for GSTR-9

- Details of Refund applications made and filed upto 31st March 2018 and other documentation in relation thereto and details of progress made for such refund



applications filed – sanctioned, rejected, pending

- Details of Demand of Tax made by Tax Authorities and the amount paid and remaining amount which is pending
- Details of Goods sent on job work but not received within the due time period
- Details of Goods sent on Approval basis but not returned within the due time period
- Details of Tax and other amounts paid by ITC and/or cash w.r.t FY 2017-18
- HSN Summary for outward and inward supplies

### Other Details required for GSTR-9C

- Details for Turnover during April 2017 - June 2017
- Details of service contracts having possibility of unbilled revenue at the year end, i.e., revenue recognised but invoice not issued – applicable for supply of services only
- Details of transactions in nature of deemed supply and treated in GST but ignored / removed in AAFS (w.r.t. cross charge, branch transfer (including transfer from SEZ units to DTA units), etc.)
- Credit Notes for FY 2017-18 shown in GSTR-1 of FY 2018-19 but considered in FY 2017-18 for AAFS and in GSTR-9 of FY 2017-18
- Discounts allowed and/or Credit Notes issued and treated as reduction in Revenue in AAFS but not considered in GST as per Sec 15(3) and Sec 34

- Turnover during Composition Scheme, if any
- Adjustments in Transaction Value to arrive at Taxable Value of Supply as per Section 15 and valuation of specified transactions as per Valuation Rules (including foreign exchange fluctuations)
- Rate-wise Reconciliation of Taxable Value and GST paid thereon and other amounts paid, including GST paid on RCM
- Expense-wise details of Total Taxable Value of Inward Supplies, Total GST paid thereon and Total ITC availed of such GST paid as per following expenses categories
  - Purchases
  - Freight / Carriage
  - Power and Fuel
  - Imported goods (Including received from SEZs)
  - Rent and Insurance
  - Goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples
  - Royalties
  - Employees' Cost (Salaries, wages, Bonus etc.)
  - Conveyance charges
  - Bank Charges
  - Entertainment charges
  - Stationery Expenses (including postage etc.)
  - Repair and Maintenance
  - Other Miscellaneous expenses Capital goods

\* \* \* \* \*



## Descriptive analysis of Auditor's Recommendations in GST Audit

CA Shubham Khaitan  
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It is pertinent that one should understand the role of the auditor for conducting GST Audit under Form GSTR 9C. For a complete understanding of the powers, roles and responsibilities of the auditor one should analyse Part V of Form GSTR 9C. Form GSTR 9C mentions the following heading:

“Auditor’s recommendations on additional liability due to non-reconciliation”

### Powers of the auditor

First of all, it can be inferred from the heading that he auditor only has a recommendatory power while furnishing his report. Any recommendations given by the auditor will not be binding on the taxpayer. The auditor does not act as a watchdog for leakage of taxes and cannot mandate payment of taxes which is otherwise not paid by the taxpayer. The auditor needs to exercise his professional diligence, skill, knowledge and care in determination of any additional tax which may be payable by the taxpayer in his opinion. The taxpayer has an option to accept, reject or partially accept the recommended additional tax liability. In line with such recommendations, the taxpayer can choose to make the payment of the additional tax liability in full or in part. They can even choose to reject the complete recommendations of the auditor and not make the payment at all. Obviously, how the government treats such rejection of recommendations and whether this acts as a red flag to them for issuance of showcause notice in future can only be visualised.

### Purpose of audit by the auditor

The main objective of filling up Form GSTR 9C is to reconcile the audited financials with the annual return and collect any taxes that may arise due to

non-reconciliation between the two. Any amount that the taxpayer is liable to pay in the opinion of the auditor is required to be disclosed in this part. The Government has made audit mandatory for select group of taxpayers because they wish to check the leakage in revenue. There are multiple instances of taxpayers committing omission or error intentionally or unintentionally which may result in non payment or lower payment of tax liability. The auditor having the desired skill, knowledge and expertise are expected to exercise their professional diligence and care in bringing to notice such leakage in revenue.

The audited financial statements inspire confidence in the Government because they are certified to be true and correct by a practising Chartered Accountant whose is considered to be an expert in the given field. However, it cannot be known for certain that the taxpayer had filed his GST returns correctly even though the figures were audited and correctly disclosed in the financial statements. The auditor can establish the bridge of gap in confidence between the reliable financial statements which are audited and the GST returns which are self-assessed by the taxpayer. So, this reconciliation can serve as a policing mechanism which is exercised by the government through the means of an expert like Chartered Accountant or Cost Accountant. Any additional tax liability that arises through this mechanism of reconciliation can be paid by the taxpayer on the recommendations of the auditor. So,

the government without having to put its limited resources into use can recover the tax liability that may arise due to the figures reported in the audited financial statements.

### Scope of the auditor

From the heading it seems that the responsibility of the auditor

**The main objective of filling up Form GSTR 9C is to reconcile the audited financials with the annual return and collect any taxes that may arise due to non-reconciliation between the two. Any amount that the taxpayer is liable to pay in the opinion of the auditor is required to be disclosed in this part.**

is restricted to report only the additional liability which may arise due to non-reconciliation. He is not required to step into the shoes of an investigator to mine undisclosed supplies which are neither reported in the annual return nor in the financial statements. Any items which are not part of any one i.e. the annual return and the financial statements, will not disturb the semblance of equilibrium. So, these items are not required to be dug upon and reported by the auditor. Performing this reconciliation accurately and analysing the reasons for the differences falls within the domain of his responsibility. Making disclosures in respect of the differences which are exhaustive and understandable forms an intrinsic part of his duty.

However, this is not to say that any non-disclosure of supplies on which tax is payable by the entity is not to be reported by the auditor. Any such items which are available on a prima facie basis after performing the audit procedures should be reported as part of auditor's recommendations. So, any errors or omissions which comes to the notice of the auditor by performing normal audit procedures as per the standards of auditing should be reported by him.

### **Mechanism of payment**

There are no provisions under the law which prescribe the mechanism of payment of the additional tax liability that may arise out of reconciliation. However, upon the analysis of the form it can be seen that it requires payment of the differential tax liability in cash. It can be a loss of working capital for an entity which has available ITC balance for payment of such tax liability in case the Government does not allow utilization of ITC in such cases. It should be emphasized here that there is no provision in the GST laws which requires payment of such tax liability in cash. Whether payment in cash is said to include payment through ITC still awaits clarification from the government.

### **Reasons for additional tax liability**

Non-reconciliation between the books of accounts and the annual return can either occur in the turnover, tax paid or the input tax credit. Any additional tax liability that may arise due to non-reconciliation between the turnover or the tax payable on it will be reported in Table 11 of Form GSTR 9C. Further, any additional tax liability arising due to

**There are no provisions under the law which prescribe the mechanism of payment of the additional tax liability that may arise out of reconciliation. However, upon the analysis of the form it can be seen that it requires payment of the differential tax liability in cash.**

non-reconciliation of the input tax credit are to be depicted in Table 16 of Form GSTR 9C. The amount reported in these two tables will be summarized and reported in this Part V of the Form GSTR 9C.

Further, the additional liability that may arise in this Part V of this form can consist of any other amount paid for supplies not included in annual return,

erroneous refund to be paid back, outstanding demands to be settled (if any).

Summarizing the items which are to be reported as part of auditor's recommendations on additional liability due to non-reconciliation, following will be the constituents:

- a) Additional tax liability due to non-reconciliation of turnover or tax liability (including reverse charge) between the audited financial statements and annual returns (as per Table 11 of Form GSTR 9C)
- b) Additional tax liability because of non-reconciliation of input tax credit between the audited financial statements and annual returns (as per Table 16 of Form GSTR 9C)
- c) Any other amount paid for supplies not included in annual return
- d) Erroneous refund to be paid back
- e) Outstanding demands to be settled
- f) Others (to be specified)
- a) Additional tax liability due to non-reconciliation of turnover or tax liability (including reverse charge) between the audited financial statements and annual returns (as per Table 11 of Form GSTR 9C)**

This additional tax amount to be paid due to non-reconciliation is reported in Table 11 of Form GSTR 9C. This may occur due to the following reasons:

- i. Non Reconciliation of the turnover and taxable turnover between the audited financial statements and the annual return (as per Table 6 and 8 of Form GSTR 9C)
- ii. Non Reconciliation of the tax paid (both under forward and reverse charge) between the audited financial statements and the annual return (as per Table 10 of

Form GSTR 9C)

### Separate calculation for tax under both forward and reverse charge

It must be noted that within this point, the reconciliation will be made with regard to the following:

- a) Total turnover and Taxable turnover
- b) Output tax liability
- c) Liability under reverse charge

The amount paid as output tax liability computed for both point (a) and (b) above and tax under reverse charge as per point (c) is required to be disclosed and reconciled separately between Form GSTR 3B and the audited financial statements in Table 9.

Any additional amount that is liable to be paid due to these will be disclosed together in Table 11 and auditor's recommendations in Part V of the Form GSTR 9C.

### Ratewise breakup

Any additional tax liability that occurs either under forward charge or reverse charge needs

to be shown on rate wise basis. In fact, the tax payable in Table 9 which is the source of the reconciliation also demands the tax payable to be disclosed on a ratewise basis. This ratewise breakup of additional tax payable will be shown in Table 11 and the auditor's recommendation in Part V.

### Interest

Interest is not automatically calculated for the purpose of payment in Form GSTR 3B. Wherever there is a delay in making the tax payment throughout the year, the interest liability is attracted. This can primarily occur due to two reasons:

- a) Any tax liability for which the time of supply arose in a particular tax period but the same is not disclosed in Form GSTR 3B for that tax period but in Form GSTR 3B of the subsequent period
- b) There is a delay in setting off the liability in Form GSTR 3B beyond the due date of the return

The auditor holds the responsibility of computing such additional interest liability that may arise due to any of the above situations. This will be part of Table 11 and auditor's recommendations as well.

### Penalty

Penalty can be imposed on a person if he contravenes the provisions of offences and penalties under Chapter XIX of the CGST Act 2017. For instance as per Section 122, if the taxable person collects any amount but fails to pay the same to the Government beyond a period of three months from the date on which the payment becomes due will be liable to penalty of Rs. 10000 or the amount of tax evaded whichever is higher. Obviously, if the same was done for any reason other than fraud or any wilful misstatement or suppression of facts to evade tax, the penalty will reduce to Rs. 10000 or 10% of the tax whichever is higher. In such a situation, the auditor is under an obligation to disclose such liabilities if payable by the taxpayer in both Table 11 and the auditor's recommendations.

### Late fees

This includes the late fees for delayed filing of Form GSTR 3B and Form GSTR 1. GSTR 3B automatically calculates such amount of late fees based on the due date and actual date of filing the return. As regards Form GSTR 1, the due date for the entire

financial year 2017-18 has been extended till 31<sup>st</sup> October 2018. So, no late fees will be calculated if Form GSTR 1 is furnished by this date.

### Others

There can be other types of payment as well which may be required to be disclosed. This can include the fine to be paid in order to release the goods or conveyance liable for confiscation under Section 130.

### ***b) Additional tax liability because of non-reconciliation of input tax credit between the audited financial statements and annual returns (as per Table 16 of Form GSTR 9C)***

This additional tax amount to be paid due to non-reconciliation is reported in Table 16 of Form GSTR 9C. This non reconciliation difference in this table can occur due to the following reasons:

- i. Non reconciliation of the credits which are booked in one financial year and claimed in the other with regard to the audited financial statements and the annual return (as per Table 13 of Form GSTR 9C)
- ii. Non reconciliation of the credits between the headwise expenses reported in the audited financial

**Interest is not automatically calculated for the purpose of payment in Form GSTR 3B. Wherever there is a delay in making the tax payment throughout the year, the interest liability is attracted.**

statements and that in the annual return (as per Table 15 of Form GSTR 9C)

It can be noted here that the figures reported in the annual return is only a summation of the figures reported in the Form GSTR 3B.

### **Difference of input tax credit in Form GSTR 3B and the Audited financial statements**

There can be a situation that the Form GSTR 3B is not matching with the audited financial statements with regard to the input tax credit. Such differences can be depicted under Table 13 and 15. The cause of the differences need to be clearly identified. These tables while taking the values after considering the audited financial statements will be compared with the actual tax paid as per Form GSTR 3B. As there is a difference between the audited financial statements and Form GSTR 3B, an unreconciled difference will be shown in both 13 and 15. If the input tax credit claimed is higher in Form GSTR 3B than the audited financial statements, then there may be an additional liability of making the payment of extra credit taken. Then, this should form part of additional amount of tax payable as per Table 16 of Form GSTR 9C and the auditor's recommendations. The auditor will do so only after taking a judgement that the figures reported in Form GSTR 3B were incorrect and that reported in the financial statements was correct. Of course, if the reverse is true, then even though there is a difference between the two, the auditor's recommendation will not contain the said amount as the additional tax liability.

### **No Ratewise breakup**

No rate wise breakup is required in Table 16 with regard to the additional tax payable due to the non reconciliation of the input tax credit as per Table 13 and 15.

### **Interest**

Interest is not automatically calculated for the purpose of payment in Form GSTR 3B. Wherever there is a delay in making the tax payment throughout the year, the interest liability is attracted. This can occur due to multiple reasons:

- a) Any input tax credit which became eligible in a particular tax period but the same is taken in Form GSTR

3B in an earlier period

- b) Any ineligible input tax credit has been taken incorrectly and has been subsequently reversed
- c) Lower amount of reversal of credit as required under Rule 42 and 43 were made and the balance reversal was made in Form GSTR 3B in a subsequent period
- d) No payment is made to the supplier in Form GSTR 3B within the prescribed period and reversal of credit is involved as per Rule 37

Other possibilities with regard to input tax credit can also arise which may require payment of interest. The auditor holds the responsibility of computing such additional interest liability that may arise due to any of the above situations. This will be part of Table 16 and auditor's recommendations as well.

### **Penalty**

Penalty can be imposable on a person if he contravenes the provisions of offences and penalties under Chapter XIX of the CGST Act 2017. For instance as per Section 122, if the taxable person takes or utilizes input tax credit without actual receipt of goods or service or both in contravention of the provisions of the Act or rule will be liable to penalty of Rs. 10000 or the amount of tax evaded whichever is higher. Obviously, if the same was done for any reason other than fraud or any wilful misstatement or suppression of facts to evade tax, the penalty will reduce to Rs. 10000 or 10% of the tax whichever is higher. In such a situation, the auditor is under an obligation to disclose such liabilities if payable by the taxpayer in both Table 11 and the auditor's recommendations.

### **c) Any other amount paid for supplies not included in annual return**

There can arise situations wherein certain other supplies can also result in payment of additional tax liability even

**There can be a situation that the Form GSTR 3B is not matching with the audited financial statements with regard to the input tax credit. Such differences can be depicted under Table 13 and 15.**

though there were not flagged as reconciliation differences as per point (a) and (b) above. These pertain to those supplies which are not disclosed in the annual return and which may not have been the part of turnover as per the audited financial statements.

For instance, if supplies which are part of Schedule I i.e. supplies without consideration are not

disclosed in the annual return, then they may not create any reconciliation differences as they are not having any value in the financial statements.

Another example that can be taken here is with regard to receipt of advances. Advances form part of the Balance Sheet of a taxpayer and not as part of his turnover. If a person who is liable to pay taxes on the advances received during the year does not disclose the same in his monthly return and thereby his annual return, then he can fall within this reporting clause. This is because the advances not disclosed would neither be part of the turnover which is the starting point of the reconciliation nor the supplies as disclosed in the annual return. So, they will not cause a reconciliation difference.

The above two cases would not have been reported in point (a) and (b) above. However, paying taxes on these supplies is mandatory even though they have been missed out in the annual return. Thereby, they will be reported as supplies not included in the annual return. Any interest and penalty which may be liable to be paid on them will also be separately disclosed.

So, all such supplies which are not part of the turnover of the taxpayer as per the audited financial statements and are missed out in the annual return can be considered to be falling here. The reporting of these supplies will be made here.

**d) Erroneous refund to be paid back**

Any refund that has been obtained that should not have been ideally obtained should be reported here. It may arise due to refund of the electronic credit ledger or of the cash ledger. There may be quite a few situations why this erroneous refund may have been obtained:

- a) The department had paid the taxpayer provisional refund of 90% based on the prima facie scrutiny of the application for refund in case of zero rated supply or inverted duty structure. But upon complete scrutiny of the application, any defect may be noticed in the given application which may cause the refund to be rejected. In this case, the refund already granted provisionally is liable to be refunded back to the

Department.

- b) Further, it may happen that the assessee took input tax credit in a particular month which is liable to be reversed at the end of the year in Rule 42 and Rule 43 upon making the complete calculation. It may also be possible that the input credit was blocked on any inward supply on which the input tax credit was taken by the taxpayer. In this situation, if the taxpayer had obtained complete refund of the input tax credit taken earlier, then he is liable to refund the amount to the extent the input tax credit was not admissible to him.

The above are only illustrative situations wherein a taxpayer is required to pay the amount which was erroneously refunded to him. In these cases, if the taxpayer is liable to pay any interest or penalty on the same, then the said amount will also be required to be shown as part of the auditor's recommendations.

**Any amount which is liable to be paid to the government which had been raised as a demand is required to be disclosed.**

**e) Outstanding demands to be settled**

Any amount which is liable to be paid to the government which had been raised as a demand is required to be disclosed. Any adjudication order passed against the assessee which had not been appealed against and which entails payment of tax liability by the taxpayer are to be reported here. Further, any appellate order passed which requires the taxpayer to make payment of tax liability will also be disclosed here. However, any order passed which entails requirement of payment of taxes, but which forms a subject matter of appeal before any higher authority cannot be considered as an outstanding demand. They will not be required to be reported as part of additional tax liability.

**f) Other (Please specify)**

If there are any other reasons why additional tax liability may be liable to be paid by the taxpayer which have not been covered above and which comes to the notice of the auditor will be disclosed in this field. Rather than merely showing the tax amount, the exact reason why the additional tax liability is liable to be paid will also have to be specified.

\* \* \* \* \*



# Incentivising Industries under the GST Regime

**CA. Tarun Kr. Gupta**  
B.Com (H), FCA, FCS, PGDBM

The Central Government and some State Governments had their respective schemes under the erstwhile Excise Duty/ VAT/ Entry Tax regime for reimbursement or exemption from the respective levies. The main objective of these incentive schemes were to incentivize industrialisation in a specific area whether north east states, hilly regions or backward districts. The incentive schemes either exempted the levies for a specific number of years or provided reimbursement to the respective industries based on actual payment. The reimbursements were either complete i.e. 100% or in some states, it was also less than 100%.

Goods and Services Tax (GST) was introduced in the country w.e.f. July 1, 2017. GST proposes to subsume all indirect taxes that were levied on the purchase and sale of goods



and services with a single tax, applicable throughout the country. Most importantly, GST subsumes Excise Duty, Service Tax, CST, VAT, Works Contract Tax, Entry Tax and all types of Cess levied on indirect taxes. GST does not have an exemption or reimbursement scheme in its Act/ Rules. Thus the decision to incentive industrialisation and provide reimbursement/ exemption to the industries has been left solely on the respective Central/

State Governments. They can provide reimbursement to the industries from their share of revenue and after due approval of the GST Council/ respective State Government.

This article tries to compile the policies that the central Government and respective State Governments have come out with to provide incentive to industries. These are as follows:

Sl. No.	Centre/ State	Policy
1	Government of India	<p>The central government on 16 August 2017 decided to reimburse 58% of the CGST &amp; 29% of IGST for the eligible industrial units in Jammu and Kashmir, Uttarakhand, Himachal Pradesh and north eastern states including Sikkim till March 2027, which it collects from these units as the remaining 42% is anyway transferred to states under the formula recommended by the 14th Finance Commission for sharing of the divisible pool of central government taxes.</p> <p>The % value of inputs procured from a registered person operating under the Composition Scheme under Section 10 of the Central Goods and Services Act, 2017 shall be reduced.</p>



Sl. No.	Centre/ State	Policy
2	Government of Assam	<p>Government of Assam has issued Notification no. 768/97 dt. 19th January, 2018 notifying the “Scheme of reimbursement of tax paid under the Assam GST Act, 2017, by an eligible unit located in the State of Assam”.</p> <p>Tax reimbursement shall be available to the units on the date of transition to GST as well as to new units/expansion units set up after July 1, 2017 during GST regime but upto December 31, 2022. Eligible units shall be entitled to 100% tax reimbursement of SGST portion on intra-state supplies paid in cash after adjustment of SGST input tax credit as well as IGST credit.</p> <p>The Unit needs to take a separate registration for the eligible unit and needs to issue tax invoice with a suffix “EX” on all invoices.</p> <p>The customer of the product, shall however not be able to take proportionate input tax credit of the SGST paid in case it makes an inter-state supply.</p>
3	Government of J&K	<p>The Jammu and Kashmir government has cleared a plan to reimburse the entire state goods and services tax (SGST) and 42% of central GST (CGST) to manufacturers who had enjoyed excise duty relief in the earlier indirect regime.</p> <p>In addition, J&amp;K has notified the Jammu and Kashmir Reimbursement of Taxes for promotion of Small/Medium/Large Scale Industries in the State of Jammu and Kashmir.</p> <p>The amount of Reimbursement under the scheme for specified goods manufactured by the eligible unit shall be: -</p> <p>The amount of State Tax paid through debit in the cash ledger account maintained by the unit in terms of sub-section(1) of section 49 the Jammu and Kashmir Goods and Services Tax Act, 2017 after utilization of the Input tax credit of the State Tax and Integrated Tax.</p> <p>Provided where inputs are procured exclusively from a registered person operating under the Composition Scheme under Section 10 of the Jammu and Kashmir Goods and Services Tax Act, 2017 or from any unregistered persons, the benefit of the reimbursement will not be extended to the industrial units. However, if the purchases are made partly from registered, unregistered or composition dealers the reimbursement to such industrial units will be in proportion to the inputs purchased from the registered dealers after adjustment of the input tax credit.</p> <p>Provided further that the Industrial Units shall not be eligible for the scheme if its making supply of services or supply of interstate supplies of finished goods either directly or through intermediaries or through proxies.</p>
4	Government of Maharashtra	<p>As an amendment in 2018 to the Industrial Promotion Subsidy (IPS) under the Industrial Policy, a modification for GST has been introduced. As per the modified policy, the old policy of reimbursement of VAT has been replaced and the state government has linked these incentives to GST applicable on the first point of sale for beneficiary industries.</p> <p>Claiming that its new incentive package was the best among all states, Maharashtra has linked the perk to gross GST payable. With Maharashtra topping states in GST collections, the state has also decided to allow incentives for product sales outside the state for all sectors, with the exception of the auto sector, where vehicle registrations within the state would be taken into account.</p>

## ARTICLES

Sl. No.	Centre/ State	Policy
5	Government of Gujarat	Gujarat government has decided to reimburse 2.5% of SGST in lieu of sops offered to industries in the previous VAT. To begin with, the SGST reimbursement incentive will be made available to the textile industry. Other sectors shall be added in a phased manner.
6	Government of Rajasthan	Government of Rajasthan has amended the Rajasthan Industrial Promotion Policy, 2010 to reimburse GST in-place of VAT reimbursements in the State.
7	Government of Uttar Pradesh	<p>GoUP has notified the Industrial Investment and Employment Promotion Policy of Uttar Pradesh 2017.</p> <p>Reimbursement of net VAT and CST or the net amount deposited in State's account visa-vis share of the state under GST as follows which will not be more than the amount deposited annually -</p> <ol style="list-style-type: none"> <li>a. 90% for Small Industries for 5 years.</li> <li>b. 60% for Medium Industries for 5 years</li> <li>c. 60% for large Industries (capital investment of above Rs. 10 cr and below the capital investment required for consideration under various categories of mega investment) for 5 years</li> <li>d. 70% for Mega/ Mega Plus/ Super Mega category Industries for 10 years</li> </ol> <p>The above is subject to limits as per capital investment.</p>
8	Government of Odisha	<p>In its latest industrial policy resolution, the IPR 2015, the state government has promised the reimbursement of Value Added Tax (VAT) and entry tax ranging from 75 per cent to 100 per cent over a span of five to 10 years. But, with GST subsuming the two indirect taxes, the future of the assured incentives to investors is at stake.</p> <p>“Revenue growth is slow since the introduction of GST. Except for mining revenue and petroleum products that are out of GST's ambit, in all other segments, the collection is sagging. At a time when we are seeking compensation to the Centre for under realisation of revenue, we cannot commit fresh fiscal sops for the industries. GST is still in a stabilisation stage and we have to wait till we commit any fiscal incentive”, said a senior Odisha government official.</p>

Thus, the above compilation of various incentive policies of the Central Government and some State Governments provides an insight of how these Governments have tried to match the erstwhile incentives under the previous indirect taxation regime.

\* \* \* \* \*



*Subhash Chandra Bose on why we shouldn't fear death :*

**“ONE INDIVIDUAL MAY WILL – AFTER HIS DEATH –  
INCARNATE ITSELF IN A THOUSAND LIVES.”**



# Religion in the New Machine Age

CA Rajesh Jain and CA Saurabh Jain



The world is facing an unprecedented challenge of machines gaining superintelligence<sup>1</sup>, surpassing human intelligence, and possibly gaining consciousness. Many eminent people like Dr. Stephen Hawkins, Bill Gates, Elon Musk have voiced serious concerns.

Researchers are looking for resolving the value alignment problem such that the goals of the machines do not get in conflict with human welfare and do not suffer from human biases. For example, in May 2016, a stunning report claimed that a computer program used by a US court for risk assessment was biased against black prisoners.

Artificial Intelligence enabled screening algorithms for jobs are found to discriminate against women for high-pay jobs.

Another example came to light in 2016, when Microsoft released its AI chatbot Tay onto

Twitter. Engineers programmed the bot to learn human behavior by interacting with other Twitter users. After just 16 hours, Tay was shut down because its tweets had become a stream of sexist, pro-Hitler messages.

Experts later said Microsoft had done just fine teaching Tay to mimic behavior, but they didn't teach it values and boundaries. The question is – which values?

Recognizing these threats, there is now a search for universally acceptable values or ethical code. Moreover, there are parallel threats of violent fanaticism, diluting tolerance, unsustainable inequality, global warming and rising stress levels.

## WHICH GOD?

Ethics, for most humans, emanates from the faith/religion

practiced by the family one is born into. An individual religion may not be able to constructively influence the globally interconnected technologies which are and will be owned and controlled by companies/countries with a community of people from diverse faiths and a vast population of atheists.

Human society is in a complex relationship with God or Allah or Ishwar or Deity or Divinity or creator or by whatever name you call Him and is still grappling with this symbol of omnipotence, omnipresence, omniscience and benevolence, who somehow doesn't seem too keen to establish His supremacy as believed by people from any specific faith that the God of that faith alone is THE God.

On October 25th 2018, I was walking with my friend Arvind Bihani in a street of Luton, a suburb of London while talking about various issues associated with the field of Artificial Intelligence. At less than 500 meters from each other, I saw these two places of worship both dutifully and faithfully proclaiming God or Allah, as the case may be, as "THE Divine One" at the exclusion of all others.



I found the situation beautiful and a symbol of harmony where both the proclaimed absolutes coexist peacefully. But if machines or algorithms are exposed to such inherent

<sup>1</sup> University of Oxford philosopher Nick Bostrom defines superintelligence as "any intellect that greatly exceeds the cognitive performance of humans in virtually all domains of interest".

contradictions, they will go crazy and haywire about which one to believe.

All the religions of the world have minority followings in the global context with Christianity being followed by around 31% world population and Islam by around 24%. However, by the year 2060, it is projected that Islam will catch up with Christianity with both having around 31-32% following. Rest all will see a decline in %ge terms and many like Buddhism even in absolute terms, as is evident by the following table:

**Size and projected growth of major religious groups, 2015-2060**

	Projected 2015 population	% of world population in 2015	Projected 2060 population	% of world population in 2060	Population growth 2015-2060
Christians	2,276,250,000	31.2%	3,054,460,000	31.8	778,210,000
Muslims	1,762,620,000	24.1	2,987,390,000	31.1	1,234,770,000
Unaffiliated	1,165,020,000	16.0	1,202,300,000	12.5	37,280,000
Hindus	1,099,110,000	15.1	1,392,900,000	14.5	293,790,000
Buddhists	499,380,000	6.9	461,980,000	4.8	-37,400,000
Folk religions	418,280,000	5.7	440,960,000	4.6	22,670,000
Other religions	59,710,000	0.8	59,410,000	0.6	-290,000
Jews	14,270,000	0.2	16,370,000	0.2	2,100,000
<b>World</b>	<b>7,284,640,000</b>	<b>100.0</b>	<b>9,615,760,000</b>	<b>100.0</b>	<b>2,331,120,000</b>

Source: Pew Research Center demographic projections. See Methodology for details.  
"The Changing Global Religious Landscape"

PEW RESEARCH CENTER

While religion will continue to thrive, the future of humanity will not be dictated by any of the present major religions of the world, it will be dictated by technology. As discussed above, such technology needs to be aligned with universal human values.

Most of the organized religions have a history of bitterest rivalry inflicting bloodiest violence on humanity. Moreover, organized religion is a highly unorganized sector with immense inter and intra faith contradictions.

The ever-learning highly-competent machines and algorithms will become full of animosity and rivalry if allowed to be dominated by and carry the biases and beliefs of any specific religion, race, country, community, sex, colour and ethnicity. They will become inconsistent if allowed to be influenced by diverse unresolved contradictory values and philosophies.

Wendy Hall, a professor of computer science at Southampton university and author of a review into artificial intelligence commissioned by the UK government says, "We used to talk about garbage in, garbage out..... now, with AI, we talk about bias in, bias out."

Superintelligence is right now a thing of the future and is a work in progress. Still, experts, including sceptics, rarely say that it is impossible. Most of the differences are regarding the timeframe as to when exactly it will happen.

However, it appears more tangible and feasible than God whose prophets or Messiah or Messengers came to the

earth long time back and who, despite all His omnipotence, could not monopolize Faith. Artificial Intelligence, in its current form itself, and with the expected trajectory, is the prophet or Messiah or Messenger of Superintelligence, THE one single God, with all pervasive powers, and the potential of singularity<sup>2</sup>, awaiting humanity. Superintelligence, when it happens, will completely redefine humanity. And as some experts say, Superintelligence will be the last invention by man. Beyond that point, all inventions will be through and by the superior than human intelligence, i.e., Superintelligence. Humanity needs to prepare and prepare well for this eventuality.

Even in its limited but ever-progressing version, Artificial Intelligence itself will be sufficiently powerful and competent to displace most humans and render them practically useless from a commercial and intellectually evolutionary perspective.

The world faces massive unemployment caused primarily by Artificial Intelligence, at least in the short and medium term, which may lead to understandable social unrest. On the other hand, DYING will be 'optional' and the ageing process will be 'reversible', according to two genetic engineers who authored the book "The Death of Death" and argue that humans will only die in accidents, never of natural causes or illness, by around the year 2045. We will have long lives, and little work.

In this light, many of the past values like "Hard Work" will become meaningless and people will need to reorient their approach towards work, leisure and life. They will need a soulful and pacifying agenda and anchor for the spare time that will be available to protect their empty minds from converting into the devil's workshop. In this sense, religion will continue to remain relevant. The Pew Research data also confirms that religion will become even more prevalent and there will be a decline in the population of unaffiliated/atheists.

People will need to reorient religion from extroversion to introversion and let others be happy and peaceful with their faiths while they themselves focusing more on living the core human values rather than on doing things on/to others.

In social interactions and in people's dealings and behaviour with others, and in compiling values that the machines will be needed to align with, there is a need for universal pluralist values and a code of ethics acceptable to all the right-thinking and peace-loving people from diverse communities.

\* \* \* \* \*

<sup>2</sup> The technological singularity (also, simply, the singularity) is the hypothesis that the invention of artificial superintelligence (ASI) will abruptly trigger runaway technological growth, resulting in unfathomable changes to human civilization. ([https://en.wikipedia.org/wiki/Technological\\_singularity](https://en.wikipedia.org/wiki/Technological_singularity)) .



# Best Business Advice and Tips for Success

Compiled by **CA Niraj Agrawal**  
Insolvency Professional, CA, CS, MBA

Last weekend, I wanted to watch a movie with my family. My wife was constantly asking me if I booked the tickets. I took my phone out from the pocket, opened the BookMyShow app and booked the tickets in few minutes. As I avoid driving during rush hours, I also booked a cab with couple of more clicks. Weekend is also when we need to stock up the grocery. So, opened the BigBasket app and ordered regular household stuff in less than 10 minutes.

What seems to be a normal behaviour today was not even a distant dream just 2 years back. Things have changed dramatically and it not only affected my behaviour as a customer, it caused a significant impact on the businesses as well.

Lot of business had to either change the way they work or shut down due to these fast changing environment. This brings us to an important question – **Can we future proof our business? Can we increase the chances of business survival?**

We can't predict the future but we can definitely prepare our business to face unforeseen challenges. Here is a list of Best Business Advice and Tips for Success from the top entrepreneurs of the world:

## 1. RICHARD BRANSON

Sir Richard Branson, one of the world's most recognizable billionaires, and the founder of Virgin Group, has built an empire comprised of more than 400 companies including airlines, record stores, publishing organizations and he's even tackling commercial space travel.

**His Advice:** "The best businesses come from people's bad personal experiences. If you just keep your eyes open, you're going to find something that frustrates you, and then you think, 'well I could maybe do it better than it's being done, and there you have a business.'"

**"If you can improve people's lives, you have a business.** People think, 'well everything's been thought of,' but actually, all of the time, there are gaps in the market here and gaps in the market there."

## 2. ARIANNA HUFFINGTON

Arianna is a co-founder of The Huffington Post, author of the recent New York Times best-seller *The Sleep Revolution* and recently stepped down as Editor-in-Chief of The Huffington Post to pursue her new wellness startup, Thrive Global, which will offer wellness trainings and workshops on stress reduction.

**Her Advice:** "If you're going to start a business, you need to really love it, because not everybody is going to love it. When The Huffington Post was first launched in 2005, there were so many detractors. I remember a critic who wrote that The Huffington Post was an unsurvivable failure."

"When you get reviews like that and detractors like that, you have to really believe in your product. When you really believe in your product, you are willing to deal with all the naysayers and persevere."

## 3. Robert Herjavec

Robert is a seasoned entrepreneur and investor who's built & sold several companies to major brands like AT&T. Now a leading authority on information security technology, he's also one of the most recognizable faces from ABC's award-winning show, *Shark Tank* where he's earned a reputation for sharing down-to-earth business advice to young entrepreneurs. Here's Robert's best business advice for aspiring entrepreneurs when it comes to pitching your idea:

**His Advice:** "You have 90 seconds, if you're lucky. If you can't make your point persuasively in that time, you've lost the chance for impact. Facts and figures

are important, but it's not the only criteria, you must present in a manner that generates expertise and confidence."

"If you're not prepared to make your pitch, you may just miss your next big opportunity."

#### 4. **Tony Robbins**

Tony is an entrepreneur, best-selling author, philanthropist and the nation's #1 life and business strategist. A recognized authority on the psychology of leadership, negotiations and organizational turnaround, he has served as an advisor to leaders around the world for more than 38 years.

**His Advice:** "The most painful mistake I see in first-time entrepreneurs is thinking that just having a business plan or a great concept is enough to guarantee success. It's not. **Business success is 80% psychology and 20% mechanics.** And, frankly, most people's psychology is not meant for building a business."

"My business advice? **Think honestly about who you are, what you want to accomplish, and what mindset you need to have to get there.** Because the biggest thing that will hold you back is your own nature. Few people are natural risk-takers or emotionally ready for the challenges of building a business. You can't just sign up for a marathon and run it without ever training. You have to increase your capacity and become fit. Being an entrepreneur requires similar kinds of emotional and psychological fitness so that you don't become the chokehold on your business's success."

#### 5. **Tim Ferriss**

Tim is a New York Times best-selling author of three books, including the *The 4-Hour Workweek*. He's also an investor, host of what's usually the #1-ranked business podcast and an entrepreneur in his own right.

**His Advice:** "The best advice I've ever received is that **you're the average of the 5 people you associate with most.**"

"I've actually heard this from more than one person, including bestselling authors, Drew Houston of Dropbox, and many others who are icons of Silicon Valley. It's something I re-read every morning. It's also said that **'your network is your net worth.'** These two work well together."

#### 6. **Noah Kagan**

Noah is the Chief Sumo at AppSumo, a community for entrepreneurs to discover and utilize the greatest products and online tools for growing a business. He also runs Sumo, a powerful suite of tools for growing web traffic, and was employee #30 at Facebook before getting fired and moving on to be an early director of marketing at Mint.

**His Advice:** "**Don't waste time or spend money on non-core issues when starting a business. In fact, don't spend any money until you make some.**"

#### 7. **Ankur Nagpal**

Ankur is the Founder and CEO at Teachable, the premier online course building platform that allows online educators to build beautiful course websites, self-host content, control the branding, student data, and pricing all from one place.

**His Advice:** "The most painful mistake I see people making repeatedly, particularly with their first project is striving for perfection over getting it done."

"Weeks turn into months, months into years. As a result, whatever they are trying to launch isn't out there gaining traction in the marketplace because of the fear of being perfect."

"My advice is to go out and break shit. It's easier to ask for forgiveness than permission when you start a business. **The only way your project, your business idea or whatever is in your mind is going to become better, is by having people use it in the real-world.** Listen to them and iterate until you have a solid product."

#### 8. **Ian Paget**

Also known as Logo Geek, Ian designs logos and brand identities for startups and SMEs. He also has over 80,000 Twitter followers and runs a popular social media group where he creates valuable resources for designers.

**His Advice:** "As a designer, I frequently hear horror stories from new freelancers who've had a client that vanishes without making a single payment. Designers who have worked for hours, sometimes weeks, yet received nothing in return. It's upsetting for them, painful to watch, but easily avoidable."

"To prevent disasters like this, I recommend taking a 50% upfront payment before you even start, then taking the final 50% before any final files are provided. Any client not willing to work this way is unlikely to ever pay and should be avoided. I also strongly advise freelancers to have a written freelance contract, signed by the client, detailing what's been agreed upon and what will happen in various different circumstances. This will give you ammo should your client be unreasonable, and will also add a level of professionalism and credibility to your service."

9. **Lauren Holliday**

Lauren is a full-stack marketer who's been featured on Business Insider, Entrepreneur, The Muse and more.

**Her Advice:** "My advice is to spend time with people who are different than you. This will open up your mind to different people and different problems, allowing you to connect the dots faster and make a real contribution to the world, as opposed to just being the next Mark Zuck."

10. **William Harris**

William is the founder of Elumynt, a growth marketing agency and a contributor for Entrepreneur, FastCompany and TNW.

**His Advice:** "The most painful mistake I see most inexperienced entrepreneurs make is not delegating tasks effectively. I actually came from a nursing background where bad delegation meant someone could lose a limb--or worse, their life. The nurses that didn't delegate would be busier, risking careless errors from trying to make up time by cutting corners. Business owners try to do the same thing."

**"I advise entrepreneurs who struggle with this problem to first get their tasks organized and written down.** I like Asana for this. **The tasks that they find themselves adding repeatedly are tasks that they should think about delegating.** At the end of the

month you need to send out invoices, add numbers to your analytics spreadsheet, etc. Find someone else to do that. The hours you save by outsourcing these types of tasks will help you focus on the things that only you can do--like plan the strategy and direction of the business."

11. **Austin Belcak**

Austin is an entrepreneur, author and the founder of Cultivated Culture, where he teaches millennials how to land their dream jobs, skyrocket their salaries and work 100% remotely in a matter of months.

**His Advice:** "My best piece of advice is to **focus on taking small steps and being consistent.** It's going to take time and it's going to take work, you can't start a successful side hustle overnight. With that in mind, you should start by doing three things."

"First, come up with a tangible, overarching goal. This could be something like landing 5 clients at an average of \$1,000/month per client in the next 6 months or building an email list of 1,000 subscribers, launching a course and selling at least 50 copies in the next 8 months."

starting with a tangible goal."

"Second, take time every night to write down a goal for the next day that will take you one step closer to your greater goal."

"Then third, block off 1 hour every day to accomplish that goal. If you complete your goal in the first 30 minutes, use the next 30 to start on the next step that brings you even closer to your bigger picture goal."

"That's the easy part. The tough part, and the part that will make or break your success, is being disciplined and repeating these steps at least 5 or 6 days each week. If you can stay consistent, the results will add up and you'll surprised at how quickly you'll progress."

\* \* \* \* \*



*Bal Gangadhar Tilak would be disappointed with the excuses we make for the problems we face as a nation :*

**"THE PROBLEM IS NOT LACK OF RESOURCES OR CAPABILITY. BUT THE LACK OF WILL."**



# Case Laws – GST Registration

Compiled by **CA. Tarun Kr. Gupta**  
B.Com (H), FCA, FCS, PGDBM

**The Petitioner was allowed to furnish the fresh application for registration subsequent to rejection of the earlier application on account of discrepancies in documents - Kerala High Court.**

- I. **Background** : The Petitioner preferred this writ petition pursuant to the rejection of the registration application by the competent authority under the GST law on the grounds that the Petitioner failed to provide explanation sought as regards the discrepancies in the documents.
- II. **Disputes involved / Points of dispute** : Petitioner being aggrieved by the rejection of registration application has preferred this writ petition before the Hon'ble High Court.
- III. **Arguments**  
**On behalf of the Assessee** : The Respondent submitted that if the Petitioner submits a fresh application with the requisite documents, the competent authority would consider the same.
- IV. **Scope of decision** : As per the submissions of the Respondents, the Hon'ble High Court held that the Petitioner is free to prefer a fresh application for registration with the requisite documents. If the Petitioner prefers a fresh application, the same shall be considered and appropriate decision shall be taken thereon by the competent authority.
- V. **Conclusion** : An applicant whose application for GST registration has been rejected previously may subsequently file a fresh application for obtaining registration.

*[Rajeevan V.N. (Petitioner) vs The Central Tax Officer -1 Circle, Cochin And Jose Thomas, Kottayam, (Respondent) 2018 (2) TMI 1717 (Ker)]*

**Non-migration of registration and non-filing of returns since provisional ID and password are not functioning - no coercive action to be initiated – Allahabad High Court.**

*The summary is based on the interim order. The matter was posted on 04.10.2017 – however, the status of the case is not known.*

- I. **Background** : The Petitioner-Assessee was unable to file the returns under the GST laws since, the provisional ID and password allotted, were not functioning. The Petitioner-Assessee was also unable to migrate the registration.
- II. **Disputes involved / Points of dispute** : Petitioner-Assessee is not able to migrate the registration and file the return under the GST law for the reason that the provisional ID and password issued to him are not functioning.
- III. **Scope of Order** : The Hon'ble High Court directed the Respondent-Department to not initiate coercive recovery measures till the judgment is pronounced after observing the instructions sought by the Respondent-Department on the peculiar issue.
- IV. **Conclusion** : We are given to understand that the Hon'ble High Court is yet to pronounce the judgment. However, it has issued directions to the Respondent-Department not to initiate coercive actions against the registered persons who was not able to comply with the provisions of the GST laws for non-functioning of the provisional ID and password.

*[M/s Radhey Lal Jaiprakash Neadarganj Dadri (Petitioner) vs. State Of U.P. And 5 Others 2017 (11) (Respondent) TMI 1022 – Allahabad High Court]*



**Cancellation of registration under GST cannot take place without issuing any notice or providing an opportunity of being heard as the GST law provides for the procedure to be followed for cancellation of registration – (Allahabad High Court)**

- I. **Background** : The Petitioner-Assessee preferred this petition before the Honourable High Court of Allahabad on the grounds that the website depicts the registration as cancelled whereas cancellation order has not been issued and an opportunity of being heard was not provided.
- II. **Disputes involved / Points of dispute** : The registration of the Petitioner-Assessee is depicted as cancelled on the GST portal without having received the order of cancellation and without providing an opportunity of being heard.
- III. **Arguments**  
**On behalf of the Assessee** : The Petitioner-Assessee contends that their registration was cancelled without providing a copy of the order cancelling the registration and without providing an opportunity of being heard.
- IV. **Scope of decision** : The Honourable High Court directed the Counsel representing the Respondent-Department to seek instructions whether the Petitioner-Assessee's registration has been cancelled. If yes, then it was also directed to the furnish the details of the Authority and the reasons for cancellation. The matter was posted for hearing on 05.10.2017. However, the status of the case, presently, is not known.
- V. **Conclusion** : The GST law provides for the procedure to be followed for cancellation of registration. It is specified that, before cancellation of the registration an opportunity of being heard should be provided and thereafter, an order cancelling the registration should be issued to the assessee.

*[Annapurna International vs. State of U.P. & 5 Others [2017 (11) TMI 1021 –Allahabad High Court]*

**Granting incorrect registration – to be rectified by the department as department itself is responsible for providing the same status to the assessee as was existing before the migration - Allahabad High Court**

*The summary is based on the interim order. The matter is posted for hearing on 20.09.2018.*

- I. **Background** : The Respondent-Department issued the registration certificate indicating the Petitioner-Assessee as proprietor firm instead of partnership firm at the time of migration of registration. The password and ID is also issued as sole proprietorship. Therefore, the Petitioner-Assessee has preferred a petition before the Hon'ble High Court.
- II. **Disputes involved / Point of disputes**: Incorrect registration migration as proprietorship instead of partnership.
- III. **Scope of the judgment**: Department may take the necessary steps and rectify the mistake within 10 days. The Department is free to allot a new ID and password to the petitioner as a partnership firm as was existing prior to the migration or implementation of the GST.
- IV. **Conclusion**: The incorrect migration of registration or any error / mistake on the part of the department shall be diligently rectified by the department.

*[Sachdeva Overseas vs. State of U.P 2017 (10) TMI 252 - Allahabad High Court]*

**Incorrect migration of registration or any error / mistake therein to be rectified by the department as it is responsible for migrating data correctly from pre-GST regime to GST regime – Allahabad High Court**

- I. **Background** : The Petitioner-Assessee preferred this writ petition for non-issuance of appropriate user name and password for migration into GST. Consequent to non-issuance of correct user name and passwords on multiple attempts, the Petitioner-Assessee was unable to comply with the statutory provisions viz., filing of returns, remittance of tax etc.
- II. **Disputes involved/Point of dispute** : The user name and password issued to the Petitioner-Assessee was not in terms of the Section 139 of the CGST / SGST Act, 2017. Consequently, the Petitioner-Assessee was unable to comply with filing of returns and remittance of taxes. Therefore, Petitioner-Assessee preferred this petition.
- III. **Arguments on behalf of the Petitioner** : Petitioner-Assessee has not been given appropriate provisional ID

## CASE LAWS

and due to which the Petitioner-Assessee was unable to comply with filing of returns, remittance of tax, generation of e-way bill, unable to avail transitional credit on closing stock.

#### IV. Legal principles :

1. **Section 139 of CGST / SGST Act, 2017:** Every person registered under existing laws and having a valid permanent account number, shall be issued a certificate of registration on provisional basis and thereafter, final certificate will be issued. In case, certificate is cancelled on account of any other contraventions prescribed under the law, then such person is not liable to registration under this Act.
2. **Rule 24 of CGST / SGST Rules, 2017 :** Every person registered under the existing law and having PAN shall enroll himself on the common

portal. Subsequent to enrolment, such person should be issued GSTIN.

- V. **Scope of the judgment :** The Hon'ble High Court directed the department to issue appropriate password to a Petitioner-Assessee company to complete the migration process and enable the Petitioner-Assessee to upload the returns and deposit tax. Further, it is directed that the commercial tax department shall allow the petitioner to complete the migration of registration.
- VI. **Conclusion :** The incorrect migration of registration or any error / mistake on the part of the department shall be diligently rectified by the department.

*[M/s Metro Institutes of Medical Sciences Pvt. Ltd. vs. State of U.P. & 5 Others 2017 (10) TMI 784 - Allahabad High Court]*

Source: Indirect Tax Committee of the ICAI

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## NEW MEMBERS ENROLLED

### May, 2018 to October, 2018

Sl. No.	Name	Membership No.
1.	CA Mahip Kumar Lodha	L 1402
2.	CA Aditya Dhanuka	L 1403
3.	CA Rajesh Kumar Kejriwal	L 1404
4.	Mr. Rohit Bajoria	L 1405
5.	CA Chirag Bajaj	L 1406
6.	CA Chandan Agarwal	L 1407
7.	CA Amit Kumar Jain	L 1408
8.	CA Binod Kumar Rungta	L 1409
9.	CA Navin Kumar	L 1410
10.	Mr. Goutam Chowdhury	L 1411
11.	CA Pushp Deep Rungta	L 1412
12.	Mr. Ankit Shroff	L 1413
13.	CA Raj Singhania	L 1414
14.	CA Vijayant Agrawal	L 1415

Sl. No.	Name	Membership No.
15.	CA Pradeep Modi	L 1416
16.	Mr. Rahul Rungta	L 1417
17.	CA Amitabh Saraogi	L 1418
18.	CA Dindayal Jajodia	L 1419
19.	CA Mahesh Kumar Modi	L 1420
20.	CS Sachin Pilania	L 1421
21.	CA Rohit Jalan	L 1422
22.	CA Shivank Chhparia	L 1423
23.	Mr. Subhojit Roy	G 1424
24.	CA Jyoti Dalan	G 1425
25.	CA Gaurav Agarwal	L 1426
26.	CA Samir Kumar Mishra	L 1427
27.	CA Niraj Kumar Jhunjunwala	L 1428
28.	CA Manish Garg	L 1429



## Latest Judgements and Notifications in relation to Income Tax Act, 1961

Compiled by **CA Ramesh Kumar Patodia**  
assisted by **CA Ritika Lath**

SL. No.	Citation	Pronouncement
1.	Assistant Commissioner of Income-tax, Central Circle-2 vs. Radhaswami Salt Works. [2018] 92 taxmann.com 349 (SC)	Reassessment on mere change of opinion cannot be made when all the facts were disclosed by the assessee in the assessment: Assessee was given land on lease by State Government for production of salt - Assessee surrendered said land - Thereafter, said land was sold by Government to company named CGPL - Apart from paying sale consideration, CGPL made separate payment to assessee - Assessing Officer brought said sum to tax as capital gain - Subsequently, Assessing Officer opined that since assessee did not have any right to sell leasehold land, said sum was to be taxed as income from other sources - He initiated reassessment- High Court by impugned order held that assessee having disclosed all said facts in assessment, reassessment was mere change of opinion and further since question of correct taxability of said receipt was pending before Tribunal, Assessing Officer could not reopen assessment on said matter - Whether SLP filed against said order was to be dismissed - Held, yes [In favour of assessee]
2.	Principal Commissioner of Income tax, Panaji vs. Paradise Inland Shipping (P.) Ltd [2018] 93 taxmann.com 84 (SC)	Assessment proceedings dropped by High Court on writ petition filed by the assessee on the ground that the assessee already proved the genuineness of the transaction in question at the time of assessment only: Assessing Officer initiated reassessment proceedings in case of assessee on ground that its shares were purchased by fictitious companies – Assessee filed a petition challenging validity of said proceedings – High Court noted that assessee had produced voluminous documents from public offices which maintained records of those companies – Assessee also brought on record assessment orders passed in case of said companies in three proceedings years – High Court thus taking a view that assessee had proved genuineness of share transactions, set aside reassessment proceedings – Whether on facts, impugned order passed by High Court did not require any interference – Held, yes [In favour of assessee]
3.	Principal Officer, L.G. Electronics Shenyang INC. Vs. Assistant Director of Income-tax, Noida [2018] 92 taxmann.com 352 (SC)	Reassessment proceeding was dropped on the finding of the DRP that there is no PE of assessee in India: In course of survey carried out at premises of Indian subsidiary of assessee, a non-resident company, Assessing Officer found that said subsidiary formed assessee's PE in India and, thus, profits were required to be attributed to PE in terms of FAR analysis - Assessing Officer thus initiated reassessment proceedings in case of assessee - Assessee's objection to reassessment proceedings was rejected by High Court - Subsequently, DRP recorded a finding that there was no PE of assessee in India - Consequently, Assessing Officer passed orders dropping reassessment proceedings - Whether in view of fact that DRP had found that there was no permanent establishment of assessee in India, impugned judgment of High Court was to be set aside - Held, yes. [In favour of assessee]

## CASE LAWS

SL. No.	Citation	Pronouncement
4.	Income Tax Officer, ward No. 16(2) vs. TechSpan India (P.) Ltd [2018] 92 taxmann.com 361 (SC)	<p>When allowance of deduction was well considered in original assessment, reassessment cannot be made on change of opinion:</p> <p>Whether where question as to how and to what extent deduction should be allowed under section 10A was well considered in original assessment proceedings itself, initiation of re-assessment proceedings under section 147 by issuing a notice under section 148 merely because now Assessing Officer was of view that deduction under section 10A was allowed in excess, was based on nothing but a change of opinion on same facts and circumstances which were already in his knowledge even during original assessment proceedings – Held, yes [In favour of assessee].</p> <p>If assessment order is non-speaking, cryptic or perfunctory in nature, it may be difficult to attribute to Assessing Officer any opinion on questions that are raised in proposed re-assessment proceedings - Held, yes - Whether every attempt to bring to tax income that has escaped assessment, cannot be absorbed by judicial intervention on an assumed change of opinion even in cases where order of assessment does not address itself to a given aspect sought to be examined in re-assessment proceedings - Held, yes [Paras 12 - 14] [In favour of assessee]</p>
5.	Home Finders Housing Ltd. vs. Income-tax officer, Corporate Ward 2(3) [2018] 94 taxmann.com 84 (SC)	<p>Non Compliance of procedure indicated by supreme court in passing order would not make order void:</p> <p>Assessing Officer noticed that income chargeable to tax had escaped assessment and he initiated reassessment under section 147 - Assessee raised objections - However, Assessing Officer without giving disposal to objections of assessee, passed reassessment order - Assessee challenged reassessment order before High Court on ground that by not passing a specific order after receiving objections, Assessing Officer violated law declared by Supreme Court in GKN Driveshafts (India) Ltd. v. ITO [2002] 125 Taxman 963 that Assessing Officer should pass a speaking order taking into account objections for re-opening assessment under section 147, and resultantly, order was bad in law - High Court held that non-compliance of procedure indicated by Supreme Court would not make order void or non-est and such a violation was a procedural irregularity which could be cured by remitting matter to authority - Whether SLP against impugned order was to be dismissed - Held, yes [In favour of revenue]</p>
6.	Principal Officer LG Electronics India (P.) Ltd. vs.. Assistant Commissioner of Income Tax [2018] 89 taxmann.com 39 (SC)	<p>SLP granted against High Court ruling that where at time of making assessment, assessee did not disclose about existence of PE of its parent company in India and as a result, Assessing Officer could not examine as to whether tax was deductible at source while making remittances to parent company located abroad, it was to be regarded as a valid ground for reopening of assessment.</p>
7.	Laxmiraj Distributors (P.) Ltd. vs. Principal Commissioner of Income-tax, Vadodara [2018] 95 taxmann.com 109 (SC)	<p>SLP dismissed against High Court ruling that where pursuant to survey, assessee-company had voluntarily disclosed certain amount as its undisclosed income towards allotment of shares to several companies but director of assessee-company failed to give details of investors of companies and investment made by them, reassessment was justified.</p>
8.	Principal Commissioner of Income-tax vs. Accura Polytech (P.) Ltd. [2018] 97 taxmann.com 213 (SC)	<p>Disclosure of unabsorbed depreciation has no impact on 'chargeable income'- therefore not a valid ground for reassessment:</p> <p>SLP dismissed against High Court ruling that where Assessing Officer reopened assessment taking a view that assessee wrongly carried forward unabsorbed depreciation pertaining to assessment year 1998-99, in view of fact that disclosure of unabsorbed depreciation had no impact on 'chargeable income' for relevant year which was alleged to have escaped assessment, Tribunal was justified in setting aside reassessment proceedings.</p>

SL. No.	Citation	Pronouncement
9	Principal Commissioner of Income-tax, Vadodara-2 vs. Sun Pharmaceutical Industries Ltd. 2017] 79 taxmann.com 61 (SC)	SLP granted against High Court's ruling that where Assessing Officer during original assessment had considered issue relating to deductions under sections 80-IA and 80HHC in detail, he could not initiate reassessment proceedings merely on basis of change of opinion that assessee had claimed excessive deductions in return of income
10	Commissioner of Income Tax, Kanpur vs. Kanpur Plasticpack Ltd. [2018] 95 taxmann.com 140 (SC)	Notice under section 148 was served on the accountant of the company is invalid-reassessment dropped: SLP dismissed against High Court ruling that reassessment proceedings initiated on basis of notice served under section 148 on accountant of company were vitiated, as accountant was not Principal Officer of Company, nor was there any material to show that he had been authorised by company to accept any notice. Reassessment proceedings, which were initiated on basis of the said notice were vitiated - Whether SLP against said impugned order was to be dismissed - Held, yes [In favour of assessee]
11	Deputy Commissioner of Income-tax, Circle-1 vs. Vinodbhai Shamjibhai Ravani. 2018] 94 taxmann.com 246 (SC)  And also in the case of, Deputy Commissioner of Income-tax v. Alpesh Gokulbhai Kotadia [2018] 95 taxmann.com 108 (SC)	SLP against High Court's order that where there was no tangible material available on record to form a reasonable belief that amount of sale consideration on sale of land owned by third party was received by assessee in cash, merely on basis of sauda chitthi signed by assessee for sale of such land, it could not be said that sale consideration was received by assessee, was to be dismissed and reassessment notice was said to be set aside.
12	Jakhotia Plastics (P.) Ltd. v. Principal Commissioner of Income-tax [2018] 94 taxmann.com 96 (SC)	Matter referred to full bench against decision of High Court that in view of doubt as to accuracy of interpretation of section 147 read with Explanation 3, by different High Courts: Income escaping assessment – Non-disclosure of primary facts (Explanation 3) – Assessment year 2005-06 – In Ranbaxy Laboratories Ltd. v. CIT [2011] 12 taxmann.com 74/200 Taxman 242 (Delhi)/336 ITR 136 (Delhi)/[2011] 242 CTR 117 (Delhi) and other cases, High Court had held that interpretation of section 147, read with Explanation 3, is restrictive, so as to sustain only additions made in course of reassessment proceedings subject to additions of amounts adverted to in reassessment notice in 'reasons to believe' under section 147/148 – In N. Govinda Raju v. ITO [2015] 60 taxmann.com 333/233 Taxman 376/377 ITR 243 (Kar.), High Court held that Explanation 3 was inserted in section 147 by which it has been clarified that Assessing Officer can assess income in respect of any issue which has escaped assessment and also 'any other income' which comes to his notice subsequently during course of proceedings – High Court in impugned order held that there being some doubt as to accuracy of interpretation of section 147, appropriate course would be to refer issue to Full Bench – Whether, on facts, SLP filed against said decision was to be dismissed – Held, yes [In favour of revenue]
13	Paramount Communications Ltd. v. Principal Commissioner of Income Tax [2017] 84 taxmann.com 300 (SC)	Information received by Directorate of Revenue Intelligence (DRI) is a valid ground for reassessment: Reassessment was sought to be initiated on recording reason that information was received from Directorate of Revenue Intelligence (DRI) and passed on to revenue authorities that Central Excise Commissioner had detected bogus purchase made by assessee-company from company KIPL during relevant period - High Court by impugned order held that said information would be tangible material 'outside' record and to require revenue to disclose further details regarding nature of documents or contents thereof would be virtually rewriting conditions in section 147 and to add further conditions to nature of discussion/reasons that officer authorising notice would have to discuss in note or decision; this would be beyond purview of Courts and would not be justified - Whether SLP against said impugned order was to be dismissed - Held, yes [In favour of revenue]

# Goods & Service Tax (GST)

Compiled by CA. Tarun Kr. Gupta

1. **Filing of Final Return** - The persons whose registration under the GST Act has been cancelled on or before the 30th September, 2018 shall furnish the final return in FORM GSTR-10 of the said rules till the 31st December, 2018 (Notification no. 58/2018-Central Tax dt. 26-10-2018).
2. **Return of job worker** – The Government has extended time for furnishing the declaration in **FORM GST ITC-04** of the said rules, in respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another, during the period from July, 2017 to September, 2018 till the 31st day of December, 2018 (Notification no. 59/2018-Central Tax dt. 26-10-2018).
3. **Cancellation of GST Registrations** - In order to clarify some issues and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board has clarified the issues w.r.t. cancellation of GST Registrations (Circular No. 69/43/2018-GST dt. Oct 26, 2018).
4. **Clarifications of issues under GST related to casual taxable person and recovery of excess Input Tax Credit distributed by an Input Service distributor** – The Government has issued Clarifications of some issues related to casual taxable person and recovery of excess Input Tax Credit distributed by an Input Service distributor (Circular No. 71/45/2018-GST dt. Oct 26, 2018).
  - a. **Payment by Casual Taxable Person (CTP)** - It is clarified that the amount of advance tax which a casual taxable person is required to deposit while obtaining registration should be calculated after considering the due eligible ITC which might be available to such taxable person.
  - b. **Can a Casual Taxable Person (CTP) take registration for more than 180 days** - It is clarified that in case of long running exhibitions (for a period more than 180 days), the taxable person cannot be treated as a CTP and thus such person would be required to obtain registration as a normal taxable person.
  - c. **Manner of recovery of excess credit distributed by an Input Service Distributor (ISD)** - The excess credit so distributed shall be recovered from such recipients along with interest and penalty if any.
5. **Date of filing GST TRAN-1 extended to Jan. 31, 2019 for taxpayers who couldn't file it due to technical reasons** - The CBIC has extended the time period for submitting the declaration in Form GST TRAN-1 till January 31, 2019 for the persons who could not submit the said declaration due to technical difficulties on the GST portal (Order No. 4/2018-GST, Dated 17-09-2018).
6. **Tax Deduction at Source (TDS)** –The Central Government vide **Notification No. 50/2018 – Central Tax dated September 13, 2018** has appointed the 1st day of October 2018, as the date on which the provisions of Section 51 of the CGST Act, 2017 (i.e. Tax deduction at source) shall come into force. TDS has to be deducted from suppliers of taxable goods or services or both where the total value of such supply, under a contract, exceeds INR 2,50,000/-. TDS is to be deducted at the rate of 2% for CGST+SGST/ UTGST or IGST from the payment made or credited to the deductee. TDS deductors, whether or not separately registered, are required to compulsorily register in GST irrespective of threshold limits. TDS applicants who do not have a PAN, can register on basis of TAN. The amount of TDS shall be paid to the Government by the deductor within 10 days after the end of the month in which such deduction is made. The deductor shall furnish to the deductee a certificate in Form GSTR-7A (made electronically available), within 5 days of crediting the amount so deducted to Government. A Return in form GSTR-7 has to be filed within 10th of the following month). In case of non-payment of TDS within time, interest as per Section 50(1) [at 18% per annum] is payable in addition to the amount of tax deducted. In case of failure to furnish TDS Certificate to the deductee, late fee of INR 2,000/- per day from the day after the expiry of five days period until the failure is rectified is payable, subject to a maximum amount of INR 10,000/-Detailed guidelines for Deductions and Deposits of TDS by the DDO under GST has also been issued vide Circular No. 65/39/2018-DOR dt. 14-9-18.
7. **Tax Collection at Source (TCS)** – The Central Government vide **Notification No. 51/2018 – Central Tax dated September 13, 2018** has appointed the 1st day of October 2018, as the date on which the provisions of Section 52 of the CGST Act, 2017 (i.e. Tax collection at source) shall come into force. The rate of TCS has been notified at 0.5% (CGST) + 0.5% (SGST)/ 1% (IGST) vide **Notification No. 52/2018 – Central Tax dated September 20, 2018**. Every electronic commerce operator (ECO), not being an agent, shall collect TCS at prescribed rate when taxable supplies are made through it by other suppliers and the consideration with respect to such supplies is to be collected by the ECO. Every ECO is required to compulsorily register in GST irrespective of threshold limits. The amount of TCS shall be paid to the Government by the ECO within 10 days after the end of the month in which such collection is made. The ECO is required

to furnish a monthly statement in Form GSTR-8 by the 10th of the following month. The ECO is also required to file an Annual statement in Form GSTR-9B by the 31st of December following the end of every financial year. The tax collected by the ECO shall be credited to the cash ledger of the supplier who has supplied the goods/ services through the ECO. The supplier can claim credit of the tax collected and reflected in the return by the ECO in his [supplier's] electronic cash ledger.

8. **Reconciliation Statement and GST Audit** – The Government has notified Form 9C for the financial year 2017-18. The **Reconciliation Statement and GST Audit** has to be filed by December 31, 2018, in case the aggregate turnover of the Taxpayer is more than 2 crores in the financial year. The details for the period between July 2017 to March 2018 are to be provided in this return. (Notification No. 49 /2018 –CT dated 13th September, 2018).
9. **Cancellation of registration in case of non-filing of returns** - It has been notified that if the person instead of replying to the notice, furnishes all the pending returns and makes full payment of taxes along with interest and late fees, the proper officer can drop the proceedings of cancellation ((Notification no. 39/2018-Central tax dated 4th September 2018).
10. **Annual Return** – The Government has notified Forms 9 (Normal Taxpayer) and 9A (Composition Taxpayer) for the financial year 2017-18. The Annual Return has to be filed by December 31, 2018. In case the aggregate turnover of the Taxpayer is more than 2 crores in the financial year, the same has to be audited and filed alongwith Form 9C (format to be notified). The details for the period between July 2017 to March 2018 are to be provided in this return. (Notification No. 39/2018 – Central Tax dt. Sep 4, 2018).

## Income Tax Act, 1961

Compiled by **CA Ramesh Kumar Patodia** assisted by **CA Ritika Lath**

1. The Supreme Court has decided to hear the petitions filed by Congress leaders Sonia Gandhi, Rahul Gandhi and Oscar Fernandes challenging Delhi High Court order directing the re-opening of their tax assessment for the year 2011-12. The next date of hearing is fixed on 4th December. The matter pertains to the reassessment of the IT returns of the Gandhis and Fernandes in relation to the National Herald Transaction. The IT department had issued a notice to Rahul Gandhi on March 31, 2018 for allegedly concealing information on his status as Director of Young Indian Private Ltd Gandhi's shares in Young Indian allegedly resulted in an income of Rs 154 crore, as opposed to the earlier assessed income of Rs.68 lacs.
2. The Madras High Court on 2/11/2018 quashed the prosecution proceedings launched by the Income-tax department against the Chidambaram family under the Black Money (Undisclosed foreign income and assets) and imposition of Tax Act, 2015 (Black Money Act).
3. The Apex Court vide Order dated 26th October, 2018 in the case of S Sarojini Amma Vs Velayudhan Pillai Sreekumar held that a deed executed as gift deed but subject to conditions is incomplete and can be cancelled before the conditions are fulfilled. The court accepted the ratio of the judgement in the case of Reninkuntla Rajamma Vs K Sarwanamma holding that a gift is a transfer of property without consideration and a condition gift becomes complete on the compliance with the conditions of the deed.
4. In the case of Ajay Kumar Gupta (HUF) Vs ACIT Circle 28(1) reported in 2018 (10) TMI 1403, ITAT Delhi held that the HUF itself cannot become a working partner in a partnership firm and therefore there is no question for the HUF to become a working partner and the due date of filing of return in the case of HUF cannot be extended as per the provisions of Section 139(1) Explanation 2(iii).
5. The CBDT Vide Notification No 74/2018 dated 25th October, 2018 vide Income-tax (Eleventh Amendment) Rules, 2018 amended Rule 28 dealing with the Application for grant of certificates for deduction of income-tax at any lower rates or no deduction of income-tax.
6. The Apex Court in the case of ITO Vs Urban Improvement Trust on 12th October, 2018 held that an Urban Improvement Trust is not covered by definition of local authority within the meaning of Explanation to Section 10(20) of the Income-tax Act, 1961 and hence it is not entitled to tax exemption under the said provision.
7. The Central Board of Direct Taxes Vide Notification No 60/2018 dated 1st October, 2018 notified the transactions for acquisition of equity shares in respect of which the provisions of Section 112A(1)(iii)(a) shall not apply
8. Delhi High Court vide order dated 14/9/2018 in the case of Karan Luthra Vs ITO (2018) 10 TMI 135(Del) held that prosecution proceedings u/s 276CC can be continued for failure to furnish the return u/s 139 even if the assessee has subsequently filed the income-tax return.
9. Gujrat High Court vide order dated 24th September, 2018 in the case of D P Patel Vs ACIT (2018) 9 TMI 1635(Guj) held that credit of tds deducted from salary has to be given even if the employer failed to deposit the tds amount with the government.



## Key amendments in the Companies (Amendment) Ordinance, 2018

Compiled by CS Aditi Jhunjhunwala

### 1. Insertion of section 10A - commencement of business

Rolling back to provisions of Companies Act, 1956, a company having share capital incorporated after the commencement of the Ordinance, has to ensure the following before commencing its business or exercising borrowing powers. However, there is no mention of obtaining the certificate but merely filing.

(a) Director to file a declaration within a period of 180 days from the date of incorporation of the company in such form as is prescribed that every subscriber to the memorandum has paid the value of the shares as agreed for. Failure to file the declaration shall give reasonable cause to the RoC to remove the name of the company from the register of companies.

(b) The company has verified its registered office in e-Form INC-22.

### 2. Section 12 - Verification of registered office of the Company

Physical verification of the registered office may be done on reasonable cause to believe that no business or operations is being carried out by the company. Therefore, this by and large also revolves around section 248 of the Act. The Registrar may remove the name of the company from the register of companies in case of default found.

### 3. Section 14 - Alteration of Articles

Authority to approve application for conversion of a public company to a private company has been now delegated to the Central Government rather than the Tribunal. The existing applications pending are however required to be disposed off by the Tribunal.

### 4. Section 77 - Registration of charges etc.

A very important change is brought about with respect to registration of charges. The time period of additional filing upto 300 days has been done away with and instead the registration beyond the prescribed time frame, i.e. 60 days now after the commencement of the Ordinance would be done on payment of ad-valorem fees which is yet to be

prescribed. In case of existing charges prior to Ordinance pending registration shall be registered within 180 days of commencement of Ordinance.

### 5. Section 164 - disqualification of director

Insertion of a new-clause by providing that disqualification will be attracted on default of compliance with section 165 with respect to maximum number of directorships held by a director.

### 6. Section 165 - number of directorships

In case where a director contravenes the maximum limit of directorship as provided in section 165 of the Act, he/she shall be punishable with a penalty of rupees five thousand everyday till the contravention continues.

### 7. Section 197 - Overall managerial remuneration in case of inadequacy of profits

Section 197 (7) with respect to bar on independent directors being issued stock options has been deleted. Therefore, there is no bar on issuing stock options to independent directors anymore. Further, he may also receive remuneration by way of fees which was earlier a bar under section 197(7). However, this is very counter-intuitive of having an independent director on the board. Further, one is to note that such restriction though removed from section 197 still continues under section 149 (9).

### 8. Section 248 - Power of the Registrar to remove the name of the company

There are two additional grounds under section 248 added for consideration of removal of names of company from the register by the Registrar. However, what is interesting and important to note is that the proposed changes by MCA also include attachment of property by the government in case of dissolution of a company wherein, all property and rights vested in or held on trust for the company (excluding property held by for another person), will vest in the Central Government immediately before the dissolution. Given the intent of this change, it seems that the same may take retrospective effect.

\* \* \* \* \*



# Compliance Calendar GST, Income Tax & ESI

Compiled by **CA. Vivek Jalan**

## GST

DUE DATE	FORM No	DESCRIPTION
10-Dec-18	GSTR-7, GSTR-8	GST-TDS & GST-TCS Return & Payment for the month of November 2018
10-Dec-18	GSTR-7, GSTR-8	GST-TDS & GST-TCS Return for the month of November 2018
11-Dec-18	GSTR-1	Details of outward supplies of goods or services for the month of November, 2018 for Persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year.
13-Dec-18	GSTR-6	Return for the month of November, 2018 applicable for input service distributors (ISD)
15-Dec-18	GSTR-7A	Issue of GST-TDS Certificate for the month of November 2018 for payment made and return filed on 10 <sup>th</sup> December
20-Dec-18	GSTR-5	Return for Non-resident taxable person for the month of November, 2018.
20-Dec-18	GSTR-3B	Summary Return of outward and inward supplies For the month of November, 2018.
20-Dec-18	GSTR-5A	Details of supplies for the month of November, 2018 of online information and database access or retrieval services by a person located outside India made to non-taxable persons in India.
31-Dec-18	ITC-04	Extended date for filing return for goods sent for Job Worker for July'17- Sep'18
31-Dec-18	GSTR-10	Final Return [Whose registration has been cancelled upto 30.09.2018.
31-Dec-18	GSTR-9	Annual Return (for other than Composite Taxpayers) for the period July 2017 to March 2018.
31-Dec-18	GSTR-9A	Annual Return (For Composition Taxpayer) for the period July 2017 to March 2018.
31-Dec-18	GSTR-9C	Reconciliation Statement and Certification for taxpayers whose aggregate turnover during a financial year exceeds two crore rupees
10-Jan-19	GSTR-7, GSTR-8	GST-TDS & GST-TCS Return & Payment for the month of December 2018
11-Jan-19	GSTR-1	Details of outward supplies of goods or services for the month of December, 2018 for Persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year.
13-Jan-19	GSTR-6	Return for the month of December, 2018 applicable for input service distributors (ISD)
15-Jan-19	GSTR-7A	Issue of GST-TDS Certificate for the month of December 2018 for payment made and return filed on 10 <sup>th</sup> January
20-Jan-19	GSTR-5	Return for Non-resident taxable person for the month of December, 2018.
20-Jan-19	GSTR-3B	Summary Return of outward and inward supplies For the month of December, 2018.
20-Jan-19	GSTR-5A	Details of supplies for the month of December, 2018 of online information and database access or retrieval services by a person located outside India made to non-taxable persons in India.
31-Jan-19	GSTR-1	Details of outward supplies of goods or services for persons having aggregate turnover of upto 1.5 crore rupees in the preceding financial year or the current financial year.
10-Feb-19	GSTR-7, GSTR-8	GST-TDS & GST-TCS Return & Payment for the month of January 2018
11-Feb-19	GSTR-1	Details of outward supplies of goods or services for the month of January, 2019 for Persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year.
15-Feb-19	GSTR-7A	Issue of GST-TDS Certificate for the month of January 2018 for payment made and return filed on 10 <sup>th</sup> February

## COMPLIANCE CALENDAR

DUE DATE	FORM No	DESCRIPTION
20-Feb-19	GSTR-3B	Summary Return of outward and inward supplies for the month of January, 2019.
10-Mar-19	GSTR-7, GSTR-8	GST-TDS & GST-TCS Return & Payment for the month of February 2018
11-Mar-19	GSTR-1	Details of outward supplies of goods or services for the month of February, 2019 for Persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year.
15-Mar-19	GSTR-7A	Issue of GST-TDS Certificate for the month of February 2018 for payment made and return filed on 10 <sup>th</sup> March
20-Mar-19	GSTR-3B	Summary Return of outward and inward supplies for the month of February , 2019.
31-Mar-19	GST TRAN-1	GST Return for Transitional Input credit for the class of registered persons who could not submit the said form on account of technical difficulties on the common portal and whose cases have been recommended by the Council.

## INCOME TAX

DUE DATE	FORM No	DESCRIPTION
7-Dec-18	Income Tax Form: ITNS – 281	Due date for deposit of Tax deducted/collected for the month of November, 2018.
15-Dec-18	Form 24G	Due date for furnishing of Form 24G by an office of the Government where TDS for the month of November, 2018 has been paid without the production of a challan
15-Dec-18	Challan 280	Due Date for 3rd installment of advance tax for the assessment year 2019-20.
15-Dec-18	Form 16B	Due date for issue of TDS Certificate for tax deducted under section 194-IA in the month of Oct., 2018
15-Dec-18	Form 16C	Due date for issue of TDS Certificate for tax deducted under section 194-IB in the month of Oct., 2018
30-Dec-18	Form No.26QB	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA in the month of November, 2018
30-Dec-18	Form 26QC	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IB in the month of November, 2018
7-Jan-19	Form 24G	Due date for furnishing of Form 24G by an office of the Government where TDS for the month of December, 2018 has been paid without the production of a challan.
7-Jan-19	Challan 281	Due date for deposit of TDS for the period October 2018 to December 2018
14-Jan-19	Form 16B	Due date for issue of TDS Certificate for tax deducted under section 194-IA in the month of Nov., 2018
14-Jan-19	Form 16C	Due date for issue of TDS Certificate for tax deducted under section 194-IB in the month of Nov., 2018
15-Jan-19	Form 24G	Due date for furnishing of Form 24G by an office of the Government where TDS for the month of December, 2018 has been paid without the production of a challan
15-Jan-19	Challan 281	Quarterly statement of TCS deposited for the quarter ending December 31, 2018
15-Jan-19	Form 15CC	Quarterly statement in respect of foreign remittances (to be furnished by authorized dealers)In Form No. 15CC for quarter ending December, 2018
15-Jan-19	Form 15G/15H	Due date for furnishing of Form 15G/15H declarations received during the quarter ending Dec., 2018
30-Jan-19	Form 3CH	Quarterly TCS certificate in respect of tax collected for the quarter ending December 31, 2018
30-Jan-19	Form 26QB	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA in the month of December, 2018
30-Jan-19	Form 26QC	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IB in the month of December, 2018
31-Jan-19	Challan 281	Quarterly statement of TDS deposited for the quarter ending December 31, 2018.

## COMPLIANCE CALENDAR

DUE DATE	FORM No	DESCRIPTION
31-Jan-19	Form 26QCC	Quarterly return of non-deduction at source by a banking company from interest on time deposit in respect of the quarter ending December 31, 2018.
31-Jan-19	Form 3CEAD	Intimation under section 286(1), by a resident constituent entity of an international group whose parent is non-resident.
7-Feb-19	Form 24G	Due date for furnishing of Form 24G by an office of the Government where TDS for the month of January, 2019 has been paid without the production of a challan
7-Feb-19	Challan 281	Due date for deposit of Tax deducted/collected for the month of January, 2019.
14-Feb-19	Form 16B	Due date for issue of TDS Certificate for tax deducted under section 194-IA in the month of Jan., 2019.
14-Feb-19	Form 16C	Due date for issue of TDS Certificate for tax deducted under section 194-IB in the month of Jan., 2019.
15-Feb-19	Form 24G	Due date for furnishing of Form 24G by an office of the Government Where TDS for the month of January 2018 has been paid without the production of a challan.
15-Feb-19	Form 26Q	Quarterly TDS certificate (in respect of tax deducted for payments other than salary) For the quarter ending December 31, 2018.
1-Mar-19	Form 3CEAB	Intimation by a designated constituent entity, resident in India, of an international group in Form no. 3CEAB for the accounting year 2016-17
2-Mar-19	Form 26QB	Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA in the month of January 2018
2-Mar-19	Form 26QC	Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IB in the month of January 2018
7-Mar-19	Form 24G	Due date for furnishing of Form 24G by an office of the Government where TDS for the month of January, 2019 has been paid without the production of a challan
15-Mar-19	Form 16B	Due date for issue of TDS Certificate for tax deducted under Section 194-IA in the month of Jan., 2019
15-Mar-19	Form 16C	Due date for issue of TDS Certificate for tax deducted under Section 194-IB in the month of Jan., 2019.
15-Mar-19	Form 24G	Due date for furnishing of Form 24G by an office of the Government where TDS for the month of February 2019 has been paid without the production of a challan
15-Mar-19	Challan 280	Fourth instalment of advance tax for the assessment year 2019-20. Due date for payment of whole amount of advance tax in respect of assessment year 2018-19 for assessee covered under presumptive scheme of section 44AD/ 44ADA.
30-Mar-19	Form 26QB	Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA in the month of February 2018.
30-Mar-19	Form 26QC	Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IB in the month of February 2018.
31-Mar-19	Form 3CEAA	Report in Form No. 3CEAA by a constituent entity of an international group for the accounting year 2017-18.
31-Mar-19	Form 3CEAD	Country-By-Country Report in Form No. 3CEAD by a parent entity or an alternate reporting entity or any other constituent entity, resident in India, for the accounting year 2017-18.

## ESIC

DUE DATE	FORM No	DESCRIPTION
21-Dec-18	ESIC PAYMENT	ESIC payment for the month of November, 2018
21-Jan-19	ESIC PAYMENT	ESIC payment for the month of December, 2018
21-Feb-19	ESIC PAYMENT	ESIC payment for the month of January, 2019
21-Mar-19	ESIC PAYMENT	ESIC payment for the month of February, 2019

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## Members at the Helm



**CA. Shivani Shah (Agarwalla)** gets a GOLD for India at World Championship of Kettlebell held at Uzbekistan from 01/11/2018 to 06/11/2018



**CA. Rajesh Jain**

During the recently concluded 7th Parliament of World Religions, 2018, at Toronto, Canada, Rajesh Jain of Kolkata spoke on Religion in the New Machine Age highlighting the need for a reorientation in the light of new technologies like Artificial Intelligence.



**CA. Vikash Parakh**

Mr. Vikash Parakh has been appointed as the President of Direct Taxes Professionals' Association (DTPA) for the year 2018-19.



**CA. Ravi Jain**

Mr. Ravi Jain, has been recently elected as the one and only Director Apex for Jain International Trade Organization (JITO) from East Zone which made him the youngest Director in the Organisation. JITO is the largest social organization for Jain Community in the country & abroad.



# MEMBERSHIP APPLICATION FORM



## ASSOCIATION OF CORPORATE ADVISERS & EXECUTIVES

(Registered under the Societies Registration Act, 1860)

**An ISO 9001 : 2015 Certified Organisation**

6, Lyons Range 3rd Floor, Unit - 2, Kolkata - 700 001

Phone : +91-33-2210-7724 • Telefax : +91-33-4060-8353

E-mail : info@acaekolkata.org • Website : www.acaekolkata.org

GSTIN : 19AAATA7029F1ZV

2 pcs Pass Port Colour Photograph

### APPLICATION FORM FOR MEMBERSHIP

To  
The General Secretary,  
**Association of Corporate Advisers & Executives**  
6, Lyons Range, 3rd Floor, Unit - 2  
Kolkata - 700 001

#### FOR OFFICE USE ONLY

Date of Receipt \_\_\_\_\_

Membership Approved on \_\_\_\_\_

Membership No. Allotted \_\_\_\_\_

*Chairperson*  
*Membership Development Sub-Committee*      *General Secretary*

Dear Sir,

Please **ENROL** me/us as a **LIFE/GENERAL MEMBER** of the Association. I/We agree to abide by the Memorandum and Rules & Regulations of the Association.

1. Name in Full (IN BLOCK LETTERS) : \_\_\_\_\_
2. Father's Name : \_\_\_\_\_
3. Date of Birth : \_\_\_\_\_
4. Academic and/or Professional Qualifications : \_\_\_\_\_
5. Occupation : \_\_\_\_\_
6. Name of the Concern with which associated : \_\_\_\_\_
7. GSTIN : \_\_\_\_\_
8. Designation : \_\_\_\_\_
9. CA/CS/ICWAI Membership No. : \_\_\_\_\_
10. Blood Group : \_\_\_\_\_ (Self) \_\_\_\_\_ (Spouse)
11. Date of Marriage : \_\_\_\_\_ Name of Spouse \_\_\_\_\_
12. Office Address : \_\_\_\_\_
13. Resident Address : \_\_\_\_\_

14. Telephone (Nos.) : (Off.) : \_\_\_\_\_ (Resi.) : \_\_\_\_\_ Fax : \_\_\_\_\_  
Mobile : \_\_\_\_\_ E-mail : \_\_\_\_\_

15. Address where Circular etc. should be sent :  Office  Residence  
I am/We are sending herewith Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_)  
by Cash/Cheque No. \_\_\_\_\_ Dated \_\_\_\_\_ Drawn on \_\_\_\_\_  
towards  Life Membership  General Membership.

Place : \_\_\_\_\_

Date : \_\_\_\_\_

\_\_\_\_\_  
*Signature of the Applicant*

**Proposed By:** Name : \_\_\_\_\_

ACAE Membership No. : \_\_\_\_\_ Signature : \_\_\_\_\_

**Seconded By:** Name : \_\_\_\_\_

ACAE Membership No. : \_\_\_\_\_ Signature : \_\_\_\_\_

- NOTES:**
1. Fee for Life Membership Rs. 11,800/- (for individuals only) (inclusive of GST)
  2. Fee for General Membership :
    - a) Annual Subscription Rs. 8850/- and Admission fees Rs. 8850/- (For Firm and Body Corporate) (inclusive of GST)
    - b) Annual Subscription Rs. 1770/- and Admission fees Rs. 1770/- (for individual) (inclusive of GST)
    - c) Annual Subscription will be half, if Membership Commences after 30th September of the year in which the membership is approved.
  3. Cheques should be drawn in favour of **Association of Corporate Advisers & Executives**.

## 58th Annual General Meeting of ACAE on 14th September, 2018 at The Lalit Great Eastern, Kolkata

युवा शक्ति

Saturday, 15th September, 2018

### एसीएई की 58वीं वार्षिक आम बैठक संपन्न

कोलकाता : एसोसिएशन ऑफ कॉर्पोरेट एडवाइजर्स एंड एग्जिक्यूटिव्स (एसीएई) की 58वीं वार्षिक आम बैठक द ललित ग्रेट ईस्टर्न होटल में संपन्न हुई. एसोसिएशन के नवनिर्वाचित अध्यक्ष सीए वासुदेव अग्रवाल ने सेवामुक्त अध्यक्ष सीए अरुण कुमार अग्रवाल से पदभार ग्रहण किया. एसीएई का गठन वर्ष 1960 में हुआ था और 2010 में इसने अपना 50वां वर्ष मनाया था. शुरुआत के बाद से, एसीएई ने कई मील का पत्थर पार कर लिया है. यह एक ऐसे मंच के निर्माण में अग्रणी है जो कॉर्पोरेट जगत में प्रगति और विकास के सामान्य लक्ष्यों को प्राप्त करने वालों को अवसर देता है. प्रो. सुकुमार भट्टाचार्य, पीएम नारियलवाला जैसे



प्रतिष्ठित व्यक्तित्व एसीएई के वर्षों अध्यक्ष रहे. कई मशहूर व्यक्तित्वों ने एसीएई द्वारा आयोजित कार्यक्रमों में भाग लिए हैं. एसोसिएशन के नवनिर्वाचित अध्यक्ष सीए वासुदेव अग्रवाल को सीए डॉ. देवाशीष मित्रा

(उपाध्यक्ष), सीए जितेंद्र लोहिया (उपाध्यक्ष), सीए अनुप संघई (महासचिव), सीए विवेक अग्रवाल (संयुक्त सचिव), सीए अनुप बांका (कोषाध्यक्ष) द्वारा समर्थन किया गया. एसीएई प्रोफेशनल्स के हित के लिए

नियमित आधार पर सम्मेलन, संगोष्ठियां, कार्यशालाओं, चर्चा, व्याख्यान बैठकों, स्मारक व्याख्यान, बहस और पैनल चर्चा आयोजित करता रहता है. एसोसिएशन द्वारा पत्रिका भी प्रकाशित की जाती है.

प्रभात खबर

Saturday, 15th September, 2018

### अध्यक्ष बने वासुदेव अग्रवाल

कोलकाता. एसोसिएशन ऑफ कॉर्पोरेट एडवाइजर्स एंड एग्जिक्यूटिव्स (एसीएई) की 58वीं सालाना आम बैठक में नये प्रेसीडेंट के तौर पर सीए वासुदेव अग्रवाल को चुना गया, जबकि वाइस प्रेसीडेंट के तौर पर सीए डॉ देवाशीष मित्रा और सीए जितेंद्र लोहिया को चुना गया. सीए अनुप संघई महासचिव के



तौर पर चुने गये जबकि सीए विवेक अग्रवाल संयुक्त सचिव तथा सीए अनुप बांका कोषाध्यक्ष के तौर पर चुने गये. सीए वासुदेव अग्रवाल ने प्रेसीडेंट पद पर सीए अरुण कुमार अग्रवाल की जगह ली. सीए वासुदेव अग्रवाल ने कहा कि अपने कार्यकाल में वह युवा सदस्यों को संगठन के कार्य में और अधिक शामिल करेंगे. साथ ही तकनीक का बेहतर उपयोग करते हुए संगठन की वेबसाइट को और बेहतर बनाने की दिशा में काम करेंगे. उन्होंने बताया कि संगठन को और बेहतर बनाने के लिए उन्हें सभी सदस्यों के सहयोग की जरूरत होगी. नयी कमेटी में कार्यकारी सदस्य (एग्जिक्यूटिव मेंबर्स) के तौर पर नीरज अग्रवाल, नीरज हीरोदिशा, प्रमोद कुमार मूंघड़ा, रंजीत कुमार अग्रवाल, सुमंत्र गुहा, सुमित विनानी, बीना जाजोदिशा, सुशील कुमार गोयल तथा करण कुमार गुप्ता को चुना गया. सालाना आम बैठक में पूर्व अध्यक्ष रंजन भट्टाचार्य, जौनेश बंजारा, कमल नयन जैन व अन्य भी शामिल हुए. एजीएम में बीते वर्ष के कार्य का लेखा जोखा पेश करने के अलावा बीते एक वर्ष में उत्कृष्ट कार्य करने वाले सदस्यों को पुरस्कृत भी किया गया. उल्लेखनीय है कि एसीएई की ओर से सम्मेलन, सेमिनार, सिंजिया, कार्यशाला, ग्रुप डिस्कशन, लेक्चर मीटिंग, मेमोरियल लेक्चर, चर्चा सत्र आदि का आयोजन नियमित रूप से किया जाता रहा है. इसके अलावा सीए विद्यार्थियों को बेहतरी के लिए जीएसटी, एकाउंटिंग व डायरेक्ट टैक्स संबंधित कई शैक्षिक कार्यक्रमों का भी आयोजन बीते एक वर्ष में किया गया है.

सन्मार्ग

Saturday, 15th September, 2018

### एसीएई की वार्षिक सभा व चुनाव



बैठक के दौरान एसीएई की कार्यकारिणी के सदस्य।

सन्मार्ग संवाददाता, कोलकाता: एसोसिएशन ऑफ कॉर्पोरेट एडवाइजर्स एंड एग्जिक्यूटिव्स (एसीएई) की 58वीं वार्षिक सभा का आयोजन शुक्रवार को किया गया। एसीएई के अध्यक्ष अरुण कुमार अग्रवाल ने कहा कि हमने इस वर्ष कुल 86 प्रोग्राम व सेमीनार सदस्यों व छात्रों के लिए आयोजित किये। वर्तमान में संगठन के 1210 सदस्य हैं। वार्षिक सभा में वित्तीय वर्ष 2018-19 के लिए सीए वासुदेव अग्रवाल को अध्यक्ष, उपाध्यक्ष देवाशीष मित्रा व जितेंद्र लोहिया, जनरल सेक्रेटरी अनुप संघई, संयुक्त सचिव विवेक अग्रवाल व कोषाध्यक्ष अनुप बांका को चुना गया।

Lecture Meeting on **Annual Return and Audit under GST – Latest Amendments in GST**  
held at Emami Conference Hall (ACAE) on Friday, the 28th September, 2018



From (L to R) : CA Tarun Kr Gupta, Chairman-GST/Indirect Tax Sub-Committee, CA Vasudeo Agarwal, President and CA Ankit Kanodia, Speaker

Speaker



CA Ankit Kanodia

Lecture Meeting on **(1) Latest Judicial Pronouncements under Insolvency and Bankruptcy Code, 2016 (2) Emerging Issues in Insolvency and Bankruptcy Code, 2016** held at Emami Conference Hall (ACAE) on Saturday, the 6th October, 2018

Speakers



CS Sikha Bansal



CA Bijay Murmura



Joint Secretary, CA Vivek Agarwal felicitating Speaker CA Bijay Murmura in presence of Dy. Convenor CA Niraj Agrawal.

Interactive Session on **Practical Issues related to Private Trust and Public Trust**  
held at Emami Conference Hall (ACAE) on Friday, the 2nd November, 2018

Speaker



Speaker : CA Ramesh Kumar Patodia, Chairman-Direct Tax Sub-Committee, giving his deliberations.

**Bijoya & Deepawali Get-together**

— held at Tangerine Banquets, Silver Spring, Silver Arcade, Em Bypass, Kolkata on Saturday, the 3rd November, 2018 —





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— held at Tangerine Banquets, Silver Spring, Silver Arcade, Em Bypass, Kolkata on Saturday, the 3rd November, 2018 —



**Bijoya & Deepawali Get-together**

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**Lecture Meeting on (1) Dissection of Sections relating to Defunct, Dormant, Shell Companies etc. (2) Conversion of Private Company into LLP and vice-versa held at Emami Conference Hall (ACAE) on Tuesday, the 20th November, 2018**



On the dais from (L to R) : CA Anup Kr Sanghai, Convener - ACAE Study Circle (Addressing), CS Ravi Varma, Guest Speaker and CA Vasudeo Agarwal, President.

— Speakers —



CS Ravi Varma



CS Shikha Gupta

— Interactive Session on **Rules of Investments** held at The Park, Kolkata on Saturday, the 24th November, 2018 —

— Speaker —



Mr. Varun Malhotra  
New Delhi,



On the dais, Convener, CA Ravi Jain, Guest Speaker, Mr. Varun Malhotra, New Delhi, President, CA Vasudeo Agarwal and General Secretary, CA Anup Kr Sanghai.

58th Annual General Meeting of Association of Corporate Advisers & Executives  
held at The Lalit Great Eastern, Kolkata on Friday, the 14th Setember, 2018



On the dais : Team 2017-18 - CA. Vivek Agarwal, Treasurer, CA. R.R.Modi, Immediate Past President, CA. Arun Kr Agarwal, President, CA. Vasudeo Agarwal, Vice President, CA. Anup Kr Sanghai, Treasurer



CA. Arun Kr Agarwal, President passing on the lapel pin to incoming President CA. Vasudeo Agarwal



Incoming President CA. Vasudeo Agarwal presenting collage to outgoing President CA. Arun Kr Agarwal



Past President CS. S. M. Gupta presenting memento to CA. Vivek Agarwal, Treasurer



Outgoing President CA. Arun Kr Agarwal addressing the gathering

# ACAE ALBUM

**58th Annual General Meeting of Association of Corporate Advisers & Executives**  
• held at The Lalit Great Eastern, Kolkata on Friday, the 14th September, 2018 •



Incoming President CA. Vasudeo Agarwal addressing the gathering



Immediate Past President CA. R.R.Modi addressing the gathering



One of ACAE's oldest member, Mr. Navin Ojha addressing the gathering



Release of compilation of ACAE House Journals



Participants of the 58th AGM with Incoming President CA. Vasudeo Agarwal and his team