Goods and Services Tax Audit: An Overview

Goods and Services Tax is a revolutionary change in the domain of commodity and services tax, which has brought a paradigm shift in the methodology of levy and collection of taxes and filing of returns. The requirements of the Government through the Annual Return and Audit are very exhaustive, which is evident from the various tables of Form GSTR 9, Form GSTR 9A and Form GSTR 9C. There will be no information beyond their reach and knowledge any further. The Revenue, with the aid of information technology, may identify patterns, spike in liability and credits, differences in reconciliations and intelligent reporting. The level of tax compliances prevailing and the complex nature of tax laws make it necessary for audit of accounts and records under GST laws. Therefore, in order to ensure tax compliance by the taxpayer, the GST law provides for audit by the tax department wherever the department deemed fit on selection basis by the competent authority and by professionals in specified cases beyond the prescribed limit. The law also provides for special audit by a chartered accountant or a cost accountant as may be nominated by the Commissioner. There would be many challenges that an auditor as well as the registered person will have to face while carrying out the GST audit for the financial year 2017-18, being the first year of GST audit. Read on…

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Before the GST regime, certain tax-compliant tax payers had voluntarily engaged tax professionals to conduct audits under the Excise or Service tax laws. This exercise was undertaken to evaluate tax compliances and to ensure that all liability is discharged within the timeframe so that there is no loss of interest and penalty and benefits of Inputs accruing to them is availed in good time. The financial impact of indirect taxes is always substantial and, therefore, those tax payers who had engaged auditor or experts for conduct of audit under the Excise or Service tax laws would have witnessed a great deal of value addition.

Audit is just a 5-letter word but its impact is enormous. It would be the duty of an auditor to inform the auditee about the requirement of GST audit, mandatory documents and other preparations required from the auditee. The GST audit casts a huge responsibility on the auditor, and it is very important that the auditor is aware of the nature and complexity of the business and modus operandi of the auditee. The GST Audit can only be conducted by a chartered accountant or cost accountant, only after preparation of Audited Financial Statements and filing of GST Annual Return. It is the responsibility of the GST Auditor to ensure that the "Accounts and Records" are maintained by the registered person as per the provisions of GST Acts and Rules. It may be advisable that he prepares a suitable standard questionnaire (depending on the nature of business and facts and circumstances of each case) in order to become familiar with the business and other activities of the auditee. One needs to keep it in mind that this audit is much more than simple figurative reconciliation and might be much more exhaustive and in-detail analysis as compared to traditional Statutory Audit. The auditee should not compare its significance to VAT Audits conducted in the previous regime.

As per Section 2(13) of the CGST Act, 2017, "audit means the 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."

GSTR-9C is a statement of reconciliation between the Annual return (GSTR-9) filed for a financial year and the figures as per Audited annual financial statements of the registered person. Preparation of GSTR 9C is a responsibility casted on the auditor rather than an opportunity. It is a systematic presentation of detailed information, which may be useful for analysis by the revenue department at a later date. Every registered person whose aggregate turnover during a financial year exceeds INR 2 crore is required to get his accounts audited and furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in **FORM GSTR-9C** by a chartered accountant/cost accountant.

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This form is required to be furnished after filing of Form GSTR-9 by the registered person as at many places, data in this form has to be reported from GSTR-9. This requirement is not applicable to Central Government or a State Government or a local authority, whose books of accounts are subject to audit by the Comptroller and Auditor General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force. There would be many challenges that an auditor as well as the registered person will have to face while carrying out the GST audit for the financial year 2017-18, being the first year of GST audit.

Government vide Notification No.39/2018 – Central Tax dated 4th September 2018, had notified GST Annual Return Formats viz. GSTR-9 (for regular taxable persons) and GSTR-9A (for composition suppliers). Every registered person other than the specified ones mentioned in Section 44(1) is required to furnish Annual Return by 31st December **irrespective of their turnover.** The due date was first extended to 31st March, 2019 vide Removal of Difficulty **Order No. 01/2018-Central Tax dated 11th December 2018** and then to 30th June, 2019 **vide Order No.03/2018-Central Tax dated 31st December 2018.**

GST audit report format was notified in form GSTR-9C vide Notification No.49/2018 – Central Tax dated 13th September 2018 and was subsequently amended vide Notification No. 74/2018 – CT dated 31st December, 2018 to make certain consequential and necessary changes to the Form released earlier. On the extension of the due date of the GST Audit and GST Annual return, one needs to evaluate its effect on other provisions of the law. For instance, Section 73/Section 74 of the CGST Act, says that the proper officer has to issue the order under the said sections within a period of 3 years/5 years from the **due date** of furnishing Annual Return. Therefore, as the due date is extended to 30.06.2019, the time barred limit of issuing the order also gets extended. As per Section 36 of the CGST Act, every registered taxable person must maintain the accounts books and records for at least 72 months (**6 years**). The period will be counted from the last date of filing of Annual Return for that year, so the same will also have effect.

Form GSTR-9C contains two parts:

- Part A- Reconciliation Statements
- Part B –Certification

It is pertinent to note that the Certification may be done either by the person who had conducted the audit of the accounts of the registered tax payer or by any other person.

Objectives of Audit under GST law:

What is to be done in GST Audit?	Why?
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, • Input tax credit availed, • Taxes paid, • Refund claimed and – to assess his compliance with the provisions of this Act or the rules made thereunder.

Thus, the objective of GST audit is to ensure whether registered person has:

- declared his turnover correctly?
- assessed his liability correctly and paid taxes thereon correctly ?
- claimed eligible Input Tax Credit correctly?
- claimed the refund, if any, correctly?
- maintained accounts and records / documents properly?
- filed his returns as per the provisions of the law?
- complied with all the provisions of the law, rules and Notification?

Legal Provisions of GST Audit

It is important to understand the relevant audit provisions under the GST laws – such as, whose accounts and records are to be audited, who can undertake a GST audit, what is the limit of threshold, what are the regulations of ICAI applicable to the GST auditor, the procedure for appointment, scope and preparations required, etc. One needs to exercise caution in reading and understanding the subtle departures or changes in the statute in comparison with the erstwhile legislations, in which case, one has to enhance the understanding of the fully taken forward provisions. He or she also needs to unlearn the old laws and learn the GST laws afresh for a complete understanding of the taxing statute.

As per Section 35(5) of the CGST 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."

As per Section 44(2) of the CGST Act, 2017 "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 35(5) read with Section 44(2) of the CGST Act provides that the registered person upon conclusion of the audit shall furnish the following documents electronically:

a. Annual Return;
b. Copy of the audited annual accounts;
c. Reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement in FORM GSTR 9C , duly certified;
d. Such other particulars, as may be prescribed

As per rule 80(3) of the CGST Rules, 2017 "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 80(3) provides that the reconciliation statement shall be furnished in the FORM GSTR-9C. The provisions of Section 44(2) require reconciliation of the figures declared in '*return furnished for the financial year*' with the '*audited financial statement*'. It appears that the return furnished for the financial year refers to the annual return furnished.

Note: ICAI clarifies through an announcement dated 28th September 2018 that an Internal Auditor cannot undertake GST Audit simultaneously.

Applicability of GST Audit

The salient points which emerge out of a plain reading of the legal provisions are as follows:

- The Act and Rules require a 'registered person' to have his accounts audited.
- A "person" has been defined under section 2(84) of the CGST Act, 2017.

  It is to be noted that the definition of a person is an inclusive definition and includes all possible entities including "every artificial juridical person". However, for a person to be subject to GST Audit, the person has to be registered under Section 25 of the CGST Act, 2017.
- Section 25 of the CGST Act, 2017 covers every person who is compulsorily required to be registered under sections 22 and 24 of the CGST Act, 2017 and persons who obtain voluntary registration. Therefore, registered person shall mean every person who is registered under the CGST Act, 2017, whether compulsory or voluntary.
- The registered person will be required to have his accounts audited if his turnover during a financial year exceeds the limit prescribed in the rules. The rules specify a limit of INR 2 crore of aggregate turnover in a financial year.
- The turnover limit of INR 2 crore for determining the applicability of GST audit for a given GST registration is to be considered PAN-wise, i.e., aggregate turnover of all GST Identification Number (GSTIN) across India having the same Permanent Account Number (PAN) should be considered.

  Example: Company 'A' has GST registration in the state of Maharashtra and Gujarat. Its GST turnover is INR 1.5 crore and INR 90 lacs in the state of Maharashtra and Gujarat respectively. In this scenario, even though individually the turnover for each state does not exceed the statutory threshold of INR 2 crore, Company 'A' is liable to GST audit both in the state of Maharashtra and Gujarat as its aggregate turnover across India is INR 2.4 crore.

Responsibilities of Auditor and Management

The scope of audit is enormous since it covers each and every minute details of all the transactions of the registered tax payer. Responsibility of GST auditor is to audit each and every particular included in the GSTR 9C to ensure that they are free from any material mis-statement. The audit will be conducted in accordance with the generally accepted auditing standards (GAAP's) in India and in line with the requirements under the GST laws, GST rules and other notifications issued. Those standards require that GST auditor plan and perform the audit to obtain reasonable assurance as to whether the relevant GSTR 9C is free of material mis-statements. An audit includes examination of accounts on a test basis, using the concept of materiality, evidence supporting the amounts and disclosures in GSTR 9C. Therefore, GST audit casts lot of responsibility on the auditor and one needs to be cautious.

The responsibility of the Management also includes the maintenance of proper accounting records and internal controls for safeguarding of the assets of the entity and for preventing and detecting fraud or other irregularities. Auditor should obtain a management representation letter wherever the situation warrants for the same. These representations are of paramount importance as these will act as a safeguard for the auditors on a later date if any litigation arises in future.

Documentation – Working Papers

Working papers provide evidence that audit has been conducted effectively and efficiently. These documents should, therefore, be prepared with care and skill. These working papers are of critical importance as they may be required later in case of any litigations or differences and hence needs to be preserved with utmost care and responsibility. The reconciliation is not possible without detailed working papers preferably prepared in excel sheet explaining the source of data reflected in GSTR 9C. It is pertinent to note that these working papers prepared in conjunction with the audits are the property of the entity. They constitute confidential information and will be retained by the auditor in accordance with the entity's policies and procedures. However, GST auditor will have to acknowledge that the data or information received from the management for preparation of these working papers are confidential information of the entity and will not be disclosed (without the prior written consent from the entity) by him to any third party, except when required by legislation.

Issues in GST Audit

1) **Classification of Goods/Services:**

   In an indirect tax regime, Classification of goods/services plays a vital role in determining the tax rate. The government has adopted international standard for classification of goods/services. However "whether the taxpayer is educated to system of classification?" is a million dollar question. The small taxpayers are not equipped to understand the HSN classification and its explanatory notes making their position vulnerable for incorrect classification leading to incorrect payment of GST. The taxpayer/ professionals should be careful in classifying the goods and services to avoid future litigations. Further, determining the classification has become even more important and is worthy of attention with the concept of composite & mixed supply.

2) **Admissibility of Input Tax Credit (ITC):**

Input tax Credit is the backbone of the GST and it is a mechanism to avoid cascading effect of taxes. One of the fundamental features of GST is the seamless flow of input credit across the chain from the manufacture of goods until it is consumed. However, surprisingly, *inter-alia*, the credit restrictions mentioned under section 16(2), 16(4), 17(2),17(5) of the CGST Act, 2017 among other things, continue to remain in respect of both goods and services in the GST regime. Therefore, the admissibility of ITC needs to be thoroughly verified before claiming the same. ITC wrongly claimed needs to be reversed along with interest and penalty. Detailed examination of the books of accounts needs to be done to establish that Registered person has taken only eligible ITC.

3) **Verification of Place of Supply:**

GST being destination based tax, Place of Supply determines the nature of transaction. It has been observed that due to wrong identification of place of supply many dealers have paid wrong tax. The GST law clearly, provides that in case of wrong classification and payment of tax, the dealer ought to pay the correct taxes and claim refund of wrongly paid taxes. So, one needs to be extra vigilant otherwise working capital will be blocked, along with other procedural compliances which is time consuming task.

4) **Compliance of Reverse Charge Mechanism:**

Section 9(3) of CGST/SGST and Section 5(3) of IGST mandated RCM payment of tax in cash and availment of RCM credit after that. Further, provisions of Section 9(4) of SGST/CGST and Section 5(4) of IGST in case of supply from unregistered persons also needs to be kept in mind during the period when such provisions were in force.

5) **Verification of Other Income:**

It is advisable to go through every transaction reflected under the head "Other Income" to confirm whether GST liability, if any, applicable, has been paid on it or not. Penalty, interest, damages received needs to be properly accounted for and GST need to be discharged on the same.

6) **Creditors more than 180 days:**

As per the proviso to Section 16(2) of the CGST Act, 2017, recipient is required to make payment of value of supply plus GST to the respective supplier within a period of 180 days from the date of tax invoice. It may be noted that if such payment is not made within 180 days from the date of tax invoice, then in that case, input tax credit availed against such tax invoice is required to be reversed (by adding to the output tax liability) along with interest.

7) **Unavailed Input Tax Credit:**

On detailed review of financials, it can be observed that certain credits are missed out especially in cases where the vendors have not uploaded their GSTR 1 timely. GST law limits a registered person to claim unavailed credit up to the due date of filing of return of September following the financial year under section 39 or furnishing of relevant annual return whichever is earlier.

For Financial year 2017-18, the date has been extended upto the due date of filing of GSTR 3B for the month of March 2019.

8) **Transitional Credit under GST:**

Taxpayers should review the transitional credit carried forward to the GST regime from the existing regime using Form GST TRAN-1, TRAN –2 & TRAN – 3 in accordance with the provision laid down in Section 141 – 143 of CGST Act 2017. It is also to be verified whether proper accounting entries to those effect has been passed in books of accounts or not.

9) **Refund of GST:**

Many eligible registered persons might have claimed GST refund like on Zero Rated Supply, inverted duty structure, excess Cash balance, etc. It is to be ensured that the refund has been rightly claimed as per the provisions of law.

10) **Registration in Multiple states/Union Territories:**

There would be a challenge in the reconciliation process in case of large entities having registration in multiple States/UTs. In such cases, GSTIN wise turnover has to be derived internally from the books of accounts and reported in GSTR 9C. The auditor may also be required to communicate with other joint auditor (s) if so appointed to ensure turnover figure as per financial statement is correctly reported. In case of multiple GSTN, trail balance of each distinct person GSTN needs to be obtained. Summary of all the trail balance should match with the figure in consolidated audited financials of the Entity. It is suggested to attach (optional) the trail balance, so that the source of data is known by the revenue. It would be advisable to obtain a suitable management representation in this regard.

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11) **Special attention to transactions not appearing in the financial accounts**:

There are several transactions which may not appear in the financial accounts and records maintained by the registered persons such as stock transfers, free samples, services received from outside India from related parties, other supplies made without consideration, etc. Due care must be exercised by the auditor to identify such transactions as there may be no direct reference to these transactions in the financial records. Details regarding this have to be extracted very cautiously. E-Way bills raised or delivery challans would be a good guiding factor to identify such instances in respect of goods while an Auditor may have to go in-depth for identifying the transactions relating to services. Transactions of service transfers will be based on an understanding of the nature of business.

12) **Advance Received:**

- For supply of services

GST liability needs to be discharged for advance received against supply of services from July 2017 till date.

- For Supply of Goods

Situation	GST Liability
1-07-17 to 12-10-17	GST liability needs to be discharged
13-10-17 to 14-11-17	Tax payers whose aggregate turnover exceeded 1.5 crores during the preceding financial year needs to discharge GST liability.
15-11-17 onwards	No GST liability, all taxpayers are exempt from payment of tax on advance received against good.

13) **Certificate Vs. Report:**

Para 2.2 of the 'Guidance Note on Audit Report and certificates for Special Purpose' issued by the ICAI notes the difference between the term 'certificate' and 'report' as under;

"A ***Certificate*** is a written confirmation of the accuracy of facts stated there in and does not involve any estimate or the opinion.";

"A ***Report***, on the other hand, is a formal statement usually made after an enquiry, examination or review of specified matters under report and includes the reporting auditor's opinion thereon".

Thus, where a certificate is issued, the Chartered Accountant shall be responsible for factual accuracy of what is stated therein. In case of a report, he is responsible for ensuring that the report is based on the factual data, true and fair (or in some cases true and correct) to the best of his belief, knowledge and information furnished to him.

Some other key points to be noted while conducting Audit are:

- Any output liability of the registered person which has not been discharged through his monthly returns GSTR -3B or Annual return GSTR -9 and which has been observed by the auditor during the course of audit will be recommended by the auditor and such liability may be discharged along with interest by the registered person through DRC-03 in cash. The auditor's recommendation on the additional liability to be discharged by the registered tax payer may be due to the reasons including, non-reconciliation of turnover or non-reconciliation of input tax credit or any refund which has been erroneously taken shall also be added back to liability.
- However, if any Input Tax credit has not been availed by the registered person till now and which has been observed by the auditor during the course of audit cannot be claimed now and will lapse.
- The reconciliation of the gross turnover in terms of audited financial statements with the turnover declared in the annual return is of paramount importance. An Auditor is required to exercise caution while carrying out this reconciliation exercise. This is because he may have to consider the schedules, groupings, notes, disclosures, qualifications etc., of the Auditor who

certifies/attests the audited financial statements. In cases where the financial statements are audited by another person, the GST Auditor may have to fall back upon the working notes made available to him.

- It is most crucial to check and verify all the details specified in the GST registration certificate.
- Tax invoice should contain all the particulars as prescribed under rule 46 of the Central Goods and Services Tax Rules, 2017 while the time of issue of invoice should also be verified, along with HSN code if required as mentioned below:

Sr. No.	Annual turnover in the preceding financial year	Number of digits of HSN code to be mentioned in the tax invoice
1	Up to 1.50 Crore	NIL
2	1.50 Crore to 5 Crore	2
3	Above 5 Crore	4

- Self Made Invoice for Reverse Charge Expenses. Every month consolidated self-made invoice is required to be prepared in the prescribed format for Reverse Charge Paid Expenses.
- All the inspections/notices (if any) issued by the GST department and the replies submitted to them needs to be verified.
- GST monthly / quarterly returns, as applicable, should be verified and confirmed that the same is duly filed as per GST law. Figures reflected in the respective returns should be verified with the books of accounts and any difference in the same should be reconciled.
- The rate of tax needs to be duly verified by the auditor whether the registered tax payer has applied the correct rate of tax and rate change if any have been given effect on the notification date.
- Once GSTR 9C is prepared, the same will be uploaded by the registered tax payer without tampering or altering it. The verification is given by the registered taxpayer that he is uploading the GSTR 9C without making any changes to it.

Consequence of Failure to Submit Annual Return and Not Getting the Accounts Audited

Section 47(2) provides that in case of failure to submit the annual return within the specified time, a late fee shall be leviable – ₹ 100 per day during which such failure continues subject to a maximum of a quarter percent of the turnover in the State/UT. 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 he shall be subjected to penalty up to 25,000/-. This section deals with general penalty and gets attracted where any person, who contravenes any of the provisions this Act or any rules made thereunder for which no penalty is separately provided. There may also be a view that since annual return was filed without attachments as required under section 44(2), the filing is not as per Section 44(2) and hence late fee as per Section 47(2) may be levied.

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Conclusion:

To conclude, GST law is still in the stage of development. The Government has been proactively and regularly amending the law like reduction in rates to make GST simple and easy for trade and industry. However, with so many changes every now and then, the compliance during this period is a bit challenging. An auditor while conducting the audit is expected to exercise due and adequate care, prudence, diligence and adopt the best practices considering the complexity of each business and its surrounding circumstances on a case to case basis especially in case of multi-unit entity. ■

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The magnitude of a progress is gauged by the greatness of the sacrifice that it requires. - *Friedrich Nietzsche*