

Issue Based Discussion on GST Audit Report

Presentation by –
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23rd August, 2019
ICAI Tower, BKC, Mumbai

Agenda for discussion

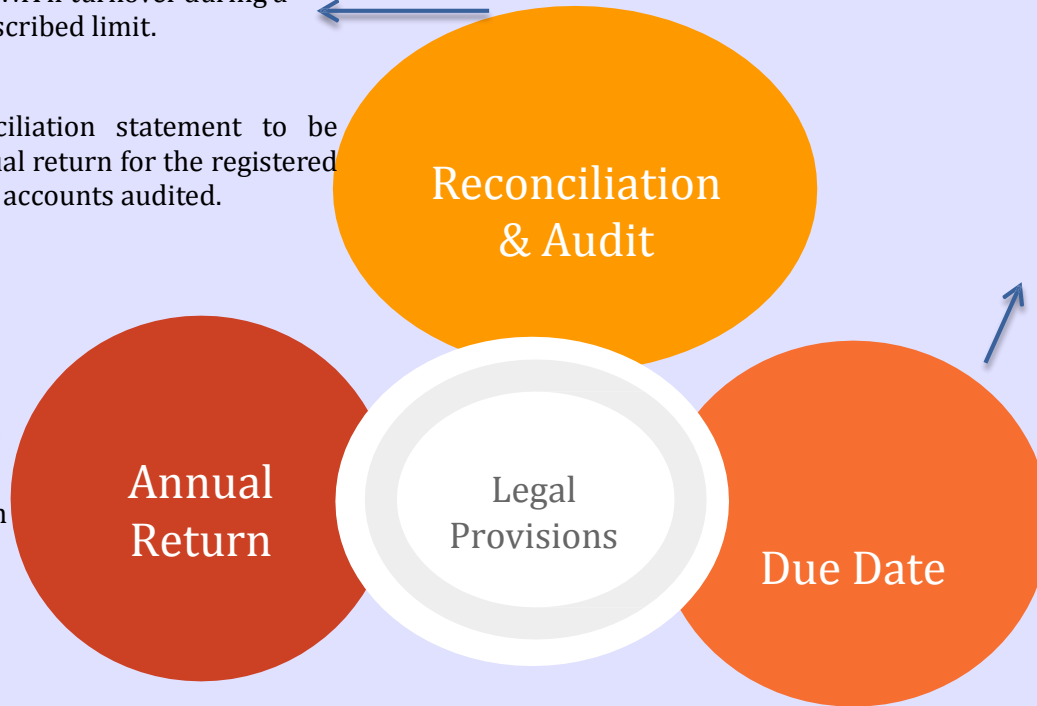
- Legal provisions related to GST Audit
- Issue based discussion on reporting in GSTR-9C

Legal Provisions and Requirement

Section 35(5): Requirement to get accounts and other records audited by a CA/CWA if turnover during a financial year exceeds prescribed limit.

Section 44(2): A reconciliation statement to be furnished along with annual return for the registered person required to get the accounts audited.

Section 44(1): A registered person is required to furnish an annual return.



Annual Return and Audit Report to be furnished on or before 31.08.2019 for the FY 2017-18.

Threshold limit – whether turnover to be considered at PAN level or GSTIN level?

35. Accounts and other records –

(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.

RULE 80. Annual return -

(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.

“Turnover” vs. “Aggregate Turnover”

- ▶ 2(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.
- ▶ (112) **“turnover in State” or “turnover in Union territory”** 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) 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.

Press Release dated 03.07.19

i) Turnover for eligibility of filing of reconciliation statement: It may be noted that the aggregate turnover i.e. the turnover of all the registrations having the same Permanent Account Number is to be used for determining the requirement of filing of reconciliation statement. Therefore, if there are two registrations in two different States on the same PAN, say State A (with turnover of Rs. 1.2 Crore) and State B (with turnover of Rs. 1 Crore) they are both required to file reconciliation statements individually for their registrations since their aggregate turnover is greater than Rs. 2 Crore.

- Whether rule can override the section?
- Whether press release has any legality?
- Whether GST Audit applicable to persons who were required to obtain GST registration but did not obtain? (Instructions says file all returns before filing GSTR-9 and 9C)

Press Release dated 03.07.19

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How to compute turnover/threshold limit for GST Audit?

- ▶ **Whether the following should be included while computing the turnover/threshold limit for GST Audit?**
 - ▶ Taxable outward supplies where consideration is involved
 - ▶ Supply without consideration (Taxable branch transfer of goods, cross charging of services)
 - ▶ Exempt supplies (Interest on FD)
 - ▶ Zero-rated supplies (Exports and SEZ supplies)
 - ▶ Advances received from customers (unadjusted at the end of year)
 - ▶ Sale of Movable assets
 - ▶ Renting of Land
 - ▶ Sale of Land
 - ▶ Sale of securities

How to compute turnover/threshold limit for GST Audit?

- ▶ **Whether the following should be included while computing the turnover/threshold limit for GST Audit?**
 - ▶ Inward supplies on which tax is payable by a person on reverse charge basis
 - ▶ Outward supplies on which tax is payable by recipient on reverse charge basis
 - ▶ Central tax, State tax, Union territory tax, Integrated tax and cess

What is the Period for calculating threshold limit?

- ▶ Period to be considered for calculating threshold limit for GST Audit - 01.04.2017 to 31.03.2018 or 01.07.2017 to 31.03.2018?
- ▶ Press Release dated 03.07.2019
 - i) Turnover for eligibility of filing of reconciliation statement: It may be noted that the aggregate turnover i.e. the turnover of all the registrations having the same Permanent Account Number is to be used for determining the requirement of filing of reconciliation statement. The aggregate turnover for this purpose shall be reckoned for the period July, 2017 to March, 2018.

What is the scope of GST Audit and Role of GST Auditor?

▶ **Definition of Audit under CGST Act**

2(13) “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.

▶ **Types of Audit prescribed under CGST Act**

- ▶ Audit by CA/Cost Accountant - Section 35(5)
- ▶ Audit by Tax Authorities – Section 65
- ▶ Special Audit – Section 66

What GST Auditor has to certify?

- ▶ Auditor has to examine
 - ▶ Balance Sheet
 - ▶ Profit and Loss Account / Income and Expenditure Account
 - ▶ Cash Flow Statement
- ▶ Auditor has to report / certify that
 - ▶ Books of accounts, records and documents as required under GST Law are properly maintained or not
 - ▶ Particulars furnished in Form GSTR-9C are true and correct

GST Auditor's Responsibility

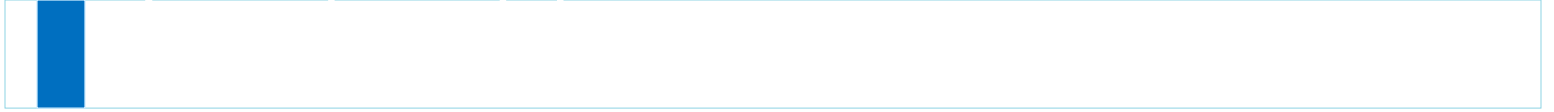
▶ **Instruction to Part V (Point No. 7)**

- ▶ Part V consists of the auditor's recommendation on the additional liability to be discharged by the taxpayer due to non-reconciliation of turnover or non-reconciliation of input tax credit.
- ▶ The auditor shall also recommend if there is any other amount to be paid for supplies not included in the Annual Return.
- ▶ Any refund which has been erroneously taken and shall be paid back to the Government shall also be declared in this table.
- ▶ Lastly, any other outstanding demands which is recommended to be settled by the auditor shall be declared in this Table.

Role of GST Auditor

- ▶ **Role of GST Auditor in certifying reconciliation statement (Press Release dated 03.07.19)**
 - ▶ There are apprehensions that the chartered accountant or cost accountant may go beyond the books of account in their recommendations under FORM GSTR-9C. The GST Act is clear in this regard. With respect to the reconciliation statement, their role is limited to reconciling the values declared in annual return (FORM GSTR-9) with the audited annual accounts of the taxpayer.

- Whether Press release has any legality?
- ICAI Regulations and Auditing Standards



Issues in Reporting by GST Auditor

- ▶ Books of accounts are maintained at the additional place of business instead of principal place of business.
- ▶ Client is availing the benefit of presumptive taxation under section 44AD and 44AE of Income Tax Act and therefore has not maintained records and books and accounts.
- ▶ Wrong Determination of Nature of supply – CGST + SGST paid instead of IGST or vice-versa. (Intermediary services, High Sea Sales)
- ▶ Impact of various advance rulings.

Issues in Reporting by GST Auditor

- ▶ Export without payment of IGST without Letter of Undertaking / Bond.
- ▶ GST on ocean freight not discharged.
- ▶ Client has HO in Maharashtra and registration in three other States, but cross charging of HO support services has not been done.
- ▶ Reporting in Table 14 of GSTR-9C
 - ▶ Ocean freight (since not an expense)
 - ▶ ISD credit (whether expense wise break-up required)
 - ▶ Inward taxable stock transfer
 - ▶ HO support services

Issues in Reporting by GST Auditor

- ▶ GST was not paid on Advance but paid when the tax invoice is issued.
- ▶ ITC was claimed for FY 2017-18 by filing delayed return of March 2019. Client is taking the ITC based on the decision of Gujarat HC in the case of AAP and Co. Chartered Accountants (GSTR-3B is not return).
 - ▶ Whether decision of Gujarat HC will apply outside Gujarat?
- ▶ Client has issued credit note pertaining to August 2017 in March 2018. Also client has not reported in March 18 return (GSTR-1 & GST-3B) and has reported in January 2019 return.
- ▶ Mismatch of ITC – Difference between GSTR-2A vs. GSTR-3B

Issues in Reporting by GST Auditor

- ▶ Delayed payment of tax - Interest paid on net tax liability (after taking into consideration ITC)
- ▶ Client is engaged in wholly exempted supplies and procured goods from unregistered suppliers (before 13.10.2017) and availed services of advocates. Client has not paid GST on reverse charge basis.

Any Questions?





Thank You!

CA. Raj Mukesh Khona