

Technical Guide on Departmental GST Audit of Entities with Multiple GSTINs



The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)
New Delhi

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on
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Multiple GSTINs**



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Edition	:	December, 2024
Committee/Department	:	GST & Indirect Taxes Committee
E-mail	:	gst@icai.in
Website	:	http://www.icai.org ; https://idtc.icai.org/
Price	:	₹ 220/-
ISBN	:	978-81-19472-58-1
Published by	:	The Publication & CDS Directorate on behalf of the Institute of Chartered Accountants of India, ICAI Bhawan, Post Box No. 7100, Indraprastha Marg, New Delhi - 110 002.
Printed by	:	Sahitya Bhawan Publications, Hospital Road, Agra - 282 003.

Foreword

The Goods and Services Tax (GST) system in India has been characterized by its progressive and adaptable nature, with ongoing refinements and enhancements. The Government has been proactive in addressing issues highlighted by the business sector, aiming to streamline the compliance process. The GST Council consistently is taking decisions to consider changes in tax rates, exemptions, and various components of the GST framework. The rising GST revenue and the growing number of taxpayers are indicative of the efficacy of this groundbreaking indirect tax system.

The implementation of GST in India has been greatly shaped by the active contributions of the Institute of Chartered Accountants of India. As a key partner in nation-building, ICAI has consistently supported the Government in implementing the GST regime in India and continues to offer ongoing assistance in resolving any post-implementation challenges. The GST and Indirect Taxes Committee has played a pivotal role in the rollout of the GST in India. At each phase of the GST's development, the Committee has offered crucial insights and recommendations to the Government. ICAI has taken a forward-thinking stance in assisting its members, promoting the development of their skills through a variety of educational initiatives such as courses, seminars, events, live webcasts, and online learning focused on GST. In addition, the Committee of ICAI frequently brings out technical publications that encompass a wide array of topics related to GST.

Undergoing audit for entities with multiple GSTINs (Goods and Services Tax Identification Numbers) can be complex due to the different compliance requirements and reporting obligations associated with each GSTIN. I am delighted to note that considering the special intricacies involved in such audits, the GST & Indirect Taxes Committee has developed a publication, **“Technical Guide on Departmental GST Audit of Entities with Multiple GSTINs”**. The Technical Guide offers comprehensive insights and guidance on the appropriate actions to be taken when such an audit is conducted by the department. The relevant provisions are presented in readily understandable language.

I extend my compliments to CA Sushil Kumar Goyal, Chairman, as well as all the members of the GST and Indirect Taxes Committee for their active contribution in developing this valuable technical publication.

I am positive that members will find this publication very useful in discharging their functions and responsibilities in an efficient and effective manner.

CA. Ranjeet Kumar Agarwal
President, ICAI

Date: 25.11.2024

Place: New Delhi

Preface

GST has benefited the Indian economy in terms of reduction in the overall tax burden on goods & services and making Indian products & services globally competitive. GST aims to foster a more integrated and transparent tax system, supporting economic growth and efficiency. It is a comprehensive indirect tax designed to unify and streamline the tax structure across a country. Government from time to time has brought various notifications, circulars, FAQs etc. for simplifying the implementation of GST across the country.

The GST & Indirect Taxes Committee of the Institute of Chartered Accountants of India (ICAI) has played a significant role in the establishment of the GST regime in India and continues to help the Government smooth out any issues that have emerged since its implementation. The Committee has also been actively working to share GST knowledge and increase GST awareness by regularly bringing out new technical publications and revising the existing publications.

Taking another step in this direction, the Committee has developed a publication, **“Technical Guide on Departmental GST Audit of Entities with Multiple GSTINs”**. This publication aims to offer thorough knowledge and practical guidance to registered persons with multiple GSTINs on the appropriate actions to be taken in the event of an audit conducted by the GST Department.

We express our sincere gratitude to CA. Ranjeet Kumar Agarwal, President, ICAI, and Vice-President, ICAI, for their unwavering support and guidance in the diverse initiatives undertaken by the GST & Indirect Taxes Committee. We acknowledge with our deepest gratitude the efforts of CA. Amish Khandhar, CA. Ashit Shah, CA. Nikhil Gupta, CA. Rajesh Saluja, CA Rohit Surana, CA Sanjay Gajra, CA. Shubham Khaitan, CA. Venugopal Gella, CA. Gaurav Gupta, CA. Rishabh Aggarwal, CA. Shashank Gupta, CA. Saloni Jain, CA. Vishal Jain and CA. Rajarshi Dasgupta for their insightful contributions in developing this publication. We also acknowledge the commendable efforts of the Committee's Secretariat in providing essential technical and administrative support, which has been instrumental in updating this publication.

Though utmost care has been taken to ensure the accuracy and legitimacy of the information presented in this publication, it is important to acknowledge that diverse perspectives or opinions may exist on the subjects covered herein. We encourage our readers to bring to our attention any unintended errors or oversights that they may encounter in this publication. Your input is valued, and we appreciate your assistance in maintaining the integrity and precision of the content.

We are confident that this publication will serve as a valuable resource for all members of the Institute and other stakeholders in practical applications. We invite and encourage your suggestions, which can be shared at gst@icai.in. Additionally, we urge you to visit our website at <https://idtc.icai.org> to access a wealth of technical and educational resources related to GST.

CA. Sushil Kumar Goyal
Chairman
GST & Indirect Taxes Committee

Date: 25.11.2024

Place: New Delhi

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Readers may note that unless otherwise specified, the section numbers and rules referred to in this publication pertain to Central Goods and Services Tax Act, 2017 and Central Goods and Services Tax Rules, 2017.
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Chapter 1

Introduction to Audit

1.1 Introduction

The journey of Goods and Services Tax (GST) in India began in July 2017, marking a significant shift in the Indirect Taxation system. The primary objective was to streamline tax laws and create a unified system for businesses across the country under the vision of "One Nation, One Tax, One Market".

In today's business landscape, many entities operate across India with multiple GST registrations under the same Permanent Account Number (PAN). These entities face unique challenges when undergoing departmental audits. GST, being a destination-based tax, requires separate GST registrations in each state or Union Territory where an entity operates, even if it is part of the same legal entity. This approach differs from other financial laws, such as the Income Tax Act and Corporate Law, where a company is treated as a single unit for taxation and audit purposes.

1.1.1 Concept of Distinct Persons in GST

The concept of "distinct persons" under GST is fundamental in understanding how entities with multiple registrations are treated. According to section 25(4) of the Central Goods and Services Tax Act, 2017 (CGST Act), each registration obtained by an entity in one or more than one State or Union Territory is treated as a distinct person. Further, two establishments of a registered person in two different States or Union territories are treated as establishments of distinct persons in terms of Section 25(5). This legal distinction creates various challenges for businesses, as each registration requires separate compliance and reporting. However, under income tax or corporate law, a company is regarded as a single entity, regardless of the number of States/Union Territories in which it operates. This difference affects the way audits are conducted under these laws.

This publication is a comprehensive guide for taxpayers and professionals involved in GST audits with particular reference to entities with multiple registrations under the same PAN. It offers clarity on procedures, obligations, and documentation required for a successful departmental GST audit. The aim is to help taxpayers avoid common mistakes and ensure thorough compliance with GST laws.

1.2 Significance of Audit

GST is a trust-based taxation regime wherein a taxpayer is required to self-assess his tax liability, pay taxes and file returns. In the self-assessment regime, it becomes essential to have checks and balances to protect the Revenue's interests. Audit is an exercise to confirm the compliances made by the taxpayer under the GST Law. Audit under GST intends to evaluate the credibility of self-assessed tax liability of a taxpayer based on the twin test of accuracy of their declarations and the accounts maintained by the taxpayer.

As taxes are paid on self-assessment basis under GST, it is imperative to have robust audit procedures to secure accurate compliance and to safeguard the integrity of the taxation framework. Following are some of the reasons why audit is of significance.

- a) **Ensuring Compliance:** GST audit helps to ensure that businesses are adhering to the rules and regulations set by the taxation authorities. It verifies whether the GST returns and other documents submitted by taxpayers are accurate, complete and in line with the applicable GST laws.
- b) **Preventing Tax Evasion:** By thoroughly examining a taxpayer's transactions, purchases, sales and input tax credits, GST audit also helps in identifying any attempts to evade payment of taxes or any engagement in fraudulent activities. This plays a crucial role in maintaining the integrity of the taxation system.
- c) **Verification of Input Tax Credit:** Input tax credit (ITC) is a fundamental concept in GST, allowing businesses to claim credit for taxes paid on inputs. GST audit verifies whether the input tax credit claimed is legitimate and supported by valid documents, thereby preventing fictitious and unwarranted claims.
- d) **Detecting Errors:** Businesses may unintentionally make certain errors in calculating and reporting their GST liabilities. GST Audit helps to uncover such errors, enabling taxpayers to rectify them before they lead to imposition of penalties or entail legal consequences.
- e) **Enhancing Transparency:** GST audit promotes transparency between taxpayers and tax authorities. They create a system where businesses are accountable for their transactions and can demonstrate the accuracy of their financial information.

- f) **Government Revenue Protection:** GST audit helps to protect the Government's revenue by identifying cases of short payment or non-payment of taxes. This ensures that the correct amount of tax is collected and there is no loss to the Revenue.
- g) **Audit Trail:** GST audit creates a documented audit trail that can be used as evidence in case of disputes or legal proceedings. This provides a clear history of transactions and financial activities.
- h) **Improving Business Practices:** Through the audit process, businesses receive feedback on their compliance practices and areas that need improvement. This can lead to better financial management and operational efficiency.
- i) **Government Accountability:** Tax authorities are executive authorities who are required to ensure that provisions of taxation are being followed properly and there is no loss to the Government treasury.

In conclusion, it can be said that the significance of GST audit goes beyond a mere regulatory compliance. It plays a critical role in maintaining the credibility of the taxation system, preventing tax evasion and promoting transparency in business transactions. It also helps both the taxpayers and the Government by identifying errors, ensuring accurate revenue collection and fostering a sense of fairness in the taxation process.

1.3 Meaning and Purpose of Audit under GST Law

Audit has been defined under section 2(13) of the CGST Act as under:

<i>"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;</i>

As stated above, audit is defined as an examination of records, returns and other documents maintained or furnished by the registered person under the GST Acts or the rules made thereunder or under any other law for the time being in force. The examination is to verify the correctness of:

- turnover declared;
- taxes paid;

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- refund claimed;
- input tax credit availed; and
- to assess the compliance with the provisions of this Act or the rules made thereunder.

The term “document” has been defined under section 2(41) of the CGST Act as under:

"document" includes written or printed record of any sort and electronic record as defined in clause (t) of section 2 of the Information Technology Act, 2000 (21 of 2000).

The term “return” has been defined under section 2(97) of the CGST Act as under:

"return" means any return prescribed or otherwise required to be furnished by or under this Act or the rules made thereunder;

The term “record” has not, however, been defined under GST law. We will discuss the records and documents which are required to be maintained by a taxpayer in Chapter 4 of the publication and such records may be requisitioned by the authorities while conducting audit of the taxpayer.

✓ Audit can only be undertaken for a registered person

As evident from the above, audit can only be undertaken for a registered person. Any person other than the registered person who may have evaded the tax or mistakenly not paid taxes cannot be audited under the statute.

✓ Audit is not mere reconciliation

GST audit is not merely a reconciliation of tax liability and input tax credit. It also signifies compliance with the provisions of the GST Act and rules made thereunder. GST law being new, coupled with the fact that it is more technology-based procedure driven, there are possibilities of unintended non-compliance of the law in different aspects varying from minor errors in filling the forms to failure to claim input tax credit or non-reporting of tax liabilities.

✓ Purpose of audit

The purpose of audit is not only to unearth the frauds or intentional non-

payments or short payments of taxes or wrong availment of ITC or erroneous refund claims, but also essentially to unearth unintended errors or mistakes which would go unnoticed. However, in the process of audit, there are possibilities of identifying those instances as well.

Overall, the purpose and objective of the audit under the GST law appears to be to keep a check and balances of self-assessments and deter the taxpayers from not getting into the mode of tax evasion as not being checked / verified. At the same time information found during the audit which may be leading to evasion of taxes shall be taken up to its logical end of adjudication as well. Hence audit plays very vital role in the administration of the GST law.

✓ Types of audits

Currently, there are two types of audits prescribed under GST law:

- ❖ Audit by Tax Authorities
- ❖ Special Audit

Audit by Tax Authorities, along with the relevant statutory provisions, will be extensively discussed in Chapter 2.

1.4 Special Audit by CA/CMA Appointed by Department

Statutory Provisions

Section 66: Special Audit

(1) If at any stage of scrutiny, inquiry, investigation or any other proceedings before him., any officer not below the rank of Assistant Commissioner, having regard to the nature and complexity of the case and the interest of revenue, is of the opinion that the value has not been correctly declared or the credit availed is not within the normal limits, he may, with the prior approval of the Commissioner, direct such registered person by a communication in writing to get his records including books of account examined and audited by a Chartered Accountant or a Cost Accountant as may be nominated by the Commissioner.

(2) The chartered accountant or cost accountant so nominated shall, within the period of ninety days, submit a report of such audit duly signed and certified by him to the said Assistant Commissioner mentioning therein such other particulars as may be specified:

Provided that the Assistant Commissioner may, on an application made to him

in this behalf by the registered person or the chartered accountant or cost accountant or for any material and sufficient reason, extend the said period by a further period of ninety days.

(3) The provisions of sub-section (1) shall have effect notwithstanding that the accounts of the registered person have been audited under any other provisions of this Act or any other law for the time being in force.

(4) The registered person shall be given an opportunity of being heard in respect of any material gathered on the basis of special audit under sub-section (1) which is proposed to be used in any proceedings against him under this Act or the rules made thereunder.

(5) The expenses of the examination and audit of records under sub-section (1), including the remuneration of such Chartered Accountant or Cost Accountant, shall be determined and paid by the Commissioner and such determination shall be final.

(6) Where the special audit conducted under sub-section (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under section 73 or section 74 or section 74A.

Rule 102: Special Audit

102. (1) Where special audit is required to be conducted in accordance with the provisions of section 66, the officer referred to in the said section shall issue a direction in FORM GST ADT-03 to the registered person to get his records audited by a Chartered Accountant or a Cost Accountant specified in the said direction.

(2) On the conclusion of the special audit, the registered person shall be informed of the findings of the special audit in FORM GST ADT-04.

1.4.1 Need for special audit

'Special audit' means audit by a Chartered/ Cost Accountant, on the order of an officer (not below the rank of Assistant Commissioner), upon prior approval of the Commissioner, under section 66 of the CGST Act read with rule 102 of the CGST Rules. In special audit the registered person can be directed to get his records including books of account examined and audited by a Chartered Accountant or a Cost Accountant during any stage of scrutiny, inquiry, investigation or any other proceedings depending upon the

complexity of the case. The law requires that the officer needs to understand the nature and complexity of the case and judge if such intervention of a professional is needed to protect the interests of the Revenue.

1.4.2 Nature and complexity of the cases

It refers to the characteristics and intricacies of the specific situation or scenario being examined by the tax authorities.

- a) **Nature of the case:** This refers to the inherent qualities, attributes, and characteristics of the particular case. It involves understanding the type of transactions, activities, or operations that are under examination.
- b) **Complexity of the case:** Complexity refers to the level of intricacy, difficulty, and involvement of various factors in the case. A case can be considered complex if it involves multiple parties, intricate financial transactions, convoluted legal structures etc.

Together, "nature and complexity of the case" implies that the decision to conduct a special audit takes into account both the inherent characteristics of the case (what's involved) and the intricacy of the details (how involved it is). Cases that are more intricate, involving various elements, transactions, or legal considerations, might require a deeper level of examination to ensure accurate compliance. This assessment helps the GST authorities to determine whether a special audit is necessary to uncover any potential irregularities and to ensure the correct amount of taxes which are required to be paid.

1.4.3 Interest of the Revenue

The special audit is conducted with the objective of safeguarding the tax revenue. In other words, when tax authorities are considering whether to initiate a special audit, they are doing so with an opinion that the value may not have been correctly declared or credit availed is not within normal limits that could potentially lead to tax evasion. By taking these actions, tax authorities aim to protect the Government's financial resources.

1.4.4 Authority for directing special audit

The power to form an opinion as to whether special audit considering the aforesaid factors would be required is in the hands of an officer not below the rank of Assistant Commissioner. Further, such officer needs to take prior approval from the Commissioner of Central Tax for such purposes.

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It may be noted here that the said authority has been appointed through a separate notification or Circular by Central and respective State Governments. By the term 'not below the rank', one can infer that the said powers can be exercised by any officer of the rank of Assistant Commissioner or any of his superiors. If the power is exercised by any officer subordinate to such Assistant Commissioner, the same cannot be considered to have been validly exercised in such a case.

Further, the approval from the Commissioner of Central Tax is also to be recorded before such special audit is directed. It may be noted that the word 'approval' is preceded by the word 'prior'. This means that the approval should have been recorded in the file prior to the direction to conduct special audit. Any post facto approval for remedying the defect may not hold good.

Also, it is necessary that the direction is issued in writing in Form GST ADT-03 (Format of Form GST ADT-03 is provided at the end of this Chapter). The said form should contain clear directions for getting the accounts audited through the special audit. Further, the said direction should be clearly recorded in the file before such audit is conducted.

1.4.5 Professionals for conducting audit

The professionals who are empowered to conduct special audit are Chartered Accountants and Cost Accountants. Such professionals are mandatorily required to be nominated only by the Commissioner of Central Tax.

The professionals carrying out the audit will have specific directions in terms of their focus required in the special audit. Further, they are required to provide their findings by means of an audit report duly signed and certified by him. This report would be required to be submitted before the said Assistant Commissioner or any other officer who has given the direction in this regard.

Such professionals are allowed to conduct special audit irrespective of whether the taxpayer is required to be audited under any other provisions of the GST law or any other law. This means that the special audit is required to be mandatorily carried out even though the auditee may have been audited under the Companies Act 2013 or the Income Tax Act 1961 etc.

1.4.6 Time period for submission of audit report

Upon completion of the audit, the professional is required to communicate his findings by means of audit report to the said Assistant Commissioner and

such findings of the special audit shall be communicated to the registered person in Form GST ADT-04 (Format of Form GST ADT-04 is provided at the end of this Chapter).

The time period provided as per the GST law for submission of the audit report by the Chartered Accountant or the Cost Accountant would be 90 days from the date when such audit was commenced by him. Such audit report is required to be duly signed and certified by him. It should be addressed to the Assistant Commissioner or the relevant officer who had issued such direction.

Further, due to any material and sufficient reasons or upon application by the registered person or the Chartered / Cost Accountant, the Assistant Commissioner has the power to extend the said period by a further period of 90 days.

Therefore, the maximum time limit for the special audit to be completed would be 90 days which could be further extended by 90 days only.

1.4.7 Opportunity of being heard to the registered person

The registered person would be given an opportunity of being heard in respect of the material gathered on the basis of a special audit if the same is intended to be used in any proceedings against him.

This is required to be given in terms of the principles of natural justice. A person should be allowed to represent himself and make his submissions against the findings to be used against him so that the matter can be judicially taken forward.

1.4.8 Expenses of audit

The expenses for conducting the examination and audit of records including the fees of Chartered Accountant / Cost Accountant would be determined and paid by the Commissioner. Such determination of the fee by the Commissioner would be final. The cost of getting this audit conducted cannot be recovered by the GST Department from the registered person and would be borne from the Government Treasury.

1.4.9 Initiation of action

Similar to the Departmental Audit under section 65 as discussed above, where the audit findings had been communicated and the tax on the same remains short paid or unpaid or erroneously refunded or ITC wrongly availed or utilized in the opinion of the GST officers, the proper officer has the power

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to initiate action under section 73 or section 74 or section 74A (FY 2024-25 onwards). This would require the issuance of show cause notice allowing an opportunity to the taxpayers to show cause as to why the said amount specified in the notice is not payable by them.

1.5 Audit Forms

GST Forms related to special audit by CA/CMA are given in subsequent pages.

FORM GST ADT - 03	
[See rule 102(1)]	
Reference No.:	Date:
To,	

GSTIN	
Name	
Address	
Tax period - F.Y.(s) -	
Communication to the registered person for conduct of special audit under section 66	
Whereas the proceedings of scrutiny of return /enquiry/investigation/..... are going on;	
And whereas it is felt necessary to get your books of account and records examined and audited by (name), Chartered Accountant / Cost Accountant nominated by the Commissioner;	
You are hereby directed to get your books of account and records audited by the said Chartered Accountant / Cost Accountant.	
Signature	
Name	
Designation	

FORM GST ADT – 04

[See rule 102(2)]

Reference No.:

Date:

To,

GSTIN

Name

Address

Information of Findings upon Special Audit

Your books of account and records for the F.Y..... have been examined by ----- (Chartered Accountant / Cost Accountant) and this Audit Report is prepared on the basis of information available / documents furnished by you and the findings / discrepancies are as under:

Short payment of Integrated tax Central tax State /UT tax Cess

Tax

Interest

Any other amount

[Upload pdf file containing audit observation]

You are directed to discharge your statutory liabilities in this regard as per the provisions of the Act and the rules made thereunder, failing which proceedings as deemed fit may be initiated against you under the provisions of the Act.

Signature

Name

Designation

Chapter 2

Audit by Tax Authorities

Statutory Provisions

Section 65: Audit by Tax Authorities

(1) The Commissioner or any officer authorised by him, by way of a general or a specific order, may undertake audit of any registered person for such period, at such frequency and in such manner as may be prescribed.

(2) The officers referred to in sub-section (1) may conduct audit at the place of business of the registered person or in their office.

(3) The registered person shall be informed by way of a notice not less than fifteen working days prior to the conduct of audit in such manner as may be prescribed.

(4) The audit under sub-section (1) shall be completed within a period of three months from the date of commencement of the audit:

Provided that where the Commissioner is satisfied that audit in respect of such registered person cannot be completed within three months, he may, for the reasons to be recorded in writing, extend the period by a further period not exceeding six months.

Explanation.—For the purposes of this sub-section, the expression "commencement of audit" shall mean the date on which the records and other documents, called for by the tax authorities, are made available by the registered person or the actual institution of audit at the place of business, whichever is later.

(5) During the course of audit, the authorised officer may require the registered person,—

(i) to afford him the necessary facility to verify the books of account or other documents as he may require;

(ii) to furnish such information as he may require and render assistance for timely completion of the audit.

(6) On conclusion of audit, the proper officer shall, within thirty days, inform the registered person, whose records are audited, about the findings, his rights and obligations and the reasons for such findings.

(7) Where the audit conducted under sub-section (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under section 73 or section 74 or section 74A.

Rule 101: Audit

(1) The period of audit to be conducted under sub-section (1) of section 65 shall be a financial year or part thereof or multiples thereof.

(2) Where it is decided to undertake the audit of a registered person in accordance with the provisions of section 65, the proper officer shall issue a notice in FORM GST ADT-01 in accordance with the provisions of sub-section (3) of the said section.

(3) The proper officer authorised to conduct audit of the records and the books of account of the registered person shall, with the assistance of the team of officers and officials accompanying him, verify the documents on the basis of which the books of account are maintained and the returns and statements furnished under the provisions of the Act and the rules made thereunder, the correctness of the turnover, exemptions and deductions claimed, the rate of tax applied in respect of the supply of goods or services or both, the input tax credit availed and utilised, refund claimed, and other relevant issues and record the observations in his audit notes.

(4) The proper officer may inform the registered person of the discrepancies noticed, if any, as observed in the audit and the said person may file his reply and the proper officer shall finalise the findings of the audit after due consideration of the reply furnished.

(5) On conclusion of the audit, the proper officer shall inform the findings of audit to the registered person in accordance with the provisions of sub-section (6) of section 65 in FORM GST ADT-02.

As per the provisions of section 65 of the CGST Act read with rule 101 of the CGST Rules, audit is to be conducted by Commissioner or any officer authorized by him.

The undertaking of audit is not based on any specific evasion-based information but in a normal routine manner on the basis of risk profile of the entity which is selected on many parameters under different heads including its turnover, tax, input tax credit, non-compliance, refund, sector and any

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variance from standard/expected behaviour etc. The selection criterion is evolving over a period of time on the basis of experience and prevalent practices in the regime. There is no turnover limit in this type of audit.

A GST departmental audit is a thorough examination and verification of a taxpayer's financial records, transactions and compliance with GST regulations. The departmental audit is conducted to ensure that businesses are accurately reporting their GST liabilities, claiming appropriate input tax credits and complying with the provisions of the GST law. The audit process helps the tax authorities to assess whether the taxpayers have correctly calculated and paid the amount of GST, correctly availed ITC, preventing tax evasion and ensuring the integrity of the GST system. GST audit plays a crucial role in maintaining the credibility of the taxation system, promoting transparency, and ensuring that taxpayers contribute their fair share of taxes. It also helps to identify the areas where businesses can improve their record-keeping and compliance practices.

The objectives of audit under GST as mentioned in the *Model All India GST Audit Manual 2023* are as follows:

- Measurement of the compliance levels with reference to compliance strategy of the tax administration.
- Detection of non-compliance and revenue realization
- Prevention of non-compliance in the future.
- Discovering areas of non-compliance to prevent taxpayers from continuing with such deviations from expected compliance behaviour that results in erroneous declaration of self-assessed liability.
- Providing inputs for corrections in/amendments to the legal framework which are being exploited by taxpayers to avoid paying taxes.
- Encouraging voluntary compliance.
- Any other goal deemed worth pursuing by the GST administration.

We shall now discuss the important aspects of audit by Department as under:

2.1 Power to conduct audit

The power to conduct audit has been granted to the Commissioner or any officer authorized by him through general or specific order under the CGST Act. The primary power to conduct the audit rests with the Commissioner.

The order is issued internally by the Commissioner to delegate the power to the relevant officers subordinate to him for conducting the audit. Usually, the orders are general in nature for empowering the relevant officers of the Audit Commissionerate for performing the audit.

2.2 Appointment of officers

All the officers have been vested with the powers with respect to the jurisdiction specified in the tables to *Notification No. 2/2017-Central tax dated 19th June 2017*. Here, the said table has been covered to the extent required for the Department audit.

The Principal Chief Commissioners of Central Tax or the Chief Commissioners of Central Tax have been vested with the territorial jurisdiction over the Commissioners of Central Tax (Audit) specified in the corresponding entry of the below table:

Sl. No.	Principal Commissioner / Chief Commissioner of Central Tax	Jurisdiction of Principal Commissioner / Chief Commissioner of Central Tax in terms of Commissioner (Audit)
1	Principal Commissioner Ahmedabad	Commissioner (Audit) Ahmedabad
		Commissioner (Audit) Rajkot
2	Principal Commissioner Bengaluru	Commissioner (Audit I) Bengaluru
		Commissioner (Audit II) Bengaluru
		Commissioner (Audit) Mysuru
		Commissioner (Audit) Belgavi
3	Chief Commissioner Bhopal	Commissioner (Audit) Bhopal
		Commissioner (Audit) Raipur
		Commissioner (Audit) Indore
4	Chief Commissioner Bhubaneswar	Commissioner (Audit) Bhubaneswar
5	Chief Commissioner Chandigarh	Commissioner (Audit) Chandigarh
		Commissioner (Audit) Jammu
		Commissioner (Audit) Ludhiana

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6	Principal Chief Commissioner Chennai	Commissioner (Audit I) Chennai
		Commissioner (Audit II) Chennai
		Commissioner (Audit) Coimbatore
7	Principal Chief Commissioner Delhi	Commissioner (Audit I) Delhi
		Commissioner (Audit II) Delhi
8	Chief Commissioner Guwahati	Commissioner (Audit) Shillong
9	Chief Commissioner Hyderabad	Commissioner (Audit I) Hyderabad
		Commissioner (Audit II) Hyderabad
10	Chief Commissioner Jaipur	Commissioner (Audit) Jaipur
		Commissioner (Audit) Jodhpur
11	Principal Chief Commissioner Kolkata	Commissioner (Audit I) Kolkata
		Commissioner (Audit II) Kolkata
		Commissioner (Audit) Durgapur
12	Principal Chief Commissioner Lucknow	Commissioner (Audit) Lucknow
		Commissioner (Audit) Kanpur
13	Chief Commissioner Meerut	Commissioner (Audit) Meerut
		Commissioner (Audit) Noida
		Commissioner (Audit) Dehradun
14	Principal Chief Commissioner Mumbai	Commissioner (Audit I) Mumbai
		Commissioner (Audit II) Mumbai
		Commissioner (Audit III) Mumbai
		Commissioner (Audit) Raigarh
		Commissioner (Audit) Thane
15	Chief Commissioner Nagpur	Commissioner (Audit) Nagpur
		Commissioner (Audit) Nashik
16	Chief Commissioner Panchkula	Commissioner (Audit) Gurugram
		Commissioner (Audit) Panchkula

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17	Chief Commissioner Pune	Commissioner (Audit I) Pune
		Commissioner (Audit II) Pune
18	Chief Commissioner Ranchi	Commissioner (Audit) Patna
		Commissioner (Audit) Ranchi
19	Chief Commissioner Thiruvananthapuram	Commissioner (Audit) Kochi
20	Chief Commissioner Vadodara	Commissioner (Audit) Vadodara
		Commissioner (Audit) Surat
21	Chief Commissioner Visakhapatnam (Amaravathi)	Commissioner (Audit) Guntur

Further, the Audit Commissionerate would be exercising jurisdiction over the registered persons of the following Executive Commissionerate:

Sl. No.	Commissioner of Central Tax (Audit)	Jurisdiction in terms of Principal Commissioner or Commissioner of Central Tax
(1)	(2)	(3)
1	Ahmedabad	Ahmedabad North, Ahmedabad South, Gandhinagar
2	Belgavi	Belgavi, Mangalore
3	Bengaluru-I	Bengaluru East, Bengaluru South
4	Bengaluru-II	Bengaluru North, Bengaluru North West
5	Bhopal	Bhopal, Jabalpur
6	Bhubaneswar	Bhubaneswar, Rourkela
7	Chandigarh	Chandigarh, Shimla
8	Chennai-I	Chennai North, Puducherry
9	Chennai-II	Chennai South, Chennai Outer
10	Coimbatore	Coimbatore, Tiruchirapally, Madurai, Salem
11	Dehradun	Dehradun
12	Delhi-I	Delhi North, Delhi East

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13	Delhi-II	Delhi South, Delhi West
14	Durgapur	Siliguri, Bolpur
15	Guntur	Visakhapatnam, Guntur, Tirupati
16	Gurugram	Gurugram, Faridabad
17	Hyderabad-I	Hyderabad, Rangareddy
18	Hyderabad-II	Medchal, Secunderabad
19	Indore	Indore, Ujjain
20	Jaipur	Jaipur, Alwar
21	Jammu	Jammu
22	Jodhpur	Jodhpur, Udaipur
23	Kanpur	Kanpur, Allahabad, Varanasi
24	Kochi	Thiruvananthapuram, Kochi, Kozhikode
25	Kolkata-I	Kolkata North, Kolkata South
26	Kolkata-II	Howrah, Haldia
27	Lucknow	Lucknow, Agra
28	Ludhiana	Ludhiana, Jalandhar
29	Meerut	Meerut, Ghaziabad
30	Mumbai-I	Mumbai South
31	Mumbai-II	Mumbai East, Mumbai Central
32	Mumbai-III	Mumbai West, Palghar
33	Mysuru	Mysuru, Bengaluru West
34	Nagpur	Nagpur-I, Nagpur-II
35	Nashik	Nashik, Aurangabad
36	Noida	Noida, Gautam Buddh Nagar
37	Panchkula	Panchkula, Rohtak
38	Patna	Patna-I, Patna-II
39	Pune-I	Pune-I, Kolhapur
40	Pune-II	Pune-II, Goa
41	Raigarh	Raigarh, Navi Mumbai, Belapur

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42	Raipur	Raipur
43	Rajkot	Rajkot, Bhavnagar, Kutch (Gandhidham)
44	Ranchi	Ranchi, Jamshedpur
45	Shillong	Shillong, Guwahati, Dibrugarh, Itanagar, Dimapur, Imphal, Aizawl, Agartala
46	Surat	Surat, Daman
47	Thane	Thane, Thane Rural, Bhiwandi
48	Vadodara	Vadodara-I, Vadodara-II

2.3 Proper officers authorized to conduct and finalize audit

The term 'proper officer' has been defined under section 2(91) as follows:

2(91) "proper officer" in relation to any function to be performed under this Act, means the Commissioner or the officer of the Central Tax who is assigned that function by the Commissioner in the Board;

Hence, as per the above definition, the term 'proper officer' refers to the Commissioner or the officer who has been assigned the relevant function by the Commissioner of the Board. In terms of the said power, the Commissioner of the Board has assigned the functions of the officers vide *Circular No. 3/3/2017-GST dated 5th July 2017*.

As per the said Circular, functions of conducting and finalizing audit under section 65(6) and rule 101(2) to (5) have to be performed by the Deputy or Assistant Commissioner of Central Tax. Therefore, officers of this rank or officers above the rank of Deputy or Assistant Commissioner of Central Tax only have the powers to issue both Form GST ADT-01 and GST ADT-02. It is only under the supervision of Deputy or Assistant Commissioner that his team of officers can commence, conduct and finalize the audit.

Under State GST Acts, the term "proper officer" in relation to any function to be performed under the Act, means the Chief Commissioner/Commissioner or the officer of the State tax who is assigned that function by the Chief Commissioner /Commissioner. Like CGST, States have also assigned functions of conducting and finalizing audit under section 65 to officers as per their respective administrative set up. For example, in case of Maharashtra

functions under section 65(1), (6) & (7) have to be performed by the State Tax Officers while in Andhra Pradesh, functions under section 65(6) & (7) have to be performed by Deputy Assistant Commissioner, Assistant Commissioner & Deputy Commissioner having jurisdiction and/or Deputy Assistant Commissioner, Assistant Commissioner & Deputy Commissioner as authorized by the Additional Commissioner/Commissioner in case of State Enforcement wing.

Thus, for powers of the State officials, one may have to refer to the provisions of the respective State laws for such determination.

2.4 Powers of the officers

The powers of the officers have been provided under section 5 of the CGST Act.

Section 5(1) provides that an officer of central tax may exercise the powers and discharge the duties conferred or imposed on him under this Act subject to the conditions and limitations as imposed by the Board.

Further, section 5(2) provides that the central tax officer may exercise the powers and discharge the duties conferred or imposed under this Act on any other officer of central tax who is subordinate to him. Hence, the powers to conduct the audit would also be in the hands of the senior officer of the subordinate officer who is authorized by the Commissioner to conduct the audit.

Section 5(3) provides that the Commissioner may, subject to such conditions and limitations as may be specified in this behalf by him, delegate his powers to any other officer who is subordinate to him. Therefore, the Commissioner can provide the power of authorization for conducting the audit to any officer subordinate to him.

Section 5(4) provides that an Appellate Authority is not empowered to exercise the powers and discharge the duties conferred on the officers of the Central Tax. Therefore, the power to conduct the audit does not vest with the Appellate Authority irrespective of the higher authority.

2.5 Frequency of conducting audit

The period of audit shall be a financial year or part thereof or multiples thereof in terms of section 65(1) of the CGST Act read with rule 101 of the CGST Rules.

Hence, audit can be conducted for any of the following periods at a time:

- A financial year
- Part of the financial year
- Multiple financial years

2.6 Manner of conducting audit

As per section 65(1) read with rule 101, the manner of conducting audit is as follows:

- a. The proper officer is required to issue a notice in Form GST ADT-01 (Format of Form *GST ADT-01* is provided at the end of this Chapter) to all registered persons who are selected to have their audit conducted under section 65 by way of a notice not less than fifteen working days prior to the conduct of audit.
- b. The proper officer authorized to conduct audit of the records and the books of account of the registered person shall, with the assistance of the team of officers and officials accompanying him, verify the documents on the basis of which the books of account are maintained and the returns and statements furnished under the GST law.
- c. The proper officer needs to verify the correctness of the turnover, exemptions and deductions claimed, the rate of tax applied in respect of the supply of goods or services or both, the input tax credit availed and utilized, refund claimed and other relevant issues and record the observations in his audit notes.
- d. The proper officer may inform the registered person of the discrepancies noticed, if any, as observed in the audit and the said person may file his reply to the proper officer.
- e. Then, the proper officer shall finalize the findings of the audit after due consideration of the reply furnished by the registered person.
- f. The proper officer needs to inform the findings of audit in Form GST ADT-02 to the registered person within 30 days of the conclusion of

the audit. It would also provide the findings, rights, obligations and the reasons of the findings.

- g. Finally, where the audit conducted under sub-section (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under section 73 or section 74 or section 74A.

2.7 Place to conduct audit

As per section 65(2), the place for conducting the audit can either be the place of business of the registered person or the office of the officers conducting audit.

Section 2(85) defines 'place of business' as under:

<i>"place of business includes—</i>	
<i>(a)</i>	<i>a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or</i>
<i>(b)</i>	<i>a place where a taxable person maintains his books of account; or</i>
<i>(c)</i>	<i>a place where a taxable person is engaged in business through an agent, by whatever name called;"</i>

Thus, the definition of 'place of business' covers any place from where the business is carried out or where the goods are supplied / stored / received and the place where the books of accounts are maintained. Most commonly the audit is conducted at the place where the taxable person maintains his books of accounts.

The place where the audit is to be conducted must be a registered place of business - either a principal place of business or an additional place of business. Audit should not be conducted at a place that is not mentioned in FORM REG-6 e.g., audit cannot be conducted at the statutory auditor's office.

However, it is not necessary for the officers of the audit team to conduct the audit at the premises of the registered person. If deemed convenient, the officers of the audit team may request the registered person to produce the relevant books of accounts before them in their own office. This is entirely at the discretion of the relevant audit team in the department to determine what is fit and feasible.

2.8 Access to the business premises and record/reports

The authorized officer has access to any place of business of the registered person under section 71 of the CGST Act, which provides as under:

“(1) Any officer under this Act, authorised by the proper officer not below the rank of Joint Commissioner, shall have access to any place of business of a registered person to inspect books of account, documents, computers, computer programs, computer software whether installed in a computer or otherwise and such other things as he may require and which may be available at such place, for the purposes of carrying out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.

(2) Every person in charge of place referred to in sub-section (1) shall, on demand, make available to the officer authorised under sub-section (1) or the audit party deputed by the proper officer or a cost accountant or chartered accountant nominated under section 66—

- (i) such records as prepared or maintained by the registered person and declared to the proper officer in such manner as may be prescribed;*
- (ii) trial balance or its equivalent;*
- (iii) statements of annual financial accounts, duly audited, wherever required;*
- (iv) cost audit report, if any, under section 148 of the Companies Act, 2013 (18 of 2013);*
- (v) the income-tax audit report, if any, under section 44AB of the Income-tax Act, 1961 (43 of 1961)41; and*
- (vi) any other relevant record,*

for the scrutiny by the officer or audit party or the chartered accountant or cost accountant within a period not exceeding fifteen working days from the day when such demand is made, or such further period as may be allowed by the said officer or the audit party or the chartered accountant or cost accountant.”

As per the above provisions, any officer authorised by the proper officer not below rank of Joint Commissioner, has the access to any place of business of a registered person to inspect books of account, documents, computers, computer programs, computer software, whether installed in computer or otherwise and such things as he may require, for the purpose of carrying out

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any scrutiny, audit, verification and checks as may be necessary to safeguard the interest of revenue.

Hence, it is the obligation of the person in charge of that place to make available to the authorised officer or the audit party deputed by proper officer or a Cost Accountant or Chartered Accountant –

- Records as prepared and maintained by the registered person and declared to the proper officer;
- Trial balance or its equivalent;
- Duly audited statement of annual financial accounts, wherever required;
- Cost audit report, if any, under section 148 of the Companies Act, 2013 (18 of 2013);
- Income tax audit report, if any, under section 44AB of the Income Tax Act, 1961 (43 of 1961); and
- Any other relevant record

The records and accounts as mentioned above have to be provided within a period of 15 days from the day when such demand is made, or such further period as may be allowed by the said officer or audit party or Chartered Accountant or Cost Accountant.

2.9 Prior intimation to registered person for conducting the audit

The proper officer is required to provide a notice not less than fifteen working days prior to the conduct the audit. If required, the auditee can request the proper officer to extend this time period.

It may be noted that departmental audit is not an enforcement action but an administrative action. There may not necessarily be reasons to believe that there has been an evasion of taxes before carrying out the Department audit.

Following are some of the reasons for ensuring adequate time and prior intimation to a registered person before conducting the audit:

- A. Fairness and due process:** Providing prior intimation allows the registered person to prepare for the audit and gather the necessary documents and records to support their GST returns. This ensures that

the auditee has a fair opportunity to present its case and address any potential discrepancies that might arise during the audit.

- B. Avoidance of disruptions:** Audit can be resource-intensive and disruptive to a business's operations. By providing advance notice, businesses can plan their operations, accordingly, minimizing interruptions and ensuring that their regular business activities are not unduly affected by the audit process.
- C. Document assimilation:** GST audit typically requires the submission of various documents, including invoices, financial records, purchase and sales registers, input tax credit records, and more. Advance notice gives the auditee sufficient time to compile these documents and make them readily available for the audit team.
- D. Preparation for queries:** GST audit might involve detailed questions and clarifications from the audit team. With prior intimation, the registered person can research and gather information to respond to these queries effectively, thus expediting the audit process.
- E. Reduction of errors:** Advance notice allows the registered person to review his own records and identify any potential errors or discrepancies. This proactive approach can result in a more accurate self-assessment and reduced chances of misunderstandings during the audit.
- F. Engagement of professionals:** If necessary, registered persons can engage tax professionals, accountants, or consultants to assist them in the audit process. Advance notice ensures that these professionals can devote time and resources to help the auditee navigate the audit successfully.
- G. Time to address non-compliance:** If any potential non-compliance is identified during review of the records before the audit, the registered person can take corrective measures to rectify the issues before the audit actually takes place. This demonstrates a willingness to co-operate and comply and can mitigate potential penalties.

In short, providing prior intimation to the registered person before conducting a GST audit is a procedural safeguard that promotes transparency, fairness,

and effective compliance. It allows businesses to adequately prepare for the audit, present their case, and rectify any issues, ultimately contributing to a smoother and more efficient audit process for both the taxpayer and the tax authorities.

2.10 Date of commencement of audit

The commencement of audit would be only from the date on which the records and other documents called for by the officers are made available by the registered person or the actual institution of the audit at the place of business, whichever is later.

Interestingly it has also been stated that mere submission of records would not be sufficient to commence audit either. The actual institution of the audit by the Department may take place at a later date. In such cases, the date of commencement would be on the actual institution of the audit by the Department.

However, if the audit is conducted remotely (at the Department's premises), the date of commencement of audit is not defined under law. In common parlance, the commencement of audit may be interpreted as the date when the requested records and documents are made available by the registered person, especially in cases where audits are conducted from the tax department's premises. This interpretation is based on practical considerations due to absence of a specific provision in the law for audits conducted remotely.

2.11 Communication of discrepancies noticed during the audit

The proper officer may inform, any discrepancies noticed, if any, as observed during the audit, to the registered person thereafter registered person may furnish his response. The proper officer is required to finalize the findings of the audit after due consideration of the reply furnished.

This process ensures transparency and fairness by allowing the auditee to respond to discrepancies identified during the audit before the finalization of the audit report.

2.12 Time limit for completion of audit

It has been provided that the audit shall be completed within a period of *three months from the date of its commencement*. To achieve this, it is the duty of

both the officers of audit team and the auditees to extend their co-operation to each other. The proper officer shall ensure that relevant requisitions are sent to the auditee on time so that the auditees gets sufficient time to make their submissions and should not be rushed towards the end of the time limit with fresh documentation which were not requisitioned earlier.

On the other hand, under section 65(5), the registered person is also obligated by law to provide the following to the authorized officer of the GST Department:

- (i) Afford him the necessary facility to verify the books of account or other documents as he may require;
- (ii) Furnish such information as he may require and render assistance for the timely completion of the audit.

Although even after commencement of the audit, it is not necessary that all the relevant documents and records would be submitted immediately by the registered person. It may not be possible for the Department to complete the audit and prepare its findings without adequate time being provided for examination. This may not be possible due to the complexity of the transactions and the nature of records furnished which may require time for drawing inferences. These reasons are only illustrative and not exhaustive.

Due to any such reason, if the Commissioner is satisfied that the audit cannot be completed within three months, he may, for the reasons to be recorded in writing, extend the period by a *further period not exceeding six months*. This would allow the GST Department to complete its audit after adequate verification of the documents.

However, this power should be used sparingly and only in necessary cases by the GST Department.

The timely completion of the audit formalities augurs well for both the tax authorities and the registered persons.

From the perspective of the GST Department, completing audits on time allows the GST Department to deploy its resources efficiently. Delays in audit completion can lead to a backlog of audits, making it challenging for the GST Department to manage its audit workload effectively. Timely completion of audits prevents such backlogs and ensures a smooth audit schedule. This would be most beneficial considering the limitation period prescribed for

issuing show cause notices and orders as per the demand and recovery provisions under sections 73, 74 and 74A of the CGST Act.

From the perspective of the registered person, the disruptions, if any, to the business can be for a short time. Businesses subjected to audits need to allocate resources, including time and staff, to respond to audit requests. Completing audits on time prevents unnecessary disruptions to their operations. Also, timely completion of audits enables early detection of errors and discrepancies so that corrective action can be taken by the registered person.

2.13 Communication of findings of audit

On conclusion of the audit, section 65(6) of the CGST Act requires the proper officer to inform the registered person of the findings, his rights and obligations and the reasons for such findings within 30 days of the completion of the audit. Such communication would be made in Form GST ADT-02 (Format of Form GST ADT-02 is provided at the end of this Chapter).

When recording audit findings in the final audit report, the GST Department should aim for clarity, accuracy, and thoroughness.

Further, supporting evidence for each finding, including relevant documents, calculations, and any other data that substantiates the findings should also be attached. Also, it should explain the audit methodology employed, including the procedures, techniques, and sampling methods used to gather and analyze information that led to the findings. Also, reference the specific sections of GST laws, regulations, or guidelines that support each finding should be provided so that the auditee is made clear of the accusation levelled against him.

Further, the Department should always quantify the potential impact on the audited entity's tax liability and its resulting interest and penalty. The fact that there is a lower penalty of 15 percent under section 74 or Nil penalty under section 73 if the payment is made before the issuance of show cause notice should be highlighted.

2.14 Initiation of action

Where the audit findings had been communicated and the tax on the same remains short paid or unpaid or erroneously refunded or ITC has been wrongly availed or utilized in the opinion of the GST Department, the proper

officer has the power to initiate action under section 73 or 74 or 74A (FY 2024-25 onwards). This would require the issuance of show cause notice allowing an opportunity to the taxpayers to show cause as to why the said amount specified in the notice is not payable by them.

While such show cause notices can be issued by the officers of the Audit Commissionerate, the same has to be adjudicated necessarily by the Executive Commissionerate only.

In terms of *Circular no. 3/3/2017-GST dated 19th June 2017* and *Circular No. 31/05/2018-GST dated 9th February 2018*, it has been provided that the power to issue show cause notices would rest with the relevant ranking officer depending on the quantum of taxes in dispute. The powers of the GST officers to issue Show Cause Notice depending on the monetary limit are given at page no. 30

We have not elaborated on the contents and requisites of show cause notice as Adjudication is a separate subject dealt with elaborately in other publications of ICAI.

2.15 Steps of Audit by Tax Authorities¹

The Departmental GST Audit under 65 involves following steps:

Step-1 Audit selection

Registered taxpayer for audit for a financial year or part or multiple thereof may be selected by Commissioner / appropriate authority based on targeting parameters / local factors developed in-house.

Step-2 Allotment of selected registered taxpayer

The selected Registered taxpayers may be distributed to the respective jurisdictional officer. Allocation should be consistent with audit norms (no. of days to audit a Registered taxpayer, size of each registered taxpayer, audit capacity, etc.).

Step-3 Issuance of notice for audit

The audit officer should issue FORM GST ADT - 01 fixing the date of audit. A Master File should be maintained in respect of each auditee, which should be updated before the commencement of audit.

¹ Source - Model All India GST Audit Manual 2023

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Sl. No.	Officer of Central Tax	Monetary limit of the amount of central tax (including cess) not paid/short paid/erroneously refunded or ITC of central tax wrongly availed/utilized for issuance of SCNs and passing of orders u/s 73 and 74	Monetary limit of the amount of integrated tax (including cess) not paid/short paid/erroneously refunded/ITC of integrated tax wrongly availed/utilized for issuance of SCNs and passing of orders u/s 73 and 74 made applicable to matters in relation to integrated tax vide section 20 of the IGST Act	Monetary limit of the amount of central tax and integrated tax (including cess) not paid/short paid/erroneously refunded/ITC of central tax and integrated tax wrongly availed/utilized for issuance of SCNs and passing of orders u/s 73 and 74 made applicable to integrated tax vide section 20 of the IGST Act
(1)	(2)	(3)	(4)	(5)
1.	Superintendent of Central Tax	Not exceeding Rupees 10 lakhs	Not exceeding Rupees 20 lakhs	Not exceeding Rupees 20 lakhs
2.	Deputy or Assistant Commissioner of Central Tax	Above Rupees 10 lakhs and not exceeding Rupees 1 crore	Above Rupees 20 lakhs and not exceeding Rupees 2 crores	Above Rupees 20 lakhs and not exceeding Rupees 2 crores
3.	Additional or Joint Commissioner of Central Tax	Above Rupees 1 crore without any limit	Above Rupees 2 crores without any limit	Above Rupees 2 crores without any limit

Step-4 Pre-audit desk review

Basic groundwork to chalk out the lines along which a particular audit will progress as well as to identify areas where audit attention should be concentrated for maximum yield.

Step-5 Preparation and approval of audit plan

Based on desk review, the audit team should prepare an audit plan and place it before the proper higher authority for approval. Any necessary modification may be done by the higher authority if required.

Step-6 Commencement of audit

The date on which the records / documents are made available by the registered person or the actual institution of audit at the place of business constitute commencement of audit. Prior identification of the sources of relevant data would lighten the burden of compliance on the auditee. Every GST Administration should consider publishing a white list of documents already available with the department which should not be called for from the taxpayers. This list can be shared with the auditee to emphasise the collaborative and facilitatory nature of audit.

Step-7 Examination

In-depth checking of the records /documents/ books made available by the registered person during audit. Original copies of documents like invoices, etc. may be called for only if deemed vital for being examined/subjected to close scrutiny by the audit team.

Step-8 Communication of discrepancies found

The observations made upon audit are to be communicated to the auditee in writing. The auditee should be allowed due opportunity for filing his explanation in respect of discrepancies intimated by the department.

Step-9 Preparation and approval of draft audit report (DAR)

Drawing up a DAR containing the observations made in the course of audit after considering explanations & documents provided by the auditee in respect of such discrepancies and approval of the same by the appropriate higher authority. A mechanism like Monitoring Committee Meeting should be established to decide each audit para.

Step-10 Preparation of final audit report

After approval, a final report is to be drawn up and issued to the auditee.

Step-11 Audit consequences

Finally, the following consequences of audit are as under:

- (i) Closure of audit (in case the observations are admitted by the Registered taxpayer and the amount short paid as indicated is paid); or
- (ii) initiation of demand and recovery proceedings by issuance of show cause notice u/s. 73/74/74A of CGST Act. A mechanism should be implemented to ensure that show cause notices are issued within the specified time limit.

2.16 Difference between Audit by Tax Authorities and Special Audit

Particulars	Audit by Tax Authorities (Section 65)	Special Audit (Section 66)
Initiation	It can be initiated without any ongoing proceedings of a registered person.	Existence of on-going proceedings is mandatory for initiation of special audit.
Power to initiate audit	Commissioner	Any officer not below the rank of Assistant Commissioner, with the prior approval of the Commissioner.
Who conducts Audit?	Commissioner or any officer authorised by him.	Chartered accountant or a Cost Accountant nominated by the Commissioner.
Purpose	The purpose of this audit is to verify the compliance by the registered person with the GST laws, accuracy of tax payments, correctness of input tax credit claimed, etc.	The purpose of this audit is to examine complex cases where there are doubts about the correctness of declared values or credit availed, and to ensure proper assessment.

Audit by Tax Authorities

Notice	A minimum 15 days' notice is required to be given to the registered person prior to conduct of audit	No notice period is prescribed to be given to a registered person before conducting the special audit.
Period of completion	Three months which is extendable by a further period of three months if the Commissioner is satisfied for reasons to be recorded in writing.	90 days which is extendable by a further period of 90 days if an application is made by the registered person or the Chartered Accountant or Cost Accountant to the Assistant Commissioner for any material and sufficient reason and the Assistant Commissioner deems fit.
Opportunity of being heard	The proper officer may inform the registered person of the discrepancies noticed, if any, as observed in the audit and the said person may file his reply and the proper officer shall finalize the findings of the audit after due consideration of the reply furnished.	The registered person shall be given an opportunity of being heard in respect of any material gathered on the basis of special audit which may be proposed to be used in any proceedings against him under this Act or the rules made thereunder.
Expenses	Since the audit is conducted by the Departmental officers, no amount is to be paid to any third person.	Since the proper officer engages a third party i.e. Chartered Accountant/ Cost Accountant, the cost of professional fees along with the professional's out of pocket expenses shall be determined and paid by the Commissioner.

2.17 Audit Forms

The GST Forms related to audit by tax authorities are as follows.

FORM GST ADT-01 [See rule 101(2)]	
Reference No.:	Date:
To, _____	
GSTIN.....	
Name	
Address	
Period - F.Y.(s) -	
Notice for Conducting Audit	
Whereas it has been decided to undertake audit of your books of account and records for the financial year(s) to in accordance with the provisions of section 65. I propose to conduct the said audit at my office/at your place of business on -----.	
And whereas you are required to:	
(i) afford the undersigned the necessary facility to verify the books of account and records or other documents as may be required in this context, and	
(ii) furnish such information as may be required and render assistance for timely completion of the audit.	
You are hereby directed to attend in person or through an authorised representative on (date) at.....(place) before the undersigned and to produce your books of account and records for the aforesaid financial year(s) as required for audit.	
In case of failure to comply with this notice, it would be presumed that you are not in possession of such books of account and proceedings as deemed fit may be initiated as per the provisions of the Act and the rules made thereunder against you without making any further correspondence in this regard.	
Signature	
Name	
Designation	

FORM GST ADT-02

[See rule 101(5)]

Reference No.:

Date:

To,

GSTIN

Name

Address

Audit Report No. dated

Audit Report under section 65(6)

Your books of account and records for the FY..... have been examined and this Audit Report is prepared on the basis of information available / documents furnished by you and the findings are as under:

Short payment of Integrated tax Central tax State /UT tax Cess
Tax

Interest

Any other amount

[Upload pdf file containing audit observation]

You are directed to discharge your statutory liabilities in this regard as per the provisions of the Act and the Rules made thereunder, failing which proceedings as deemed fit may be initiated against you under the provisions of the Act.

Signature

Name

Designation

Chapter 3

Registration, Invoicing and Returns

3.1 Registration

GST is a tax on “supply” of goods or services or both and in order to comply with the provisions of GST, registration is the first and foremost requirement. Registration of any person requires obtaining a 15 digit unique number from tax authorities (Centre / State) and thereafter, once a person gets registered under GST law, he is allowed to charge GST on his invoice, collect the same from his customer (recipient) and pay the collected tax to the Government either through cash or through utilization of the ITC of GST paid on his inward supplies. Thus, registration is the primary requirement for any action under the CGST Act and other statutes of GST. It is only a registered person who can issue a tax invoice or avail ITC amongst many other rights and privileges available for the registered persons under GST law. It is also important to note that only a registered person can be audited under the CGST Act.

Categories of Registration under GST Law:

- a. Where turnover exceeds threshold limit;
- b. Compulsory Registration;
- c. Voluntarily Registration.

3.2 Threshold Limit for obtaining Registration

Every supplier is required to obtain registration in the State or Union Territory from where he makes the taxable supply of goods or services or both if his aggregate turnover in the financial year exceeds the specified threshold limit. The threshold limits for obtaining registration under the GST law are as under:

Registration, Invoicing and Returns

Supply of Goods / Services	Threshold limit of Aggregate Turnover in case of	
	Special Category States under GST*	States other than Special Category States
Exclusive supply of goods	Rs.10 Lakh	Rs.40 Lakh** (Notification No. 10/2019-CT dated 07.03.2019, as amended)
Supply of goods and services/ supply of services	Rs.10 Lakh	Rs.20 Lakh

*As per the Article 279A(4)(g) of the Constitution of India, there are 11 special category States, namely, States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand. However, as per Explanation (iii) to section 22, for the purpose of registration, only Manipur, Mizoram, Nagaland and Tripura are deemed as Special category States.

**Persons who are exclusively engaged in the supply of goods and whose aggregate turnover in the financial year does not exceed Rs. 40 lakh are exempted from the requirement of obtaining registration vide *Notification No. 10/2019-CT dated 07.03.2019*. However, this exemption is subject to some exceptions as provided in the notification.

Further the limit for obtaining registration is Rs. 20 Lakh, if the person is engaged in exclusive supply of goods from the following States/UT's:

- ❖ Puducherry
- ❖ Telangana
- ❖ Arunachal Pradesh
- ❖ Meghalaya
- ❖ Sikkim
- ❖ Uttarakhand

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The word 'aggregate turnover' has been defined in section 2(6) of the CGST Act to mean 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.

It may also be noted that as per the explanation to sub-section (1) of section 22, a person shall be considered to be engaged *exclusively in the supply of goods* even if he is engaged in the supply of exempt services provided by way of *extending deposits, loans or advances* in so far as the consideration is represented by way of interest or discount. (Refer illustration – 1)

Illustration – 1: - A trader has two establishments -a warehouse at Patna and showroom at Kolkata. There is no income from the warehouse except interest income of Rs. 2 Lakh received from bank whereas showroom supplies goods valued Rs. 39 Lakhs. Whether he is required to obtain registration under GST?

In the instant case, as per explanation to section 22(1) of the CGST Act, the trader will be considered as engaged *exclusively in the supply of goods* and thus the threshold limit of Rs. 40 Lakhs shall be applicable. Since, aggregate turnover (taxable + exempt supplies) of Rs. 41 Lakhs exceeds the threshold limit; he would be required to obtain registration under GST. However, since he has only exempt supplies from the warehouse, no registration is required in Patna, Bihar. It may be noted here that income earned by way of interest from loans, advances, deposits is an exempt supply vide *Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017*. Thus, registration will be required in Kolkata only.

Now, let's suppose, machinery has been sold from the warehouse at Patna for Rs. 1 Lakh. Will the trader be required to take registration in Bihar?

In this scenario, the benefit of the exemption on account of *exclusive exempt supplies* shall be lost and the aggregate turnover (exempt supplies + supply of machinery) shall be considered and since aggregate turnover exceeds the threshold limit, registration in Bihar also shall be required.

Illustration – 2: - Mr. A is having a place of businesses at Kolkata (West Bengal) & Ranchi (Jharkhand). He supplied electronic devices such as mobile phones, laptops etc. (taxable supplies) amounting to Rs.50 Lakhs

from Kolkata and exempt supplies such as fresh fruits, cereals, salt etc. amounting to Rs. 40 lakhs from Ranchi.

In this case, his aggregate turnover amounts to Rs. 90 lakhs i.e., more than threshold limit. However, since he supplies only exempt supplies from Ranchi, he is not required to take registration in Jharkhand. Registration in West Bengal will suffice.

3.3 Compulsory Registration

The threshold limits as discussed above are not applicable in a case, where the person falls under any of the categories as specified under section 24 of the CGST Act which provides for compulsory registration under the Act. In such cases, the person is mandatorily required to obtain compulsory registration under the Act. The categories of such class of persons are as follows:

- (i) Persons making any inter-State taxable supply.
- (ii) Casual taxable persons making taxable supply.
- (iii) Persons who are required to pay tax under reverse charge.
- (iv) Persons who are required to pay tax under sub-section (5) of section 9.
- (v) Non-resident taxable persons making taxable supply.
- (vi) Persons who are required to deduct tax under section 51, whether or not separately registered under this Act.
- (vii) Persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise.
- (viii) Input Service Distributor, whether or not separately registered under this Act.
- (ix) Persons who supply goods or services or both, other than supplies specified under sub-section (5) of section 9, through such electronic commerce operator who is required to collect tax at source under section 52.
- (x) Every electronic commerce operator who is required to collect tax at source under section 52.

- (xi) Every person supplying online information and data base access or retrieval services from a place outside India to a person in India, other than a registered person.
- (xia) Every person supplying online money gaming from a place outside India to a person in India; and
- (xii) Such other person or class of persons as may be notified by the Government on the recommendations of the Council.

3.4 Voluntary Registration

A person, whose turnover is below the specified threshold limit and who is not compulsorily required to take registration, may take GST registration on voluntarily basis as per section 25(3) of the CGST Act.

3.5 Persons Exempted from obtaining Registration

As per section 23 of the CGST Act, the following persons shall not be liable to obtain registration:

- (a) Any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act.
- (b) An agriculturist, to the extent of supply of produce out of cultivation of land.
- (c) Specified categories of persons as notified by the Government.

The Government has notified the following categories of persons who are exempted from obtaining registration:

- (i) *Persons only engaged in making taxable supplies, total tax on which is liable to be paid on reverse charge basis (Notification No. 5/2017-Central Tax dated 19-06-2017 as amended by Notification No. 24/2024-Central Tax, dated. 09-10-2024)*

Persons who are only engaged in making supplies of taxable goods or services or both, the total tax on which is liable to be paid on reverse charge basis by the recipient of such goods or services or both under sub-section (3) of section 9 of the said Act are exempted from obtaining registration under the GST Act, 2017.

However, this exemption does not apply to any person engaged in the supply of metal scrap, falling under Chapters 72 to 81 in the First

Schedule to the Customs Tariff Act, 1975 (51 of 1975), effective from 10th October 2024.

- (ii) *Suppliers of services through an e-commerce platform from obtaining compulsory registration (Notification No. 65/2017-Central Tax dated 15-11-2017 as amended by Notification No. 6/2019 - Central Tax, Dated 29-01-2019)*

Persons making supplies of services, other than supplies specified under sub-section (5) of section 9 of the said Act through an electronic commerce operator who is required to collect tax at source under section 52 of the said Act, and having an aggregate turnover, to be computed on all India basis, not exceeding an amount of twenty lakh rupees in a financial year, are exempted from obtaining registration under the said Act.

However, the aggregate value of such supplies, to be computed on all India basis, should not exceed an amount of ten lakh rupees in case of "special category States" as specified in the first proviso to sub-section (1) of section 22 of the said Act, read with clause (iii) of the Explanation to the said section.

- (iii) *Select casual taxable persons (Notification No. 56/2018-Central Tax, Dated 23-10-2018)*

- Casual taxable person making inter-State taxable supplies of handicraft goods as defined in the Explanation in Notification No. 21/2018 - Central Tax (Rate), Dated the 26th July, 2018 as amended by Notification No. 20/2021-Central Tax (Rate), Dated 28-12-2021.
- Casual taxable person making inter-State taxable supplies of products and HSN code as mentioned in Notification No. 56/2018-CT dated 23.10.2018.

Further, such persons are availing the benefit of Notification No. 03/2018-Integrated Tax, Dated the 22nd October, 2018.

Furthermore the aggregate value of such supplies, to be computed on all India basis, does not exceed the amount of aggregate turnover above which a supplier is liable to be registered in the State or Union territory in accordance with sub-section (1) of section 22 of the said Act, read with clause (iii) of the Explanation to that section.

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- (iv) *Person engaged in exclusive supply of goods and whose aggregate turnover in the financial year does not exceed Rs 40 lakhs (Notification No. 10/2019-Central Tax dated 07-03-2019 as amended by Notification No. 3/2022-Central Tax, dated 31-03-2022 and Notification No. 15/2022-Central Tax, Dated 13-07-2022)*

Any person who is exclusively engaged in the supply of goods and whose aggregate turnover in the financial year does not exceed forty lakh rupees, except-

- (a) persons required to take compulsory registration under section 24 of the said Act;
- (b) persons engaged in making supplies of the goods as provided in the notification;
- (c) persons engaged in making intra-State supplies in the States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand; and
- (d) persons exercising option under the provisions of sub-section (3) of section 25, or such registered persons who intend to continue with their registration under the said Act.

- (v) *Job-workers making inter-State supply of services to a registered person – (Notification No. 7/2017-Integrated Tax, dated 14-09-2017 as amended by Notification No. 2/2019 - Integrated Tax, dated 29-01-2019)*

Job workers engaged in making inter-State supply of services to a registered person are exempted from obtaining registration under the GST Act.

However, the Notification shall not apply to a job worker who is liable to be registered under sub-section (1) of section 22 or who opts to take registration voluntarily under sub-section (3) of section 25 of the said Act or who is involved in making supply of services in relation to the goods mentioned against serial number 5 in the Annexure to rule 138 of the CGST Rules.

- (vi) *Persons making inter-State supplies of taxable services – (Notification No. 10/2017-Integrated Tax, dated 13-10-2017 as amended by Notification No. 3/2019 - Integrated Tax, dated 29-01-2019)*

Persons making inter-State supplies of taxable services and having an aggregate turnover, to be computed on all India basis, not exceeding

an amount of twenty lakh rupees in a financial year are exempted from obtaining registration under the Act.

However, the aggregate value of such supplies, to be computed on all India basis, should not exceed an amount of ten lakh rupees in case of "special category States" as specified in the first proviso to sub-section (1) of section 22 of the said Act, read with clause (iii) of the Explanation to the Section 22 of the Act.

Readers seeking further information on the topic registration may refer to GST & Indirect Taxes Committee's publication "Handbook on Registration under GST".

3.6 Significance of Place of Business

'Place of business' plays a vital role under GST law. It influences both the requirement to obtain registration in terms of threshold limit and the determination of whether supplies are inter-State or intra-State.

As per section 25(1) of the Act read with rule 8 of the CGST Rules, a person requiring registration shall make an application in Form GST REG-01. Amongst other requisites, the person is required to declare his "principal place of business" in the form.

"Principal place of business" has been defined under clause (89) of section 2 of the CGST Act. The definition of "principal place of business" reads as:

(89) "principal place of business" means the place of business specified as the principal place of business in the certificate of registration;

The term "place of business" has been defined under clause (85) of section 2 of the CGST Act as under:

(85) "place of business" includes—

- (a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or*
- (b) a place where a taxable person maintains his books of account; or*
- (c) a place where a taxable person is engaged in business through an agent, by whatever name called.*

3.7 Distinct Person and Establishments of a Distinct Person

Distinct person has been explained in section 25(4) of CGST Act. 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 person for the purposes of this Act.

Establishment of distinct person has been explained in section 25(5) of CGST Act. 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.

In other words, distinct persons are persons with different GSTINs belonging to one legal entity (single PAN) situated within the same State or in two different States or in a different country.

As per explanation 1 to section 8(2) of the IGST Act, the following establishments of a person are considered as 'establishment of distinct persons':

- an establishment in a State or Union territory and any other establishment registered within that State or Union territory; or
- an establishment in India and any other establishment outside India; or
- an establishment in a State or Union Territory and any other establishment outside that State or Union territory.

Further, where a person is having one registered establishment in a State/UT and has another establishment in a different State/UT (even if unregistered), these establishments are considered as an establishment of distinct persons as the sub-section reads "*A person who has obtained or is required to obtain more than one registration*". Thus, even an establishment which fails to take registration, it would still be considered as a distinct person. It is also important to note that the establishments outside India of the same person shall also be considered as distinct person as such establishments cannot take registration under any GST statute in India. Also, transactions of such establishments which are outside India are not within the purview of GST statutes.

3.8 Multiple Registrations under Same PAN

GST registration is State-centric as provided under section 22 (Persons liable for registration) of CGST Act which states that every supplier shall be liable to be registered under this Act in the State or Union Territory from where he makes the taxable supplies of goods or services or both. In other words, a person who is having operations across India and is rendering taxable supplies will have to get registered compulsorily. Therefore, where a supplier provides taxable supply from more than one State or UT, he is required to obtain State or UT wise registrations under a single PAN. Thus, the same person shall have multiple registrations in India under the same PAN.

For the purpose of registration, PAN-based aggregate turnover is required to be checked. In other words, once this PAN based aggregate turnover exceeds the prescribed threshold limit, the person is required to take registration in all the States / Union Territories separately irrespective of the turnover in State/UT.

3.8.1 Registration under same PAN within the State / UT

Prior to 01.02.2019, as per proviso to sub-section (2) of section 25 of the CGST Act, only a person having multiple business verticals in a State / Union Territory may be granted separate registration for each business vertical, subject to some conditions. However, w.e.f. 01.02.2019, person having multiple places of business in a State or Union Territory may be granted a separate registration for each such place of business in the same State, subject to other conditions as prescribed under rule 11 of the CGST Rules.

However, where a person is having multiple branches within a particular State / Union Territory and is having only one GST registration within the same State / Union Territory, he can declare one place as principal place of business and other branches as additional place of business.

Rule 11(1) of the CGST Rules provides for separate registration for multiple places of business within a State or a Union Territory. The rule states that any person having multiple places of business within a State or a Union Territory, requiring a separate registration for any such place of business under sub-section (2) of section 25 shall be granted separate registration in respect of each such place of business subject to the following conditions, namely:

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- a) Such person has more than one place of business as defined in clause (85) of section 2. The said clause provides the definition of 'place of business' as discussed above. Thus, only establishments which qualify as 'place of business' can be granted registration under the Act.
- b) Such person shall not pay tax under section 10 for any of his places of business if he is paying tax under section 9 for any other place of business.
- c) All separately registered places of business of such person shall pay tax under the Act on supply of goods or services or both made to another registered place of business of such person and issue a tax invoice or a bill of supply, as the case may be, for such supply.

Illustration – 3: - A person has two footwear stores in Delhi. He can take different registrations for each store i.e. two registrations within Delhi. If he also has, say, an electronics store apart from footwear stores in Delhi, again different registrations can be obtained for each such footwear store and also a separate registration for electronics store i.e. three separate registrations in total. Alternatively, he may also choose to have a common GST registration for all such stores in Delhi by declaring other places as an additional place of business. If he registers each of his stores separately, each would be deemed to be a separate (distinct) entity.

3.8.2 Registration under same PAN in different States / UTs

Section 22 of the CGST Act provides that a person making taxable supply of goods or services or both is required to obtain registration in every State from where he makes the taxable supplies, subject to prescribed conditions.

Further, it has been provided in explanation to rule 11(1) of the CGST Rules that where any place of business of a registered person within a State / Union territory has been granted a separate registration becomes ineligible to pay tax under composition scheme (section 10), all other registered places of business of the said person shall become ineligible to pay tax under the said section. Thus, if a person is a regular taxpayer in any one State, he cannot obtain registration under composition scheme in any other State.

3.8.3 Supply of goods/services between units under same PAN having different registrations within the same State

When one distinct person supplies goods or services or both to another distinct person, he is required to issue a tax invoice or bill of supply, as applicable. 'Distinct persons' in the same State would mean establishments of the same person having different registrations within the same State. Only

when a registered person is having more than one place of business (which are added in his registration certificate as an additional place of business) within the same State under the same GSTIN, he can send goods on delivery challan, without issuing a tax invoice or similar specified document.

3.8.4 Supply of goods/services between units under same PAN in different States/UTs

Where one distinct person supplies goods or services or both to another distinct person in a different State, he is required to issue a tax invoice or bill of supply, as applicable. Since each establishment in different States would have a different GSTIN, the goods in such cases cannot be moved on delivery challan.

3.9 Invoicing

Statutory Provisions

Section 31: Tax invoice

(1) *A registered person supplying taxable goods shall, before or at the time of,—*

- (a) *removal of goods for supply to the recipient, where the supply involves movement of goods; or*
- (b) *delivery of goods or making available thereof to the recipient, in any other case,*

issue a tax invoice showing the description, quantity and value of goods, the tax charged thereon and such other particulars as may be prescribed:

Provided that the Government may, on the recommendations of the Council, by notification, specify the categories of goods or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed.

(2) *A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed:*

Provided that the Government may, on the recommendations of the Council, by notification,—

- (a) *specify the categories of services or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed;*

- (b) *subject to the condition mentioned therein, specify the categories of services in respect of which—*
- (i) *any other document issued in relation to the supply shall be deemed to be a tax invoice; or*
 - (ii) *tax invoice may not be issued.*
- (3) *Notwithstanding anything contained in sub-sections (1) and (2)—*
- (a) *a registered person may, within one month from the date of issuance of certificate of registration and in such manner as may be prescribed, issue a revised invoice against the invoice already issued during the period beginning with the effective date of registration till the date of issuance of certificate of registration to him;*
 - (b) *a registered person may not issue a tax invoice if the value of the goods or services or both supplied is less than two hundred rupees subject to such conditions and in such manner as may be prescribed;*
 - (c) *a registered person supplying exempted goods or services or both or paying tax under the provisions of section 10 shall issue, instead of a tax invoice, a bill of supply containing such particulars and in such manner as may be prescribed:*
Provided that the registered person may not issue a bill of supply if the value of the goods or services or both supplied is less than two hundred rupees subject to such conditions and in such manner as may be prescribed;
 - (d) *a registered person shall, on receipt of advance payment with respect to any supply of goods or services or both, issue a receipt voucher or any other document, containing such particulars as may be prescribed, evidencing receipt of such payment;*
 - (e) *where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a refund voucher against such payment;*
 - (f) *a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 shall within the period as may be prescribed issue an invoice in respect of goods or services or both*

received by him from the supplier who is not registered on the date of receipt of goods or services or both;

- (g) *a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9, shall issue a payment voucher at the time of making payment to the supplier.*

Explanation – For the purposes of clause (f), the expression “supplier who is not registered” shall include the supplier who is registered solely for the purpose of deduction of tax under section 51.

- (4) *In case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the invoice shall be issued before or at the time each such statement is issued or, as the case may be, each such payment is received.*

- (5) *Subject to the provisions of clause (d) of sub-section (3), in case of continuous supply of services,—*

- (a) *where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before the due date of payment;*
- (b) *where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment;*
- (c) *where the payment is linked to the completion of an event, the invoice shall be issued on or before the date of completion of that event.*

- (6) *In a case where the supply of services ceases under a contract before the completion of the supply, the invoice shall be issued at the time when the supply ceases and such invoice shall be issued to the extent of the supply made before such cessation.*

- (7) *Notwithstanding anything contained in sub-section (1), where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued before or at the time of supply or six months from the date of removal, whichever is earlier.*

Explanation.—For the purposes of this section, the expression “tax invoice” shall include any revised invoice issued by the supplier in respect of a supply made earlier.

Rule 46: Tax Invoice

Subject to rule 54, a tax invoice referred to in section 31 shall be issued by the registered person containing the following particulars, namely,—

- (a) name, address and Goods and Services Tax Identification Number of the supplier;*
- (b) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolised as "-" and "/" respectively, and any combination thereof, unique for a financial year;*
- (c) date of its issue;*
- (d) name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;*
- (e) name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is unregistered and where the value of the taxable supply is fifty thousand rupees or more;*
- (f) name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is unregistered and where the value of the taxable supply is less than fifty thousand rupees and the recipient requests that such details be recorded in the tax invoice:*

Provided that in cases involving supply of online money gaming or in cases where any taxable service is supplied by or through an electronic commerce operator or by a supplier of online information and database access or retrieval services to a recipient who is unregistered, irrespective of the value of such supply, a tax invoice issued by the registered person shall contain the name of the state of the recipient and the same shall be deemed to be the address on record of the recipient;

- (g) Harmonised System of Nomenclature code for goods or services;*
- (h) description of goods or services;*
- (i) quantity in case of goods and unit or Unique Quantity Code thereof;*
- (j) total value of supply of goods or services or both;*

- (k) *taxable value of the supply of goods or services or both taking into account discount or abatement, if any;*
- (l) *rate of tax (central tax, State tax, integrated tax, Union Territory tax or cess);*
- (m) *amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union Territory tax or cess);*
- (n) *place of supply along with the name of the State, in the case of a supply in the course of inter-State trade or commerce;*
- (o) *address of delivery where the same is different from the place of supply;*
- (p) *whether the tax is payable on reverse charge basis;*
- (q) *signature or digital signature of the supplier or his authorised representative; and*
- (r) *Quick Response Code, having embedded Invoice Reference Number (IRN) in it, in case invoice has been issued in the manner prescribed under sub-rule (4) of rule 48;*
- (s) *a declaration as below, that invoice is not required to be issued in the manner specified under sub-rule (4) of rule 48, in all cases where an invoice is issued, other than in the manner so specified under the said sub-rule (4) of rule 48, by the taxpayer having aggregate turnover in any preceding financial year from 2017-18 onwards more than the aggregate turnover as notified under the said sub-rule (4) of rule 48-*
"I/We hereby declare that though our aggregate turnover in any preceding financial year from 2017-18 onwards is more than the aggregate turnover notified under sub-rule (4) of rule 48, we are not required to prepare an invoice in terms of the provisions of the said sub-rule":
Provided that the Board may, on the recommendations of the Council, by notification, specify—
 - (i) *the number of digits of Harmonised System of Nomenclature code for goods or services that a class of registered persons shall be required to mention; or*
 - (ii) *a class of supply of goods or services for which specified number of digits of Harmonised System of Nomenclature code shall be required to be mentioned by all registered taxpayers; and*

- (iii) *the class of registered persons that would not be required to mention the Harmonised System of Nomenclature code for goods or services:*

Provided further that in the case of the export of goods or services, the invoice shall carry an endorsement "SUPPLY MEANT FOR EXPORT/SUPPLY TO SEZ UNIT OR SEZ DEVELOPER FOR AUTHORISED OPERATIONS ON PAYMENT OF INTEGRATED TAX" or "SUPPLY MEANT FOR EXPORT/SUPPLY TO SEZ UNIT OR SEZ DEVELOPER FOR AUTHORISED OPERATIONS UNDER BOND OR LETTER OF UNDERTAKING WITHOUT PAYMENT OF INTEGRATED TAX", as the case may be, and shall, in lieu of the details specified in clause (e), contain the following details, namely,—

- (i) name and address of the recipient;*
- (ii) address of delivery; and*
- (iii) name of the country of destination:*

Provided also that a registered person, other than the supplier engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens, may not issue a tax invoice in accordance with the provisions of clause (b) of sub-section (3) of section 31 subject to the following conditions, namely,—

- (a) the recipient is not a registered person; and*
- (b) the recipient does not require such invoice, and*

shall issue a consolidated tax invoice for such supplies at the close of each day in respect of all such supplies:

Provided also that the signature or digital signature of the supplier or his authorised representative shall not be required in the case of issuance of an electronic invoice in accordance with the provisions of the Information Technology Act, 2000 (21 of 2000):

Provided also that the Government may, by notification, on the recommendations of the Council, and subject to such conditions and restrictions as mentioned therein, specify that the tax invoice shall have Quick Response (QR) code.

Sub-section (1) of section 31 of the CGST Act deals with the issuance of a "Tax Invoice" by the registered person supplying taxable goods. It provides

that the registered person should issue a tax invoice, showing the description, quantity and value of goods, the tax charged thereon and such other particulars as may be prescribed from time to time, before or at the time of:

- removal of goods for supply to the recipient, in case supply involves movement of goods; or
- delivery of goods or making available thereof to the recipient, in any other case.

Similarly, sub-section (2) of section 31 of the CGST Act deals with the issuance of a “tax invoice” by a registered person supplying taxable services. It provides that a registered person shall issue a tax invoice, showing the description, value, tax charged thereon, and such other particulars as may be prescribed, before or after the provision of service but within a period as prescribed under rule 47. As per rule 47, invoice can be issued up to 30 days from the date of supply of service.

Further, section 31(4) & (5) of the CGST Act deals with the issuance of invoice in case of continuous supply of goods or service. Section 31(4) provides that in case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the invoice shall be issued before or at the time each such statement is issued or, as the case may be, each such payment is received. Similarly, section 31(5) provides that in case of continuous supply of services, invoice shall be issued as under:

- (a) where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before the due date of payment;
- (b) where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment;
- (c) where the payment is linked to the completion of an event, the invoice shall be issued on or before the date of completion of that event.

3.9.1 FAQs

Q.1 Can goods be moved between distinct persons without raising an invoice?

Technical Guide on Departmental GST Audit of Entities with Multiple GSTINs

Ans. No, goods cannot be moved without invoices. But when a registered person is having more than one place of business within the same State under the same GSTIN, he can send goods on delivery challan, without issuing a tax invoice or similar specified document.

Q.2 A company is having multiple offices across India and has got multiple GST registrations in different States. It has given Laptops to its employees and whenever an employee is permanently shifted from one location to another, he carries his laptop along with him. Is there a need to issue a tax invoice by his current location in the name of new location where the employee is moving?

Ans. Yes, a tax invoice shall be raised when the goods (in this case laptop) move permanently, along with employee from one State to another.

Q.3 A company has got two separate registrations in two different States. While sending samples from one GSTIN to other GSTIN, is it required to issue a tax invoice?

Ans. Sending samples from one State to another between distinct persons would be a supply without consideration and will be covered under Schedule I and requires raising a tax invoice and valuation shall be done as per rule 28 of CGST Rules.

Q.4 Whether e-invoicing is applicable for supplies involving Reverse Charge?

Ans. If the invoice issued by notified person is in respect of supplies made by him but attracting reverse charge under Section 9(3), e-invoicing is applicable.

3.10 E-Invoicing

The concept of e-invoicing was added as sub-rule (4) to rule 48, vide *Notification No.68/2019-CT dated 13.12.2019*. Rule 48(4) is reproduced below.

<i>48(4) The invoice shall be prepared by such class of registered persons as may be notified by the Government, on the recommendations of the Council, by including such particulars contained in FORM GST INV-01 after obtaining an Invoice Reference Number by uploading information contained therein on the Common Goods and Services Tax Electronic Portal in such manner and</i>
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Registration, Invoicing and Returns

subject to such conditions and restrictions as may be specified in the notification.

Provided that the Commissioner may, on the recommendations of the Council, by notification, exempt a person or a class of registered persons from issuance of invoice under this sub-rule for a specified period, subject to such conditions and restrictions as may be specified in the said notification.

Thereafter, following notifications were issued prescribing turnover-based limits for the applicability of e-Invoicing:

Notification No	Particulars	Effective date for applicability
Notification No.13/2020-CT dated 21.03.2020	Seeks to exempt registered persons with aggregate turnover exceeding Rs. 100 crore in any preceding FY from 2017-18 onwards from issuing e-invoices	01.10.2020
Notification No.13/2020-CT dated 21.03.2020 as amended by Notification No.61/2020-CT dated 30.07.2020	Seeks to exempt registered persons with aggregate turnover exceeding Rs. 500 crore in any preceding FY from 2017-18 onwards from issuing e-invoices	01.10.2020
Notification No.13/2020-CT dated 21.03.2020 as amended by Notification No. 88/2020-CT dated 10.11.2020	Seeks to exempt registered persons with aggregate turnover exceeding Rs. 100 crore in any preceding FY from 2017-18 onwards from issuing e-invoices	01.01.2021
Notification No.13/2020-CT dated 21.03.2020 as amended by Notification No.05/2021-CT dated 08.03.2021	Seeks to exempt registered persons with aggregate turnover exceeding Rs. 50 crore in any preceding FY from 2017-18 onwards from issuing e-invoices	01.04.2021

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Notification No.13/2020-CT dated 21.03.2020 as amended by Notification No.01/2022-CT dated 24.02.2022	Seeks to exempt registered persons with aggregate turnover exceeding Rs. 20 crore in any preceding FY from 2017-18 onwards from issuing e-invoices	01.04.2022
Notification No.13/2020-CT dated 21.03.2020 as amended by Notification No.17/2022-CT dated 01.08.2022	Seeks to exempt registered persons with aggregate turnover exceeding Rs. 10 crore in any preceding FY from 2017-18 onwards from issuing e-invoices	01.10.2022
Notification No.13/2020-CT dated 21.03.2020 as amended by Notification No.10/2023-CT dated 10.05.2023	Seeks to exempt registered persons with aggregate turnover exceeding Rs. 5 crore in any preceding FY from 2017-18 onwards from issuing e-invoices	01.08.2023

The main purpose of introducing the concept of e-invoicing, as shared by the Government, was to enhance ease of doing business for the registered persons. It also serves as a data collection procedure which will help them in devising strategies to curb tax evasion.

3.10.1 Important features of e-Invoicing

- a) Aggregate Turnover – It is the total turnover of all GSTINs under same PAN, across India.
- b) Applicability - If the turnover in any of the preceding FY from 2017-18, exceeds the current threshold limit of Rs.5 Crore.
- c) A registered person can login on the e-invoice portal and generate IRN for all invoices. Now a days, most of the software have the feature to get the IRN automatically from the portal.
- d) Following documents can be generated from e-invoicing portal:
 - B2B Invoices
 - B2G Invoices
 - RCM Invoices

- Export Invoices
 - Credit Notes
 - Debit Notes
- e) Following documents are not to be generated through e-Invoicing portal:
- B2C Invoices
 - Bill of Supply – exempt supplies
 - Delivery Challans
 - Self-Invoice in case of RCM u/s 9(4)
 - Advance Payment
 - Non-GST Supplies e.g supply of alcoholic liquor, petrol and diesel
- f) Following classes of registered persons are not required to generate e-invoices:
- Insurance companies, banking companies or financial institutions, including NBFCs;
 - Goods transport agency (GTA);
 - Registered person supplying passenger transport service;
 - Registered person supplying services by way of admission to exhibition of cinematographic films;
 - Special Economic Zone (SEZ) Unit;
 - Government Department;
 - Local Authority;
 - Input Service Distributor (ISD);
 - Composition taxpayer.

3.10.2 E-invoicing requirement for Distinct Person

E-invoicing is also mandatory in case of distinct person as the transactions between distinct persons having multiple GSTINs are to be treated as transactions between different registered persons having separate identities under GST law. Thus, the transactions between distinct persons are considered B2B transactions and B2B transactions are covered under e-invoicing.

3.10.3 FAQs

Q.1 Can I issue a hard copy of invoice or am I required to send a soft copy only?

Ans. One can issue a hard copy with IRN and QR code or can download a digitally signed soft copy of the invoice.

Q.2 Is the transporter required to carry a hard copy of e-invoice?

Ans. No. It is not mandatory, but the transporter still needs to carry a QR code having embedded IRN number, in electronic form.

Q.3 What happens if a person required to issue an e-invoice fails to do so?

Ans. Rule 48(5) of the CGST Act declares such invoice to be an invalid invoice and the authorities might challenge the ITC of the recipient and penalty of Rs. 25,000 under each act, may be imposed on the supplier u/s 122(3) of CGST Act.

Q.4 Whether e-invoicing is applicable for invoices between two different GSTINs under same PAN?

Ans. Being applicable at GSTIN level for notified persons, e-invoicing shall be applicable for supply of goods or services or both between two different GSTINs under same PAN.

Q.5 Can I amend details of a reported invoice for which IRN has already been generated?

Ans. Amendments are not possible on IRP. Any changes in the invoice details reported to IRP can be carried out on GST portal (while filing GSTR-1). In case GSTR1 has already been filed, then using the mechanism of amendment as provided under GST.

Q.6 Can an IRN/invoice reported to IRP be cancelled?

Ans. Yes. The cancellation request can be triggered through 'Cancel API' within 24 hours from the time of reporting invoice to IRP. However, if the connected e-way bill is active or verified by officer during transit, cancellation of IRN will not be permitted.

In case of cancellation of IRN, GSTR-1 be updated with such 'cancelled' status.

3.11 Credit or Debit Notes

Statutory Provisions

Section 34: Credit and Debit notes

(1) Where one or more tax invoices have been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed.

(2) Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than the thirtieth day of November, following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed:

Provided that no reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.

(3) Where one or more tax invoices have been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply, the registered person, who has supplied such goods or services or both, shall issue to the recipient one or more debit notes for supplies made in a financial year containing such particulars as may be prescribed.

(4) Any registered person who issues a debit note in relation to a supply of goods or services or both shall declare the details of such debit note in the return for the month during which such debit note has been issued and the tax liability shall be adjusted in such manner as may be prescribed.

Explanation. —For the purposes of this Act, the expression "debit note" shall include a supplementary invoice.

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This section clearly places the responsibility to issue credit and debit notes on the supplier of goods or services or both and states the specific instances where a debit note or a credit note can be issued.

A credit note can be issued in the following circumstances:

- i. the taxable value or tax charged in the tax invoice is found to exceed the taxable value or tax payable in respect of such supply;
- ii. the goods supplied are returned by the recipient;
- iii. goods or services or both supplied are found to be deficient.

A debit note can be issued where the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply.

In case of distinct person, credit note or debit note can be issued in case of any error in value adopted at the time of raising invoices. For instance, an accountant raised invoice for goods worth Rs. 400/- inadvertently at Rs. 500/- in case of branch transfer. In such case, credit note of Rs. 100/- can be issued by the sending branch to the receiving branch to rectify the said error in value.

It is also pertinent to note that details of credit note against an invoice belonging to a particular year, can be declared in GST return upto 30th November of the subsequent year or date of furnishing of annual return, whichever is earlier. However, there is no time limit for declaring a debit note. But one must remember that interest is required to be paid in case of debit note from the due date of tax payment as per the date of invoice till date of tax payment as per date of debit note.

3.11.1 FAQs

Q.1 Whether entities with same PAN but with different GSTINs, can issue debit and credit notes to each other, as per section 34 of CGST Act?

Ans. Yes, all distinct persons can issue debit and credit notes, as per section 34 of CGST Act.

Q.2 A company is having two separate GST registrations in Haryana and Bihar. The Haryana office has sent goods to a customer in Bihar, who wants to return the goods. Can these goods be returned to Bihar office of the company? If yes, then what document(s) need to be issued and by whom?

Ans. In this case Haryana office needs to issue a credit note to its customer in Bihar, and thereafter will issue a fresh invoice in the name of its Bihar office for supplying goods from its Bihar customer to its Bihar office. An e-way bill, if applicable, will also be issued to transport goods within the State of Bihar by the Haryana Office.

Q.3 A company is having two separate registrations in the State of Uttar Pradesh. One registration is taken for Noida and the other for Lucknow, and they are dealing in the same type of goods from both locations. Goods were supplied from Noida location to Lucknow location on 15th June'21, and now the same goods are to be returned to Noida location on 6th June'23. Can these goods be returned? If yes, how and what are the implications?

Ans. In case of goods return, one needs to issue a credit note and the time limit prescribed by section 34(2) to declare the details of credit note is up to 30th November of the subsequent year or the date of furnishing of annual return, whichever is earlier. In this case, the time limit was up to 30th November 2022. The only possible option in this case could be showing this as a fresh supply or to issue a financial credit note. But in case of financial credit note, GST credit is not allowed.

Readers seeking further information on the topic invoicing may refer to GST & Indirect Taxes Committee's publication "Handbook on Invoicing under GST".

3.12 Returns

The basic mechanism of return filing in GST includes electronic filing of returns, uploading of invoice related information and auto-population of information relating to input tax credit from returns of supplier to that of recipient. Such mechanism is designed to assist the taxpayer in filing returns and avail ITC under the Act.

Under GST, a regular taxpayer needs to furnish monthly returns and an annual return for a complete financial year. There are separate returns for a taxpayers registered under the composition scheme, non-resident taxpayers, taxpayers registered as an input service distributor, persons liable to deduct or collect the tax at source (TDS/TCS) and persons granted Unique Identification Numbers.

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It is important to note that a single taxpayer is not required to file all types of returns. Taxpayers are required to file the prescribed returns depending on the activities they carry on.

Entities with multiple GSTINs must file the statement of outward supplies in Form GSTR-1 and returns in Form GSTR-3B separately for each GSTIN, meaning each entity needs to file each return separately for its respective GST registration.

Additionally, apart from the monthly filings, entities are also required to file an annual return in Form GSTR-9, along with a reconciliation statement in Form GSTR-9C for each registration, if the aggregate turnover exceeds the prescribed limit.

A diagrammatic overview of a few significant returns to be filed by the taxpayers is given below:

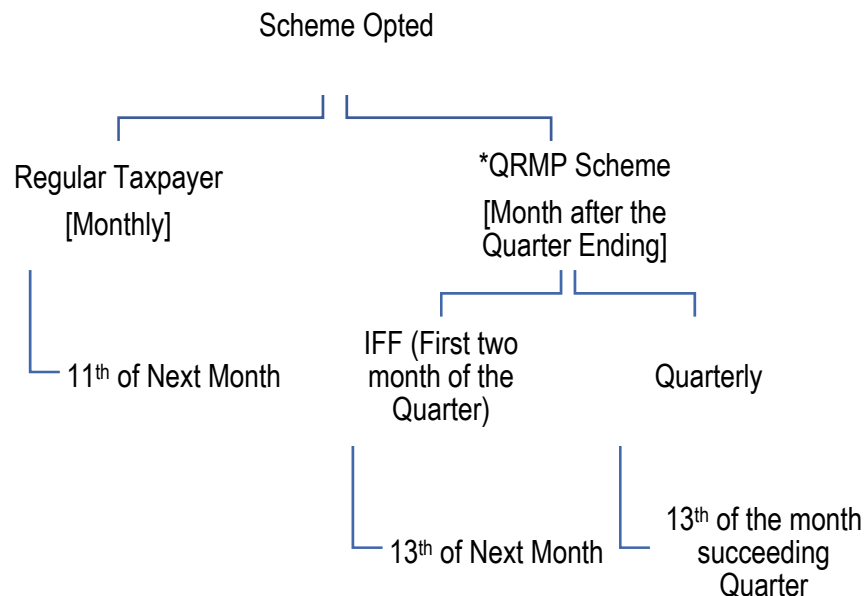
3.12.1 Details of outward supplies in Form GSTR-1 (Section 37 read with Rule 59)

Please refer to the diagram given at page no. 62.

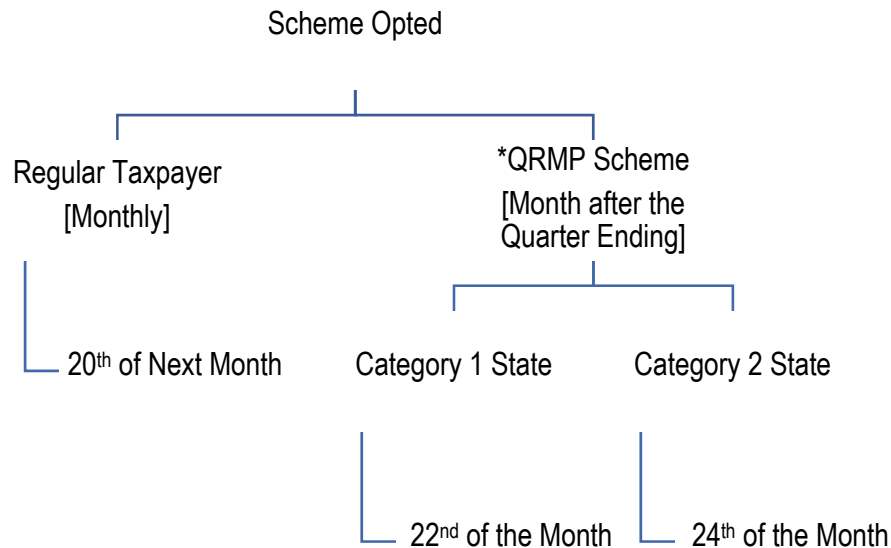
3.12.2 Return in Form GSTR-3B (Section 39 read with Rule 61)

Please refer to the diagram given at page no. 63.

Details of outward supplies in Form GSTR-1



Return in Form GSTR-3B



Category – 1 States

Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep.

Category – 2 States

Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi.

***QRMP Scheme**

QRMP Scheme means quarterly return and monthly payment of taxes. It is optional in nature. It can be opted by the registered person who is having aggregate turnover up to Rs. 5 Cr. in the previous financial year.

A registered person who has opted for QRMP scheme is required to pay tax due in each of the first two months of the quarter by depositing the due

amount in Form GST PMT-06, by the 25th day of the month succeeding such month under the head “Monthly payment for quarterly taxpayer”.

3.12.3 Return in Form GSTR-9 & Reconciliation Statement in Form GSTR 9C (Section 44 read with Rule 80)

Annual return is a return comprised of various details including outward and inward supplies for a particular financial year. Section 44 of the CGST Act states that every registered person, other than ISD, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person shall furnish annual return which may include a self-certified reconciliation statement in Form GSTR-9C with the audited annual financial statement for every financial year electronically in FORM GSTR-9 on or before 31st day of December following the end of such financial year through the common portal. However, any department of the Central Government or a State Government or a local authority, whose books of account 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 are not required to file Annual Return.

Taxpayers other than referred to in second proviso to section 44 whose aggregate turnover exceeds Rs 5 Crores are required to file GSTR-9 with Self Certified Reconciliation Statement in Form GSTR-9C reconciling the value of supplies declared in the return furnished for the financial year with the audited financial statements. However, the following are the class of persons which are not required to furnish annual return.

1. Taxpayer paying tax under Section 10 of the Act (Composition)
2. Casual taxable Person
3. E-Commerce Operator
4. Input Service Distributors (ISD)
5. Non-Resident Taxable Persons
6. Taxpayer paying TDS u/s 51 of the Act
7. Registered person collecting TCS u/s 52 of the Act

Registered persons are not allowed to furnish an annual return for a financial year after the expiry of period of 3 years from the due date of furnishing of the said return. However, the Government may on the recommendation of the council, by notification and subject to such conditions and restrictions as

may be specified therein, allow a registered person to furnish an annual return even after the expiry of said period.

The CBIC through various notifications issued from time to time, till FY 2023-24, small taxpayers having turnover upto Rs. 2 Crores are not required to furnish annual return in Form GSTR-9. In other words, only the taxpayers having a turnover of more than 2 Crores are required to furnish the annual return. Accordingly, the persons registered in composition scheme (section 10 of the CGST Act) are out of the ambit of filing annual return.

Readers seeking further information on the topic returns may refer to GST & Indirect Taxes Committee's publication "Handbook on Returns and Payments under GST".

Chapter 4

Accounts and Records

Statutory Provisions

Section 35: Accounts and Records

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—

- (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 availed;*
- (e) output tax payable and paid; and*
- (f) 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 persons 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) [***]*

(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 or section 74A, as the case may be, shall, *mutatis mutandis*, apply for determination of such tax.

Section 36: Period of retention of accounts

Every registered person required to keep and maintain books of account or other records in accordance with the provisions of sub-section (1) of section 35 shall retain them until the expiry of seventy-two months from the due date of furnishing of annual return for the year pertaining to such accounts and records:

Provided that a registered person, who is a party to an appeal or revision or any other proceedings before any Appellate Authority or Revisional Authority or Appellate Tribunal or court, whether filed by him or by the Commissioner, or is under investigation for an offence under Chapter XIX, shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceedings or investigation for a period of one year after final disposal of such appeal or revision or proceedings or investigation, or for the period specified above, whichever is later.

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 account which he is required to maintain under any law for the time being in force.

Rule 57: Generation and maintenance of electronic records

(1) Proper electronic back-up of records shall be maintained and preserved in such manner that, in the event of destruction of such records due to accidents or natural causes, the information can be restored within a reasonable period of time.

(2) The registered person maintaining electronic records shall produce, on demand, the relevant records or documents, duly authenticated by him, in hard copy or in any electronically readable format.

(3) Where the accounts and records are stored electronically by any registered person, he shall, on demand, provide the details of such files, passwords of such files and explanation for codes used, where necessary, for access and any other information which is required for such access along with a sample copy in print form of the information stored in such files.

Rule 58: Records to be maintained by owner or operator of godown or warehouse and transporters

(1) Every person required to maintain records and accounts in accordance with the provisions of sub-section (2) of section 35, if not already registered under the Act, shall submit the details regarding his business electronically on the common portal in FORM GST ENR-01, either directly or through a

Facilitation Centre notified by the Commissioner and, upon validation of the details furnished, a unique enrolment number shall be generated and communicated to the said person.

(1A) For the purposes of Chapter XVI of these rules, a transporter who is registered in more than one State or Union Territory having the same Permanent Account Number, he may apply for a unique common enrolment number by submitting the details in FORM GST ENR-02 using any one of his Goods and Services Tax Identification Numbers, and upon validation of the details furnished, a unique common enrolment number shall be generated and communicated to the said transporter:

Provided that where the said transporter has obtained a unique common enrolment number, he shall not be eligible to use any of the Goods and Services Tax Identification Numbers for the purposes of the said Chapter XVI.

(2) The person enrolled under sub-rule (1) as aforesaid in any other State or Union territory shall be deemed to be enrolled in the State or Union territory.

(3) Every person who is enrolled under sub-rule (1) shall, where required, amend the details furnished in FORM GST ENR-01 electronically on the common portal either directly or through a Facilitation Centre notified by the Commissioner.

(4) Subject to the provisions of rule 56, —

(a) any person engaged in the business of transporting goods shall maintain records of goods transported, delivered and goods stored in transit by him along with the Goods and Services Tax Identification Number of the registered consigner and consignee for each of his branches.

(b) every owner or operator of a warehouse or godown shall maintain books of account with respect to the period for which particular goods remain in the warehouse, including the particulars relating to dispatch, movement, receipt and disposal of such goods.

(5) The owner or the operator of the godown shall store the goods in such manner that they can be identified item-wise and owner-wise and shall facilitate any physical verification or inspection by the proper officer on demand.

Section 35 of the CGST Act deals with Accounts and other records. It specifies who is responsible for keeping and maintaining accounts and

records, location where the same has to be maintained and how to maintain. Rule 56 deals with maintenance of accounts by the registered persons.

In order to ensure that the goals of implementation of GST law are achieved, it is important that accounts and records are maintained in a proper manner and kept at the prescribed place(s). These records act as the evidence for conducting an effective audit. Therefore, to ensure consistency, GST law has specific provisions for their maintenance and preservation.

On the part of the tax authorities, the information provided by the registered person in the self-assessed tax returns shall be corroborated with the books of accounts and such other records through scrutiny, audits, or investigations. Hence, an obligation has been cast on the registered person to keep and maintain the accounts and records under the provision of the GST Law, similar to the requirement under the other legislations such as the Income Tax Act, 1961, the Companies Act, 2013 etc.

4.1 Types of accounts and records to be maintained

Section 35 of the Act provides that every registered person shall keep and maintain 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, such other particulars as may be prescribed at his principal place of business as mentioned in the certificate of registration. If there is more than one place of business specified in certificate of registration, the accounts related to each place of business shall be kept at the respective place of business.

In addition to the records as mentioned above, the registered person shall also keep and maintain true and correct account of the following:

- Goods or services imported;
- Goods or services exported;
- Supplies attracting payment of tax on reverse charge.
- Relevant documents, including invoices, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers and refund vouchers.
- Advances received and their adjustments
- Stock details (goods received or supplied)

Further, such 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.

4.2 Who is a registered person?

Section 2(94) defines registered person *to mean “a person who is registered under section 25 but does not include a person having a Unique Identity Number”*.

Section 25(1) states that *“every person who is liable to be registered under section 22 or section 24 shall apply for registration in every such State or Union territory in which he is so liable within thirty days from the date on which he becomes liable to registration, in such manner and subject to such conditions as may be prescribed”*. Thus, we can consider a registered person as a person who is liable to get registered under section 22 or section 24.

- A person registered on voluntarily basis shall also be covered under the said definition.
- Holder of Unique identity number is however excluded.

It is also to be noted that such persons who are liable to get registered but have not applied for registration, are also liable to maintain records from the day when they become liable for registration, irrespective of whether the person is actually holding a GSTIN or not.

Further as per section 35(2) of CGST Act, the following persons are also required to maintain specific records:

- Every owner or operator of warehouse or godown or any other place used for storage of goods or every transporter, whether registered or not;

- A class of taxable persons required to maintain additional accounts for a specified purpose, as notified by the Commissioner;
- A class of taxable persons, who are not able to maintain accounts as per provisions of the Act, to maintain in prescribed manner, which the Commissioner considers to be permitted.

4.3 Maintenance of records by registered persons having additional place of business

Such registered person shall keep the books of account at the principal place of business and accounts relating to additional place of business shall be kept at such place of business. However, books of accounts relating to the additional place of business shall be kept at the principal place of business also. Books of account shall also include any electronic form of data stored on any electronic device. The definition of “place of business” is provided under section 2(85) of the CGST Act as under”.

“Place of business” includes—

- (a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or*
- (b) a place where a taxable person maintains his books of account; or*
- (c) a place where a taxable person is engaged in business through an agent, by whatever name called.*

The definition of “principal place of business” has been provided by section 2 (89) of the Act as under:

“Principal place of business” means-

the place of business specified as the principal place of business in the certificate of registration.

4.4 Maintenance of records by entities having multiple GSTIN units in same state / different States

It is important to note that when an entity is registered in more than one State or has multiple registrations within a state, it has to maintain books of account at each principal place of business. Furthermore, accounts relating to additional place of business shall be kept at such places of business.

4.5 Persons required to maintain accounts & records

a) Manufacturer

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.

b) Service Provider

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.

c) Works Contract service provider

Every registered person executing works contract shall keep separate accounts for works contract showing—

- the names and addresses of the persons on whose behalf the works contract is executed;
- description, value and quantity (wherever applicable) of goods or services received for the execution of works contract;
- description, value and quantity (wherever applicable) of goods or services utilized in the execution of works contract;
- details of payment received in respect of each works contract; and
- names and addresses of suppliers from whom he received goods or services.

d) Warehouse keeper

Every owner or operator of a warehouse or godown shall maintain books of account and records with respect to the period for which the particular goods remain in the warehouse, including the particulars relating to dispatch, movement, receipt and disposal of such goods. The owner or the operator of the godown shall store the goods in such manner that they can be identified item-wise and owner-wise and shall facilitate any physical verification or inspection by the proper officer on demand.

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If the warehouse keeper is not registered under the GST Law, he shall submit the details regarding his business electronically on the common portal in FORM GST ENR-01, either directly or through a Facilitation Centre notified by the Commissioner and upon validation of the details furnished, a unique enrolment number shall be generated and communicated to the said person. These details can be modified, if need be, any time by amending Form GST ENR-01 electronically on the common portal.

It is specifically provided that if any warehouse keeper is registered in one State, then it is deemed that he is registered in all other States or Union Territories and he is not required to again submit the details in FORM GST ENR-01.

e) Goods Transport Operator

Any person engaged in the business of transporting goods shall maintain records of goods transported, delivered and goods stored in transit by him along with the Goods and Services Tax Identification Number of the registered consigner and consignee for each of his branches.

If a transporter who is registered in more than one State or Union Territory having the same Permanent Account Number, he may apply for a unique common enrolment number by submitting the details in FORM GST ENR-02 using any one of his Goods and Services Tax Identification Numbers, and upon validation of the details furnished, a unique common enrolment number shall be generated and communicated to the said transporter. It is also provided that in case the transporter has obtained unique common enrolment number, then he shall not be eligible to use any of the GSTINs.

It is specifically provided that if any transporter is registered in one State, then it is deemed that he is registered in all other States or Union Territory, and he is not required to again submit the details in FORM GST ENR-01.

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.

4.6 Consequences of non-maintenance of accounts & records

In cases where a taxable person fails to maintain the prescribed accounts and records for goods, services, or both, the proper officer is empowered to assess the tax liability on such unaccounted goods or services, treating them as if they had been supplied by that person. The provisions of section 73 or section 74 or 74A, as applicable, shall apply *mutatis mutandis* for the determination of such tax. Furthermore, in case of failure to maintain or keep the required books of accounts, the person would be subject to a penalty as per section 122(1)(xvi), which could be higher of INR 10,000 or the amount of tax involved.

4.7 Period of retention of accounts and records

Every registered person is required to retain books of accounts or other records until the expiry of 72 months i.e. for a period of 6 years, from the due date of furnishing of annual return for the year pertaining to such accounts and records. Accordingly, registered persons have to retain the books of accounts and other records for the following years –

Financial Year	Due Date for furnishing Annual Return	Extended date of filing Annual Return	Due Date up to which books of account to be retained
2017 - 2018	31-12-2018	*05-02-2020	05-02-2026
		*07-02-2020	07-02-2026
2018 – 2019	31-12-2019	31-12-2020	31-12-2026
2019 – 2020	31-12-2020	31-03-2021	31-03-2027
2020 – 2021	31-12-2021	28-02-2022	28-02-2028
2021 – 2022	31-12-2022	31-03-2022	31-03-2028
2022 – 2023	31-12-2023	No Extension	31-12-2029

* STATE-WISE DUE DATES OF ANNUAL RETURN FOR FY 2017-18

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Sl. No	Registered person, whose principal place of business is in	Extended Due date for furnishing annual return for the FY 2017-18
1.	Chandigarh, Delhi, Gujarat, Haryana, Jammu and Kashmir, Ladakh, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, Uttarakhand.	5 th February, 2020
2.	Andaman and Nicobar Islands, Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Dadra and Nagar Haveli and Daman and Diu, Goa, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Lakshadweep, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Mizoram, Nagaland, Odisha, Puducherry, Sikkim, Telangana, Tripura, West Bengal, Other Territory	7 th February, 2020

If a registered person, who is a party to an appeal or revision or any other proceeding before any Appellate Authority or Revisional Authority or Tribunal or Court, whether filed by him or by the Commissioner, or is under investigation for an offence under Chapter XIX, shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceedings or investigation:

- for a period of one year after final disposal of such appeal or revision or proceeding or investigation; or
- for period of 72 months (i.e., 6 years) from the due date of annual return for the year,

whichever is later.

Example: If a registered person is in appeal for the FY 2020-21 then he has to maintain accounts and other records as follows:

Appeal /Revision disposal date (assumed)	Annual Return due date	Retention upto
30-11-2024	28-02-2022	28-02-2028
31-05-2025	28-02-2022	28-02-2028
30-09-2026	28-02-2022	28-02-2028
15-03-2027	28-02-2022	15-03-2028
31-03-2027	28-02-2022	31-03-2028

It is to be noted that once the retention period gets time barred, the registered person is not obligated to produce accounts, records, documents, etc. relating to such period to the tax authorities.

4.8 FAQs

Q.1 At which place is a registered person required to maintain his accounts?

Ans. As per section 35(1), registered person is required to keep and maintain accounts and records at his principal place of business, as mentioned in his certificate of registration.

Q.2 Where more than one place of business is specified in the certificate of registration, then where are the accounts kept?

Ans. The accounts relating to each place of business shall be kept at such a place of business. Say, the registered person, in addition to principal place of business, has other places of business such as manufacturing unit, godowns, branches etc. under a common GSTIN which are mentioned in the registration certificate, then the records relating to such additional locations shall be kept at the respective locations.

Q.3 Where a registered person is having multiple GSTINs, how and where the records and accounts are to be maintained?

Ans. In case of multiple GSTINs, for each of the GSTIN the records and accounts are to be maintained at the principal place of business as mentioned in that particular GSTIN registration certificate.

Moreover, 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.

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Q.4 Whether it is permissible to maintain records in electronic form?

Ans. Yes, second proviso to section 35(1) of CGST Act provides that the registered person is allowed to keep and maintain the accounts and other records, in electronic form.

Q.5 In case registered person wants to maintain the accounts and records manually, can he do so?

Ans. Yes, it is optional to the registered person to maintain accounts and other particulars either manually or electronically. In case the accounts are maintained manually by the registered person then each such volume of books of account has to be serially numbered.

Q.6 In case of maintenance of accounts in electronic form, in what way the records are to be maintained?

Ans. In case a registered person opts for maintaining the accounts and records in electronic form, then the same has to be maintained as per rule 57 of CGST Rules which stipulates the following:

- Proper electronic back up of records shall be maintained and preserved to ensure restoration of the information lost due to any eventuality within a reasonable period of time;
- Whenever demanded, to provide authenticated records in hard copy or in electronically readable format;
- Whenever demanded, to provide the details of files, passwords of files and explanation for codes used, where necessary, for access or other information, which is required for access, along with sample copy in print form of the information stored in files.

Q.7 Many times due to human error or some other error, there might be chances that some records may be edited. In such cases what record has to be maintained?

Ans. In case of electronic maintenance of registers and other documents, a log of every entry edited or deleted shall be maintained.

Q.8 In case of manual maintenance of accounts and records, whether it is permissible to make corrections in case of incorrect entries made?

Ans. As per rule 56(8) of CGST Rules, the following shall be noted:

- No erasure, effacement or overwriting of any entry in registers, accounts and documents shall be done.
- Incorrect entries, other than clerical in nature, shall be scored out under attestation and thereafter the correct entry shall be recorded.

Thus, it is clear from the provisions of the law that the registered person shall maintain records accurately. Wherever changes or corrections are required to be made then the same shall be duly authenticated and documented. It will be the responsibility of the registered person to justify the rectifications/ correction done in the said records.

It is also provided that 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.

Chapter 5

Getting Ready for Audit

5.1 Introduction

One of the most important things we always stress is the need to always be ready for an upcoming audit. This is because being prepared all the time helps prevent or at least reduces the unpredictability that comes with getting ready for an audit.

Within the confines of this guide, we shall delve into the critical measures and stratagems indispensable for priming oneself in anticipation of an audit conducted by GST Department Officers. Through proactive identification and resolution of potential concerns, the meticulous maintenance of records, and the cultivation of a culture steeped in adherence to regulatory frameworks, one can approach the audit process with unwavering assurance, fortifying your business's standing on a firm and unassailable footing.

This Chapter would serve as a lighthouse for making preparation and presentation of the records, documents and information for audit. We are discussing the various stages for the preparation of audit under the following main heads:

- Reviewing documentation and records for audit;
- Preparing reconciliations and reviewing reasons for differences;
- Proceedings and submissions during audit and actions therein;
- Responding to audit queries and conclusion.

5.2 Reviewing Documentation and Records for Audit

One must ensure that the documentation and information to be submitted for audit, are reviewed so that the taxpayer is aware of the positions adopted and exposures in terms of any demand, interest, penalty or late fee which may arise during or after the audit. This stage also serves as a milestone to identify the differences, if any, and make correct and fair disclosures before audit team which would lead to reduction of penal actions.

5.2.1 Records for GSTIN under Audit

Before the audit process starts, it is important to assimilate the documents and information as required for the audit. The following documents / statements and books of accounts² are usually asked by the proper officer for the purpose of audit:

- a. Annual report and Director's report (if any)
- b. Profit & Loss A/c
- c. Balance Sheet
- d. Trial Balance or its equivalent
- e. Notes to Accounts
- f. Tax Audit Report
- g. Cost Audit Report (in case it is maintained)
- h. If GSTR-9C is not submitted for the period then Trial Balance for the registered person having above mentioned GSTIN (It is applicable where the registered person has multiple GSTIN)
- i. Statement of Income Tax TDS
- j. List of HSN /SAC of the goods /or services in respect of the business dealt in by the auditee
- k. Reconciliation statement in respect of Form GSTR-9, GSTR-1 AND GSTR-3B
- l. Suppliers list with GSTIN (where applicable)
- m. Ledger accounts of the suppliers in respect of inward supplies
- n. Statement of outward supplies (party wise and POS wise)
- o. Statement of inward supplies for which tax paid/payable in RCM
- p. Statement of outward supplies for which tax is payable in RCM by the recipient
- q. Bank Statement for the period under audit
- r. Stock Register
- s. Other documents and records as applicable as provided in section 35 of the Act and the rules made thereunder and as may be required for the purpose of audit

² Source: Model All India GST Audit Manual 2023

5.2.2 Trial Balance for each GSTIN

We are of the view that the preparation of a GSTIN-wise trial balance is particularly important because any discrepancies between the books of accounts and the GST returns could result in additional scrutiny or penalties during the departmental audit. Every registered person is required to furnish a self-certified reconciliation statement in Form GSTR-9C under section 44 read with rule 80 if their aggregate turnover exceeds Rs. 5 crores during the preceding financial year. The purpose of this form is to reconcile the annual return filed (in Form GSTR-9) with the audited financial statements, ensuring that the figures reported match the transactional details recorded in the taxpayer's books of accounts.

Given that taxpayers with multiple registrations (GSTINs) are required to file Form GSTR-9C for each GSTIN, it becomes essential to derive a separate trial balance for each GSTIN. Moreover, the instructions of Form GSTR-9C, particularly for Table 5A, specifically require the turnover as per the audited annual financial statements to be declared for each GSTIN. In cases where multiple GSTINs exist under a single PAN, the entity is expected to internally segregate its financial data, ensuring that the turnover and other financial information for each GSTIN is derived accurately from the consolidated financial statements. This requirement implies that a trial balance specific to each GSTIN is necessary to match the declared turnover with the audited financials, avoiding errors during reconciliation.

Although taxpayers with multiple GSTINs under the same PAN and an aggregate turnover below Rs. 5 crores are not required to file Form GSTR-9C, the necessity of maintaining a GSTIN-wise trial balance remains critical as the data reported in Form GSTR-9 must match the books of accounts to avoid inconsistencies that could lead to scrutiny. An audit/inspection officer can request the trial balance or its equivalent from a registered person in terms of section 71(2)(ii) and since audits and inspections can be conducted irrespective of turnover, maintaining a GSTIN-specific trial balance ensures compliance, even if Form GSTR-9/9C is not required. This also helps mitigate any discrepancies that could arise during the audit process, safeguarding the taxpayer from potential penalties. Therefore, keeping a separate trial balance for each GSTIN improves internal financial management by clearly segregating transactions, revenues, and expenses for different registrations. This practice supports not only compliance but also enhances transparency, ensuring that taxpayers can easily demonstrate accurate financial data for each GSTIN during audits or inspections.

A reading of the provisions of section 71 stipulates that an authorized officer conducting an audit or inspection can request the trial balance or its equivalent from the registered person and since the audit is undertaken for a specific GSTIN, it follows that the trial balance or its equivalent must be provided at the GSTIN level. Although section 35 read with rules 56 to 58 does not explicitly mandate the maintenance of a GSTIN-specific trial balance, section 71 empowers the audit officer to request trial balance or its equivalent from the registered person, effectively obligating the taxpayer to prepare and maintain GSTIN-wise trial balances to ensure compliance during audits or inspections.

5.2.3 Reviewing revenue and its constituents

In the realm of goods and services tax (GST), the imposition of tax liability is contingent upon a supply transaction, which itself exhibits various facets and dimensions. Supply can manifest in diverse forms, including but not limited to sale, transfer, barter, exchange, license, rental, lease, or disposal. Thus, it is of paramount importance to meticulously ascertain the precise nature of supply inherent in a given transaction, thereby facilitating a more profound and comprehensive examination or inquiry into the said transaction.

In light of the complexity inherent in GST, it is imperative to methodically document all sources of revenue within an organization. For each revenue stream, examination of the following transactions or elements are essential to ensure that all due taxes are properly charged and paid. Also, many of the following items would find their respective space in various reconciliation being prepared for audit:

- a. **Nature of Activity:** A thorough understanding of the underlying activity generating revenue.
- b. **Agreements and Contracts:** Scrutiny of agreements, contracts, or purchase orders to elucidate the transaction's intricacies.
- c. **Classification of Supply:** Classification of the supply as goods or services. Accurate classification of goods or services includes determination as per the Harmonized System of Nomenclature (HSN) / Service Accounting Code (SAC). Review of HSN is important to compare the GST rates applied and as applicable. Special attention must be given to exempt supplies as the burden to prove the eligibility of exemption is on the taxpayer. If the condition of exemption is not satisfied, the transaction would be exigible to GST at the rates applicable.

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- d. **Valuation Mechanism:** Review of the applicable valuation method, taking into account related party transactions, non-monetary considerations, and other factors influencing valuation, extending beyond the values recorded in the financial books. Assessment of discounts and rebates issued to the customers through credit notes and their compliance with the provisions of section 15(3) and 34 of the CGST Act.
- e. **Exports conditions:** In case of exports or zero rated supplies made to SEZ, verification of conditions and relevant documents to ensure that such transactions qualify as export of goods or services and are thus, eligible for benefits as envisaged under GST statutes. In case of breach of conditions, the benefits as taken for export need to be reversed by the taxpayer.
- f. **Historical comparison:** It would be prudent to check the entity's historical VAT or service tax practices and notices and their divergence in GST regime. In such cases, a summary of demand raised with reasons during erstwhile indirect tax regime should be made and compared with the current position to check if any past demands can still be a matter of concern. It is important to note that in such cases, the limitation under sections 73 and 74 and 74A of the CGST Act are important to adhere as such facts were already in the knowledge of the Department.
- g. **Extra ordinary items:** It is important to review extraordinary items in revenue including but not limited to practices of offsetting income against expenditures, asset sales, foreign currency profit / loss, etc. are properly examined and incorporated in the reconciliation prepared for presentation during audit.

Furthermore, transactions involving other branches / distinct persons should not be overlooked. These must be catalogued under distinct headings within the master document, alongside sample documentation as illustrative evidence.

The aforementioned process outlines the requisite compliance framework as stipulated by law. However, the actual process commences with the verification of transactions vis-à-vis these legal requirements. This involves scrutinizing the configuration of the invoicing processes and the manner in which tax computations are executed. Disparities, if any should be quantified,

and their potential impact reported to the management for prompt corrective action.

5.2.4 Review of expenses taxable under reverse charge

Reverse charge mechanism (RCM) is a critical compliance requirement under GST, *albeit* one that may appear to impose an additional tax burden on the taxpayers. It is imperative, however, to recognize that tax paid under the reverse charge mechanism often translates into available input tax credits in many instances. RCM liability requires both payment of tax as well as compliances in the form of invoices to be issued by the recipient (in case inward supply from unregistered person). In the context of an audit, the following considerations are essential:

A. Identification of Expenses exigible to GST under RCM

The process of identifying the various expenditures that fall within the ambit of taxation under reverse charge mechanism, are primarily governed by the provisions of section 9(3) and section 9(4) of the CGST Act or section 5(3) and section 5(4) of the IGST Act. Additionally, the list of goods or services subject to tax under RCM has been subject to periodic changes and additions. Therefore, it is crucial to maintain a record of the effective dates of applicability for RCM on different expenditures. *Notification No. 13/2017-Central Tax (Rate) dated 28.06.2017* (as amended) issued under section 9(3) of the CGST Act specifies the list of services which are taxable under reverse charge as under:

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
(1)	(2)	(3)	(4)
1	Supply of Services by a goods transport agency (GTA), in respect of transportation of goods by road to— (a) any factory registered under or governed by the Factories Act, 1948 (63	Goods Transport Agency (GTA)	(a) Any factory registered under or governed by the Factories Act, 1948 (63 of 1948); or (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law

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	of 1948); or (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or (d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or (e) Any body corporate established, by or under any law; or (f) any partnership firm whether registered or not under any law including association of persons; or (g) any casual taxable person: Provided that nothing contained in this entry shall apply to services provided by a goods		for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or (d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or (e) any body corporate established, by or under any law; or (f) any partnership firm whether registered or not under any law including association of persons; or (g) any casual taxable person; located in the taxable territory.
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	transport agency, by way of transport of goods in a goods carriage by road, to,— (a) a Department or Establishment of the Central Government or State Government or Union territory; or (b) local authority; or (c) Governmental agencies, which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services: Provided further that nothing contained in this entry shall apply where, - i. the supplier has taken registration under the CGST Act, 2017 and exercised the option to pay tax on the services of GTA in relation to transport of goods supplied by him under forward charge;		
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	and ii. the supplier has issued a tax invoice to the recipient charging Central Tax at the applicable rates and has made a declaration as prescribed in Annexure III on such invoice issued by him.		
2	Services provided by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly. Explanation.— "Legal service" means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority.	An individual advocate including a senior advocate or firm of advocates.	Any business entity located in the taxable territory.
3	Services supplied by an arbitral tribunal to a business entity.	An arbitral tribunal.	Any business entity located in the taxable territory.
4	Services provided by way of sponsorship to any body corporate or partnership firm.	Any person	Any body corporate or partnership firm located in the taxable territory.

5	Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding,— (1) renting of immovable property, and (2) services specified below— (i) services by the Department of Posts and the Ministry of Railways (Indian Railways); (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) transport of goods or passengers.	Central Government, State Government, Union territory or local authority	Any business entity located in the taxable territory.
5A	Services supplied by the Central Government excluding the Ministry of Railways (Indian Railways)], State Government, Union territory or local authority by way of renting of immovable property to a person registered under the Central Goods and	Central Government, State Government, Union territory or local authority	Any person registered under the Central Goods and Services Tax Act, 2017.

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	Services Tax Act, 2017 (12 of 2017)		
5AA	Service by way of renting of residential dwelling to a registered person.	Any person	Any registered person.
5AB	Service by way of renting of any property other than residential dwelling.	Any unregistered person	Any registered person.
5B	Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter.	Any person	Promoter.
5C	Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter.	Any person	Promoter
6	Services supplied by a director of a company or a body corporate to the said company or the body corporate.	A director of a company or a body corporate	The company or a body corporate located in the taxable territory.

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7	Services supplied by an insurance agent to any person carrying on insurance business.	An insurance agent	Any person carrying on insurance business, located in the taxable territory.
8	Services supplied by a recovery agent to a banking company or a financial institution or a non-banking financial company.	A recovery agent	A banking company or a financial institution or a non-banking financial company, located in the taxable territory.
9	Supply of services by a music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original dramatic, musical or artistic works to a music company, producer or the like.	Music composer, photographer, artist, or the like	Music company, producer or the like, located in the taxable territory.
9A	Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary works to a	Author	Publisher located in the taxable territory: Provided that nothing contained in this entry shall apply where,— (i) the author has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017), and filed a

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	publisher.		declaration, in the form at Annexure I, within the time limit prescribed therein, with the jurisdictional CGST or SGST Commissioner, as the case may be, that he exercises the option to pay central tax on the service specified in column (2), under forward charge in accordance with section 9(1) of the Central Goods and Services Tax Act, 2017 under forward charge, and to comply with all the provisions of Central Goods and Services Tax Act, 2017 (12 of 2017) as they apply to a person liable for paying the tax in relation to the supply of any goods or services or both and that he shall not withdraw the said option within a period of 1 year from the date of exercising such option; (ii) the author makes a declaration, as prescribed in Annexure II on the
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			invoice issued by him in Form GST Inv-I to the publisher.
10.	Supply of services by the members of Overseeing Committee to Reserve Bank of India	Members of Over-seeing Committee constituted by the Reserve Bank of India	Reserve Bank of India
11.	Services supplied by individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm to bank or non-banking financial company (NBFCs).	Individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm.	A banking company or a non-banking financial company, located in the taxable territory.
12.	Services provided by business facilitator (BF) to a banking company	Business facilitator (BF)	A banking company, located in the taxable territory.
13.	Services provided by an agent of business correspondent (BC) to business correspondent (BC)	An agent of business correspondent (BC)	A business correspondent, located in the taxable territory.
14.	Security services (services provided by way of supply of security personnel) provided to a registered person: Provided that nothing contained in this entry	Any person other than a body corporate	A registered person, located in the taxable territory.

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	shall apply to,— (i)(a) a department or Establishment of the Central Government or State Government or Union territory; or (b) local authority; or (c) Governmental agencies; which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 51 of the said Act and not for making a taxable supply of goods or services; or (ii) a registered person paying tax under section 10 of the said Act.		
15.	Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, provided to a body corporate.	Any person, other than a body corporate who supplies the service to a body corporate and does not issue an invoice charging	Any body corporate located in the taxable territory.

		central tax at the rate of 6 per cent to the service recipient	
16.	Services of lending of securities under Securities Lending Scheme, 1997 ("Scheme") of Securities and Exchange Board of India ("SEBI"), as amended.	Lender i.e. a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the Scheme of SEBI	Borrower i.e. a person who borrows the securities under the Scheme through an approved intermediary of SEBI.

B. Import of Services

Import of services is exigible to GST under RCM. Thus, all foreign payments made by an entity need to be examined to identify the transactions which are taxable under RCM. Any service received would qualify as an import of service when it satisfies the following conditions:

- (a) The supplier of the service is located outside India.
- (b) The recipient of the service is located within India.
- (c) The place of supply of the service is within India.

Thus, if the transaction made with a foreign supplier satisfies the above conditions, such transaction would be taxable under RCM and an Indian entity would be required to pay GST. The availability of tax paid under RCM as ITC is also not automatic but such entity needs to fulfil the conditions for ITC as well.

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Notification No. 10/2017-IT(R) dated 28.06.2017 additionally covers the following service in addition to the services specified under *Notification No. 13/2017-CT(R) dated 28.06.2017*.

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
(1)	(2)	(3)	(4)
1	Any service supplied by any person who is located in a non-taxable territory to any person other than non-taxable online recipient.	Any person located in a non-taxable territory	Any person located in the taxable territory other than non-taxable online recipient.

5.3 Preparing Reconciliations and Reviewing Reasons for Differences

5.3.1 Preparing reconciliation statements

Reconciliation is a crucial process for businesses that are registered under the GST system. It helps to ensure that reported GST figures in the returns align with the figures in actual financial transactions for the financial year.

Reconciliation involves comparing two sets of data for consistency, even it travels beyond that. It also involves harmonising data reported in GST Returns with the financial statement prepared as per applicable law. Accurate reconciliation is vital to avoid penalties, interest, and compliance issues.

The reconciliation process involves comparing data from various sources, including sales invoices, purchase invoices, GST returns, and supporting documents, to ensure that they align. It also ensures that precise tax liability is discharged upon the correct claim of eligible ITC. Any discrepancy or inconsistency found during reconciliation should be investigated, documented, and corrected, if necessary, by filing GST return amendments or by making payments or by claiming credits in the subsequent returns, if the time period of such rectification has not lapsed etc.

The onus of an accurate and timely reconciliation lies with every taxpayer. Reconciliations are required for both output and input taxes. This is more important as the present regime is based on self-assessment mechanism

and vests a lot of trust on the taxpayer. The entire onus to prove the *bona fides* of his computation lies on the taxpayer. The values declared by the taxpayers mainly were accepted, subject to situations where there are mismatches which are evident in the system or with the books of accounts including financial statements and such differences are bridged by way of a clear and accurate reconciliation.

Taxpayers prepare regular reconciliations or match their outward and inward supplies as declared in GST returns with their books of accounts from time to time. It will help them to avoid unnecessary pressure around the audit (as time provided by the Department is not in months but days). Moreover, timely reconciliation helps to identify and rectify major discrepancies or deviations between GSTR-1 or GSTR-2B and GSTR-3B and avoids penal consequences. Even reconciliation made at the time of filing of annual return would help taxpayers in the presentation and preparation of audit, however many timelines for rectification may be over by that time also.

If the reconciliation system is in place as a regular feature, many steps which could be taken and are possible near to the close of financial year could be undertaken by the taxpayer. For instance: effective vendor communication for mismatches in inward input tax credit, provision of credit notes on discounts / value errors etc.

Various areas where reconciliations are required to be done for the purpose of GST Audit are as follows:

5.3.2 Turnover reconciliations

One of the most important aspects of the GST audit is reconciliation of outward supplies. One must prepare the following reconciliation to achieve the said purpose:

a) Reconciliation of outward supply between Financials records and Form GSTR-1

This includes matching turnover as per financial statement with the turnover declared in Form GSTR-1. It must be ensured that no invoice is omitted or recorded more than once in either the financial statement or Form GSTR-1. In this regard, specific attention should be given to E-Invoicing (where applicable) i.e. the books of accounts, Form GSTR-1 and E-Invoices are aligned and there have been no omissions in this regard. This ensures a taxpayer to arrive at an accurate amount of output tax liability for a period. Preferably, this reconciliation should

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be done transaction wise to ensure that proper classification and tax have been declared in Form GSTR-1. The results arising from such classification can be categorised into four buckets:

- (i) Matched: The matched entries are proper and require no further consideration.
- (ii) Present in Form GSTR-1 and not present in financial statements: These entries require much more attention as these entries have been self-declared as supplies on which tax is required to be paid. Reasons for declaring and not rectifying such errors (if they are) within permitted time, should be identified and recorded for presentation before audit team. The reason for such differences may be one of the following:
 - Stock transfers and inter branch supplies: If there is a stock transfer by one establishment of distinct person to other establishment, the same is presented in GSTR-1 and GSTR-3B while it is not accounted as turnover in audited consolidated financials. *Circular No. 199/11/2023-GST dated 17.07.2023* issued by the Central Board of Indirect Taxes & Customs (CBIC) provides various clarifications on different kinds of inter branch supplies (internally generated services) including cross charge.
 - Deferred revenue: There are companies where the revenue accrual and revenue invoicing are distinguishable events as a result of their accounting policies. This is most common in real estate, software industry etc. In such cases, the accrual entries as provided in the books of accounts at the beginning and year close are required to be reversed in a reconciliation statement to arrive at the amount of invoices made by the taxpayer to compute the tax payable. For *Example*, a builder has completed 40 percent of his structure but his next instalment from customer is due at 50 percent (last being at 25 percent). Thus, while he would invoice after 50 percent, his books at year-end shall have an accrual of 15 percent revenue higher than that invoiced.
 - Barter Transactions: When two registered persons exchange goods or services or both without

consideration, it is treated as a deemed supply. GST is applicable as per the prescribed valuation rules.

- Supply without consideration: Certain transactions which are without consideration, including those between principal and agent, where the agent supplies goods or services on behalf of the principal, are considered as deemed supplies under GST and requires payment of tax on such transactions but the same is not recorded in the books of accounts.
- Sale of fixed assets: Sale of fixed assets not appearing in the profit and loss account but reflected in the fixed asset Schedule in the financial statements. All sales of fixed assets are exigible to GST as per the rate of tax provided for such goods.
- Revenue netted with expenses: Revenue netted with expenses (if any) is not reflected on the revenue side of the financial statement. For *Example*, freight inward as an expense from GTAs and outward received from customers for arranging such transportations are netted in the financial statements. While Output tax shall be charged at the rate of supplies in the invoice including the freight amount and shall be reported accordingly in GST returns.
- Unadjusted Advances: Unadjusted advances refer to advances received for which GST has been paid, but the corresponding supply has not been made and therefore, the same has not been recognized as revenue in the audited financial statement. These advances are shown as a liability side on the balance sheet until the supply is completed. Such amounts are reflected in 'Advances' column in GSTR-1 but if the taxpayer raises an invoice against such advances, the same gets reported in B2B/B2C column of GSTR-1. If any balance of unadjusted advance is pending, the same is shown as a liability side on the balance sheet.

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- Commercial Credit Notes: Such credit notes are issued by the supplier without reversing the GST paid in respect of such supplies and thus, such credit notes only impact the debtor's balance by reducing the same. *Circular No. 92/11/2019-GST dated 07.03.2019* clarified that financial / commercial credit note(s) can be issued by the supplier even if the conditions mentioned in clause (b) of sub-section (3) of section 15 of the CGST Act are not satisfied. In other words, credit note(s) can be issued as a commercial transaction between two contracting parties. The effect of the same is reflected in the financial statements but do not reflect in GST Returns as there is no GST element.
 - (iii) Present in financial statements and not present in GSTR-1: These denote short declaration of turnover in GSTR-1 and there is maximum possibility that output tax has also not been paid on such transactions in GSTR-3B. Accordingly, GSTR-3B must be examined to find as to whether such entries were missing in both the forms or only in GSTR-1. If it is missing in both forms, such tax must be paid by the taxpayer at the earliest to avoid penalty and further interest.
 - (iv) Other mismatches: Such mismatches shall be examined on case-to-case basis. For *Example*, a proprietorship firm is in manufacturing business and the proprietor has let out his commercial property on which he charges GST. Hence, the GST turnover will include both manufacturing as well as rental income, but the financial statement related to manufacturing concern will only cover manufacturing sale.
 - (v) Reconciliation in case of Multiple GSTINs - Taxpayer with multiple GSTINs must ensure that all outward supplies (of the entity as a whole) are reported in the relevant GSTINs. For this purpose, reconciliation of the aggregate of turnover with financial statements must be made.
- b) Reconciliation of outward supply between Form GSTR-3B and Form GSTR-1**

Reconciliation of outward supply reported in GSTR-3B and GSTR-1 is important to ensure that no output tax is paid more or less than that

required. In case any tax is paid more in GSTR-3B when compared to GSTR1, such tax payment should be reclaimed from Government by filing refund application with suitable reason for such error. In vice versa cases, the tax must be paid to the Government. The reason for non-reconciliation of details reported in GSTR-1 and GSTR-3B could be one of the following:

- (i) Supplies reported under the wrong Table in GSTR-3B, but correctly reported while declaring it invoice-wise in GSTR-1. For *Example*, reporting zero-rated sales correctly in Table 6A of GSTR-1, but incorrectly reported in Table 3.1(a) in GSTR-3B.
- (ii) Supplies made but omitted in GSTR-3B however declared in GSTR-1 or vice versa.
- (iii) Value of supplies correctly shown but tax paid under the wrong head. For *Example*, IGST instead of CGST & SGST or vice-versa.
- (iv) Supplies that may have been amended by way of debit note or credit note but such debit / credit notes are not reported in GSTR-1 of a particular month but the impact of such debit / credit notes taken in GSTR-3B of such month.

5.3.3 Input tax credit reconciliations

(a) Conditions for availing credit

Input tax credit is available subject to satisfaction of certain pre-conditions and post-conditions as prescribed under sections 16 & 17 of the CGST Act. Section 155 of CGST Act provides that where any person claims that he is eligible for input tax credit, the burden of proving the same shall lie on such person. Therefore, the registered person should make sure that he is availing eligible input tax credit as he has to prove that input tax credit is eligible. Therefore, the registered person is responsible for the satisfaction of the following conditions-

- Credit needs to be taken when all the pre-conditions are satisfied.
- Credit so taken needs to be reversed if any of the post conditions are not satisfied.

The registered person is not only required to satisfy the pre-conditions and post-conditions but should also maintain it in such a manner that it can be verifiable.

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Credit must be taken by reflecting the amount in the monthly returns in addition to recording the credit in the books of accounts. Credit omitted to be claimed in the monthly returns would be lost forever, if it is not taken before the time limit specified in section 16(4) of the CGST Act. Verification of credit is not only in respect of the fact of taking credit in the return but also within the stipulated time limit after fulfilling at least the preconditions associated with it.

Availment of credit in GSTR-3B does not require invoice-wise details. However, as per section 35 of the CGST Act, every registered person is required to maintain details regarding input tax credit availed at his principal place of business. This is because the registered persons should satisfy the following conditions for availing the input tax credit as provided in section 16(2) as under:

- (i) **Possession of tax invoice:** Possession of tax invoice or other prescribed document is the first condition to avail the input tax credit.
- (ii) **Receipt of such goods/services:** As per section 16(2) of the CGST Act, the registered person is entitled to avail input tax credit only when he has received the goods or services. To prove the receipt of goods, goods receipt note (GRN) as prepared by the gatekeeper or any other supporting document should be produced by the registered person when required by the authorities. In the initial years, such proofs were not maintained by taxpayers as they were not aware of such proof being called for from them, more so, when such documents have not been listed as required to be maintained by GST Act or rules. Many matters challenging receipt of goods are *sub judice* and it is expected that courts would provide guidelines in such cases.
- (iii) **Reflection of details in Form GSTR-2B of Recipient:** The details of the invoice or debit note issued by the supplier, have been furnished in the statement of outward supplies (GSTR-1) by the supplier and such details have been communicated to the recipient of such invoice or debit note in the GSTR-2B.
- (iv) **Unrestricted ITC:** The details of input tax credit in respect of the supply communicated to such registered person (recipient) under section 38 has not been restricted.
- (v) **Payment of tax by the supplier:** This condition requires that any amount claimed as credit must be duly deposited with the Government treasury. However, there is no mechanism available with the taxpayer

to find as to whether the supplier has paid the tax on such supplies or not. Accordingly, this provision has been a matter of discussion and conflict between taxpayers and tax administrators.

To avoid such dispute rule 37A has been inserted vide *Notification No. 26/2022-CT dated 26.12.2022* to specify the mechanism for reversal of input tax credit already availed by the recipient in Form GSTR-3B. As per the said rule, where supplier has furnished the details of invoice or debit note in Form GSTR-1 or IFF but return in Form GSTR-3B has not been furnished by the supplier till 30th September of subsequent financial year, the input tax credit availed shall be reversed by the recipient. If the recipient reverses the said ITC while furnishing Form GSTR-3B on or before 30th November following the end of such financial year, interest on the same is not required to be paid.

However, if the recipient reverses ITC after 30th November, then he is liable to reverse the amount of ITC along with interest as per section 50. This is not a permanent reversal, once the supplier furnishes his GSTR-3B then the recipient may re-avail the amount of ITC through Form GSTR-3B. The taxpayer should make sure that he is maintaining proper details w.r.t the same so that as when the proper officer demands, same can be satisfactorily explained.

- (vi) **Filing of return under section 39:** Input tax credit can only be availed through filing of Form GSTR-3B, which is one of the conditions for availment of credit. When availed in return, the amount availed on self-assessment basis gets credited in the electronic credit ledger of the registered person.

(b) Reversal of credit

Along with the tests made in respect of credit availed, it is also important to check if any reversals under the statute is required for credit availed. There are certain circumstances when the taxpayer is required to reverse his eligible input tax credit. Such scenarios are listed as under:

- (i) **Failing to pay the supplier within 180 days (Rule 37):** As per rule 37 of the CGST Act, a registered person, who has availed input tax credit on any inward supply of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, but fails to pay to the supplier thereof, the amount towards the value of such supply whether wholly or partly, along with the tax payable thereon, within 180 days, he shall pay or reverse an amount equal to the input tax credit availed in

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respect of such supply, proportionate to the amount not paid to the supplier, along with interest payable thereon under section 50 as may be applicable. The registered person is entitled to reclaim the amount of credit reversed without any time limit as per rule 37(4). It is to be noted that -

- ✓ the credit available must be availed within the time limit as prescribed in section 16(4) and any delay beyond this time limit will result in available credit being forfeited permanently;
- ✓ credit once availed within the time limit in section 16(4) but reversed under rule 37(1) can be reclaimed without any time limit.

It is also to be noted that as per proviso to rule 37(1), the value of supplies made without consideration as specified in Schedule-I of the CGST Act shall be deemed to have been paid for the purpose of making payment within 180 days. Hence, reversal of input tax credit shall not apply to the transactions covered under Schedule-I.

(ii) **Non-payment of tax by supplier (Rue 37A):** ITC need to be reversed when the supplier does not make payment of tax. For details, please refer to the above point no. (v) Payment of tax by the supplier at page no. 104.

(iii) **Credits used towards exempted / non-taxable supplies or non-business/ personal purpose as per rules 42 and 43:** Rules 42 and 43 provide method for determining ITC to be reversed which is partly used for making taxable supplies and partly used for non-taxable supplies including used for non-business / personal purposes. Rule 42 is regarding reversal of ITC on goods and services and rule 43 is regarding capital goods. As per said rules, total ITC needs to be segregated into following types of ITC:

Specific Credit: ITC that is specifically attributable to a supply either taxable or non-taxable, or for supply consumed for personal use or non-business use. This ITC is easily identifiable to a particular supply.

Common Credit: ITC that is not attributable to a specific supply but is used partly for making taxable supply and partly for non-taxable supply or partly used for personal consumption.

Both rules 42 & 43 pertain to reversal of inputs utilised for supplies that are exempt or used for personal consumption. If the credit can specifically be attributable to a supply – either taxable, non-taxable, or supply consumed for personal use, such ITC amount should be distinguished from the total ITC since it can be easily identified. The taxpayer must reverse that amount of ITC directly attributable to a particular supply that is non-taxable/used for personal consumption, only when wrongly availed.

ITC amount that cannot be attributed to a specific supply but is used for both taxable and non-taxable supplies / exempt supplies or for personal consumption, need to be reversed proportionately to the extent of supplies that are non-taxable / exempt supplies / used for personal consumption. The remaining ITC is eligible for claim.

- (iv) **Ineligible as per section 17(5):** Activities or transactions listed in section 17(5), popularly known as blocked credits are disallowed from being availed by the registered person. Thus, even though such inward services are used in the course or furtherance of business, the input tax credit on such specified cases are not available to the registered person. *Examples* of such blocked credits are credit on motor vehicles, credit on goods used in construction, credit on beauty services etc.
- (v) **Reversal as required under section 18:** This section provides reversal in specific cases when certain supplies are classified as exempt supplies or when the taxpayer cease to be liable to pay tax etc.
- (vi) **Other reversals:** ITC may also need to be reversed when the registration of the supplier is cancelled retrospectively or where the place of supply is in some other State.

(c) Reconciliations

Having understood the eligibility and reversal requirements in input tax credit, registered person has to prepare the reconciliation statements between the following three sources of ITC records:

- (i) ITC availed as per GSTR 3B;
- (ii) ITC available and eligible as per GSTR 2B/2A;
- (iii) ITC as per Books of Accounts (As reported in Table 12 of Form GSTR 9C).

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The registered person may also refer to those reconciliation statements, which were prepared by him while filing monthly returns or annual returns, for the purpose of audit. After matching, the subsequent outcomes must be combined, and specific treatment should be administered based on individual cases:

- 1) **Matched:** There are no differences found between the two sets of data being compared. This can be further classified into fully matched or partially matched with various criteria and tolerance limits [limits given under rule 36(4) of the CGST Rules, 2017]. The matching along with fulfilment of other requirements of section 16(2) of CGST Act, ensures availability of input tax credit to the registered person.
- 2) **Mismatched:** Transactions present in the books of accounts but grossly not matching with the data of GSTR 2A. The condition of matching with GSTR 2A was not effective till October 9, 2019 i.e., before introduction of rule 36(4) of the CGST Rules.
- 3) **Missing in Taxpayer's Records:** Such cases arise when some entries exit in GSTR-2A but cannot be located or found in the books of accounts. These entries may have their tax debited in expenses, may relate to ineligible expenses, or expenses which do not belong to business. Suitable explanation may be prepared for audit by the taxpayer. While such input tax credit cannot be recovered as the same has never been availed, the same is indicative of purchases made by the taxpayer and not recorded in his books of accounts and thus, requires suitable attention during the preparation for audit.
- 4) **Missing in GSTR-2A:** Entry present in taxpayer's books of accounts but not found in taxpayer's returns. The condition of matching with GSTR-2A was not effective till October 9, 2019 before introduction of rule 36(4) of the CGST Rules, 2017. However, the Revenue has clarified vide *Circular No. 183/15/2022-GST dated 27th December 2022* in relation to FY 2017-18 and FY 2018-19 that the taxpayer may be allowed input tax credit on production of requisite certificates from supplier / Chartered Accountant etc. For the period from 1.4.2019 to 31.3.2020, *Circular No. 193/05/2023-GST dated 17th July 2023* has provided that no input tax credit shall be allowed beyond the prescribed limit even on the production of certificate post 09.10.2019. Though experts may have different views on the vires of the Circular, the same shall have to be followed by Revenue authorities unless struck down by Courts.

(d) Reporting of carry forward credits

Reconciliations are also made part of portal in case of input tax credit and thus, proper reporting of such reconciliation in case of tax period for credit availed and reversed are inherent part of return filing now.

Where registered persons need to reverse Input Tax Credit (ITC) as they do not satisfy conditions of ITC availment, such as being unable to make payment to the supplier within 180 days (Rule 37) or the supplier could not furnish GSTR-3B till 30th September of the next financial year (Rule 37A) etc., they are required to reverse the ITC. However, they can reclaim it, as it is not a reversal of a permanent nature. The time limit prescribed under section 16(4) does not apply in such cases. To address this issue, a new functionality has been provided for "Electronic Credit Reversal and Reclaimed statement".

- For Monthly Taxpayers: ITC earlier reversed in Table 4B(2) of GSTR-3B from the period August 2022 to July 2023 and not reclaimed till July 2023 has to be provided as opening balance for "**Electronic Credit Reversal and Re-claimed Statement**".
- Reclaimable ITC earlier reversed in Table 4(B)2 may be subsequently claimed in Table 4(A)5 on fulfilment of necessary conditions. Such reclaimed ITC in Table 4(A)5 also needs to be explicitly reported in Table 4D(1).
- This has to be provided on or before 30.11.2023. This date has been further extended till 31.01.2024 vide Advisory dated 29.12.2023.
- Amendment of the same is available for 3 times.
- Amendments, if any, required for such opening balance has to be done within 31.12.2023. This date has been extended till 28.02.2024 vide Advisory dated 29.12.2023.

Based on this functionality, a validation mechanism is incorporated into the Form GSTR-3B, which triggers the warning if ITC reclaimed in Table 4D(1) is more than the balance as per "Electronic Credit Reversal and Re-claimed Statement" along with ITC reversal made in current return period in Table 4B(2). This warning message would facilitate accurate reporting but the taxpayers will still have the option to proceed with filing.

(e) Checking balances of electronic ledgers with books of accounts

Reconciliation of electronic credit ledgers with books of accounts is a critical process for businesses to ensure compliance with GST regulations and accurately report their financial transactions. Here's a summary of the key steps and considerations for this reconciliation process:

Electronic Ledgers in GST

- a) **Electronic Cash Ledger:** Reflects GST payments made in cash or through a bank. It acts like an e-wallet for GST payments.
- b) **Electronic Credit Ledger:** Contains input tax credit (ITC) availed in GST return (Form GSTR-3B). Credit in this ledger can only be used for tax payment.
- c) **Electronic Liability Ledger:** Contains details of GST liability, including the total GST liability and the manner in which it has been paid (cash or credit).

Common reasons for discrepancies may include timing differences, data entry errors, reconciliation mismatches, or outstanding tax liabilities. Reconciliation is crucial to ensure that GST returns accurately reflect the financial transactions of the business. It helps to identify and correct errors, ensuring compliance with GST regulations and minimizing the risk of penalties for non-compliance. Proper documentation and record-keeping are essential throughout this process to support your reconciliation efforts.

5.4 Proceedings and Submissions during Audit and Actions therein

5.4.1 Understanding the proceedings and their timelines

The proper officer who has been assigned the audit shall inform the registered person in Form GST ADT-01 and fix the date and time for visit / desk audit of the case. With Form GST ADT-01, list of the documents required for the purpose of audit will be specified by the proper officer. The list of documents are as follows: (Source: Model All India GST Audit Manual 2023)

- a. Annual report and Director's report (if any)
- b. Profit & Loss A/c
- c. Balance Sheet and Trial balance if maintained

- d. Notes to accounts
- e. Tax Audit Report
- f. Cost Audit Report (if maintained)
- g. Trial Balance
- h. Statement of income tax TDS
- i. List of HSN /SAC of the goods /or services in respect of the business
- j. Reconciliation statement in respect of Form GSTR 9, GSTR-1 AND GSTR 3B
- k. Suppliers' list with GSTIN (where applicable)
- l. Ledger accounts of the suppliers in respect of inward supplies
- m. Statement of sales, party wise and POS wise
- n. Inward and outward supply for which tax paid or payable in RCM.
- o. Bank Statement for the period under audit
- p. Stock register
- q. Other documents and records as applicable as provided in section 35 of the Act.

The audit under section 65 is required to be completed by the authorised officers, within three months from the date of commencement of audit. The date of commencement is defined as the date on which the records and other documents, called for by the tax authorities, are made available by the registered person or the actual institution of audit at the place of business, whichever is later.

It would be relevant to note that as per the prescribed process of law the mode of calling for documents is only through Form GST ADT-01 and not through any other mode. This is also with the aspect of keeping in mind that the GST law is designed to have minimal interaction between the taxpayer and the tax authorities. In other words, the audit process should not be a continuous engagement with the authorities till the completion of audit. Once the documents called through Form GST ADT-01 are produced, the authorised officers are required to verify, examine and give their audit observations to the taxpayer to offer his explanation. Based on the explanation provided, the audit needs to be concluded. There is a provision wherein the time limit of 3 months can be extended by the Commissioner by

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an order in writing, if it cannot be completed for valid reasons which need to be recorded in writing. Extension cannot be beyond a total period of 6 months.

As part of preparation, the taxpayer should collect all relevant documents related to the business operations, transactions, and financial records. These may include invoices, purchase orders, contracts, bank statements, GST returns, and input tax credit documentation. Arrange the collected documents in an organized manner, categorizing them based on the transaction type, date, and relevance. This facilitates quick access during the audit process.

5.4.2 Submission of documents relevant to GSTIN

It is important to understand that in GST, the audit is *qua* GSTIN and not person. Accordingly, the person needs to provide proper records and documents as are relevant for the specific GSTIN only on which Form GST ADT-01 is issued. There may be a common financial statement for the entire entity spread across multiple GSTINs, however, the audit jurisdiction lies only on the GSTIN on which Form GST ADT-01 is issued.

5.4.3 Maintaining logbook of audit proceedings and submissions

In case of audit being carried out by the authorised officers at the premises of the taxpayers, keeping a logbook of the officer's visit and communication with the officer is a prudent practice that helps to ensure transparency, accountability, and an accurate record of the audit proceedings. It is a prudent practice to require acknowledgement of all information and documents submitted or presented during audit.

This would help the taxpayer in any subsequent proceedings initiated by the Department to establish the fact that there was always full cooperation and no intent of any suppression of facts or willful misstatement.

5.4.4 Role and responsibilities of the taxpayers and departmental officers

(i) Rights of the taxpayer

The taxpayer has a right to be informed of any audit to be undertaken by the Department. He also holds the right to be given time for presentation of documents required, however, the right is restrained as the documents need to be presented in a reasonable time. Such reasonable time depends on the quantum of data and requirements of the audit team. The taxpayer also has the right to be served with discrepancies and an audit report. He can also ask for acknowledgement for all records, documents and information shared

or submitted during audit. The taxpayer should prefer to communicate by way of written communication rather than oral communication during the audit.

(ii) Duties of the taxpayer

Every person being audited is required to make available to the proper officer or audit party deputed by the proper officer or a cost accountant or chartered accountant nominated under section 66—

- (i) such records as prepared or maintained by the registered person and declared to the proper officer in such manner as may be prescribed;
- (ii) trial balance or its equivalent;
- (iii) statements of annual financial accounts, duly audited, wherever required;
- (iv) cost audit report, if any, under section 148 of the Companies Act, 2013;
- (v) income-tax audit report, if any, under section 44AB of the Income Tax Act, 1961; and
- (vi) any other relevant record,

within a period not exceeding fifteen working days from the day when such demand is made, or such further period as may be allowed by the said officer or the audit party or the chartered accountant or cost accountant.

(iii) Duties of the officer

As per rule 101(3) of the CGST Rules, 2017, the officer authorised to conduct audit of the records and books of account of the registered person shall verify:

- a. the documents on the basis of which the books of account are maintained and the returns and statements furnished under the provisions of the Act and the rules made thereunder;
- b. the correctness of the turnover, exemptions and deductions claimed;
- c. the rate of tax applied in respect of supply of goods or services or both;
- d. the input tax credit availed and utilised, refund claimed; and
- e. other relevant issues and record the observations in his audit notes.

(iv) Can the officer undertake audits for multiple years at a time?

Rule 101(1) of CGST Rules, 2017 provides that the period of audit to be

conducted under sub-section (1) of section 65 shall be a financial year or part thereof or multiples thereof.

(v) Rights of the officer

As per section 71 of the CGST Act, any authorized officer shall have access to any place of business of the registered person to inspect the books of account, documents, computers, computer programmes, computer software whether installed in a computer or otherwise and such other things as he may require and which may be available at such place, for the purposes of carrying out any audit.

5.5 Responding to Audit Queries and Conclusion

During GST audits, it is not uncommon for the Department to raise queries and make observations regarding various transactions reported in the GST returns. Effectively addressing these queries is essential to demonstrate compliance, resolve discrepancies, and maintain a smooth relationship with the tax authorities.

It would be relevant to understand the implications of audit queries, crafting thorough responses, providing additional documentation and explanations, managing discrepancies and disputes, as well as seeking rectification and pursuing appeals when necessary. By following these steps diligently, businesses can navigate the audit process with confidence and transparency, ensuring accurate representation of their tax liabilities and obligations.

5.5.1 Reviewing the audit queries

At the onset of an audit, carefully review the queries raised by the GST Department. This involves comprehending the specific transactions and aspects of the business that are being scrutinized. It is essential that the observations be understood and evaluated in the context in which they were given.

5.5.2 Responding to audit queries

A good approach towards replies includes a simple and transparent approach to address such queries and one must keep in mind the following aspects:

- Timely Communication: Responding promptly to audit queries demonstrates the commitment to compliance. If more time is needed,

seek an extension, but ensure the response is submitted within the agreed timeframe. Remember, audit teams are granted specific time to complete the audit and in case the same is not completed due to lack of response from taxpayer, the same may have adverse consequences like enforcement proceedings, best judgement assessment etc.

- *Provide Comprehensive Responses:* Address each query individually, providing detailed and concise explanations. Refer to specific supporting documents, Circulars and case laws as per need. However, note that in case of response, it is not the case that bigger is better, rather specific and comprehensive is the key to faster conclusions.
- *Bringing out factual aspects and submit all requisite documents:* While replying to the queries, it is essential to bring relevant facts along with documentary proofs. Holding back documents might not be a good idea. This is for the reason that the basis of any further proceedings will be based on the audit submissions and observation. If the observation is on wrong or irrelevant facts, it would be difficult to address such issues at later stage of proceedings.

5.5.3 Managing discrepancies and dispute resolution

- **Rectify Errors:** If discrepancies are acknowledged, take proactive steps to rectify them in the GST returns. Inform the Department about these corrections, showcasing the commitment to rectifying mistakes.
- **Engage in communication:** If you disagree with the audit observations, engage in constructive communication with the Department. Present the perspective supported by relevant legal provisions, case laws, and concrete supporting documentation.

5.6 Areas of Compliance

CBIC has issued a *Model All India GST Audit Manual 2023*, wherein it has been provided that while performing the exercise of audit, the officer of the audit team must cover certain specific areas of compliance for the proper examination of records. The taxpayers, therefore, should pay special attention to these compliances and keep the related documentation and reconciliations ready and complete in all respects.

The areas of compliance that the audit officers will cover during examination of records as provided in *Model All India GST Audit Manual 2023* are given below:

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S. No.	Relevant Sections / Points in Returns and other provisions	Key issues
1	• Sr. No. 4 & 5 of GSTR-9 • Taxable Supply: Sr. No. 5N of GSTR-9 • Exempted: Sr. No. 5D of GSTR-9 • Nil Rated: Sr. No. 5E of GSTR-9 • Non-GST Supply: Sr. No. 5F of GSTR-9 • Zero Rated: Sr. No. 5A, 4C of GSTR-9 • Supply to SEZ: Sr. No. 5B, 4D of GSTR-9 • Deemed exports: Sr. No. 4E of GSTR-9 • Section 7 of SGST / CGST Act • Section 17(3) of SGST / CGST Act • Section 147 of SGST / CGST Act • Schedule I, II and III of SGST / CGST Act • Section 16 of IGST Act	To check whether outward supplies like Taxable supply, exempted supply, Zero-rated supply, NIL rated supply, Supplies to SEZ unit/ developers, Deemed Export etc. are correctly classified, the audit officer must check the following accounts/documents as under: • Invoice / Bill of Supply • Tax rate Notification • Exemption Notification • HSN / SAC • Contract • Shipping Bill / Bill of Export • Bill of Lading • Letter of Undertaking • Duty drawback availed • Payment received (Bank/Cash) • Composite/Mixed Supply
2	• Non-GST Supply: Sr. No. 5F of GSTR-9 • Schedule III of SGST / CGST Act	To check any activity or transaction which falls within the scope of supply has not been identified by the registered person, the officer shall check the following accounts/ documents as under: • Invoice / Bill of Supply

		• Contract • Consideration received • Analysis of cash flow and mapping cash flow with the returns • Business purpose
3	• Sr. No. 3.1 & 3.2 of GSTR-3B • Section 10,12,13 of IGST Act	To check that supply has been correctly classified as inter-State supply/Intra-State as per Section 7(5) & 8 of the IGST Act, 2017, the officer shall take an overview of the following documents/records as under: • Invoice / Bill of Supply • Party-wise supply with address • Contract • Transportation document • Whether B2B or B2C (Supply of Services)
4	• Sr. No. 5E & 5 F of GSTR-9 • Sr. No. 14N, 14P, 14Q of GSTR-9C	What will be the treatment of promotional items given free to end consumers by FMCG companies and for the purpose, the following documents/records needs to be viewed: • Sales promotion expenses • Ledger account of Distributors / Agents / Franchisees • Stock Register
5	• Sr. 5A & 4C of GSTR-9 • Section 16 of IGST Act	To determine whether the Zero-rated supply is also verified as per the provisions of GST law, the officer must take the reference of the following records/accounts as under: • Contract • Shipping Bill / Bill of Export

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		• Bill of Lading • Payment received (Bank Statement) • Letter of Credit / Telegraphic Transfer • Letter of Undertaking • Duty drawback availed
6	Section 18(6) of CGST / SGST Act	The officer must check if supply of capital goods has been subjected to GST or not and that the same has also been included in the returns filed. For the purpose officer needs to have a closure look on the following accounts / records as under: • Fixed Asset Schedule • Contract • Ledger account of fixed assets or plant and machinery • Ledger account of any scrap • TCS under Income Tax Act • Bank Statement (Payment received)
7	• Table 9 of GSTR-9C • Sr. No. 17 & 18 of GSTR-9C • Schedule II of CGST / SGST Act	To check that the transactions are correctly classified as supply of goods or supply of services as per Schedule-II of the CGST / SGST Act, the officer needs to check the following accounts/records: • Invoice / Bill of Supply • Contract • Composite / Mixed Supply
8	• Form GST ITC -04 • Section 143 of CGST / SGST Act	Whether there are any transactions wherein goods sent for job- work are not received back within the specified time, the officer must check the following accounts/records as under: • Delivery Challan

		• Gate outward register • Gate Inward register • Stock register • Job work charges
9	• Sr. No 6B of GSTR-9 • Schedule I of CGST / SGST Act	To check if any business asset has been permanently disposed of and for which input tax credit had also been availed, the officer must check the following records/accounts as under: • Fixed Asset Schedule • Contract • Ledger account of fixed assets or plant and machinery • Ledger account of scrap • Stock register • Bank Statement (Receipts) • Cash flow statement
10	Section 15(4) of CGST / SGST Act	To check whether "Related persons" or "Distinct persons" in relation to the registered person have been properly identified and whether activities or transactions held with them have been duly identified and accounted as per law, the officer must check the following accounts/records as under: • List of related / distinct persons • Ledger account of Related persons • Loans and advances • Income tax Audit report • Annual return (Companies Act)
11	Schedule I of CGST / SGST Act	To check if any "Agent" has been appointed by the registered person and whether transaction held with such agent

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		has been properly accounted, the officer must keep a view in perspective of the following documents: • Commission expenses • TDS / Form 26AS • Contract with franchisee /distributor • Business supply chain structure
12	Sr. No. 6E and 6F of GSTR-9	To check if any foreign exchange has been remitted outside India for any import of services and whether tax on that transaction has been paid or not, the following documents requires consideration by the officer as under: • Contract • Bank Statement (payments made) • Letter of credit or telegraphic transfer • Director report
13	• Section 17 (1) of CGST / SGST Act • Schedule II of CGST / SGST Act	To check whether the goods for business use have been put into any personal use, the officer must keep a view of the following documents as under: • Stock register • Drawings account • Nature of expenses (Majorly telephone, repair and maintenance, insurance) etc.
14	Section 9(3) and 9(4) of CGST / SGST Act	To check that tax has been paid on RCM on inward supplies or not, the following documents are required consideration by the officer as under: • Self- invoices issued • Payment vouchers

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		• Examine the nature of expenses (mainly freight (inward and outward), legal charges, import of services etc.) • Bank Statement (payments made)
15	• Sr. No. 4F of GSTR-9 • Section 12 and 13 of CGST / SGST Act	To check if tax paid on advances has been received, the officer must keep the view of the following documents as under: • Bank Statement (Payment received) • Cash book for any cash received • Loans and advances in the Balance Sheet • Ledger account of debtors • Current liabilities on account of unearned income / advance received
16	• Sr. No. 4I of GSTR-9 • Section 34 of CGST / SGST Act	To check that whether any credit note issued for supplies has been made, the following documents/points requires consideration: • Credit Note Vouchers • Goods return register • Ledger account of sale returns • Weigh bill • Gate Inward pass • Transportation document • ITC reversed by recipient • Whether issued within timeline defined by section 34

5.7 Exception Reports

The registered person undergoing audit must keep in mind that audit officers will give special consideration to certain exceptions as given below:

- ITC claimed in Form GSTR-3B vs. ITC auto-populated in Form GSTR-2A/GSTR-2B;

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- Turnover declared in Form GSTR-3B vis-à-vis Form GSTR-1;
- Claim of ITC from cancelled registered persons' aggregate turnover in GST return vis-à-vis Turnover disclosed in Income Tax return;
- Turnover declared by registered person in Form GSTR-3B compared to turnover on which TDS deducted as reflected in Form GSTR-7 submitted by TDS deductor;
- Turnover declared by registered person in Form GSTR-3B compared to turnover on which TCS collected as reflected in Form GSTR-8 submitted by TCS collector;
- Turnover declared by registered person in Form GSTR-3B compared to minimum turnover expected on the basis of e-way bills generated in respect of the said registered person;
- Refund-claim against purchase from registered person having no auto-population of ITC in Form GSTR-2A;
- Purchases from non-existent registered persons;
- Registered persons having adverse reports in VAT/Service Tax/Central Excise who are operative in GST etc.

Chapter 6

Key Considerations

6.1 Transactions Requiring Specific Attention

In certain sectors, registered persons need to give proper attention to handling sector-specific transactions due to the complexity of income streams and different financial reporting mechanisms, etc. These transactions are closely examined during audits, and the chances of non-compliance are higher in these transactions. The audit teams generally focus on these transactions because they are specific to the sector and often involve complicated legal and operational aspects. The table below gives a list of some key sectors, and the nature of transactions as outlined in *Model All India GST Audit Manual 2023*, that require special attention:

S. No.	Sectors	Nature of Transactions
1.	Banking, Insurance and Non-Banking Financial Companies (NBFCs)	Multiple streams of revenue generations including lending, investments, stock markets, capital markets operations (e.g., sales and trading services, underwriting services, mergers & acquisition, advisory), underwriting services, credit card and other retail products, transactions with international branches, extending guarantees and letter of credits etc.
2.	Insurance Sector	Premiums earned, reinsurance, income from investments, accrual vs receipt of insurance premium in books, inter unit transactions and settlement of claims with attribution of salvages etc.
3.	Infrastructure Sector	Project based accounting involving time-gap between income accrual and invoicing. This sector also involves complicated record maintenance in terms of multiple projects

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		under the same company but having some common infrastructure and procurements.
4.	Telecommunication Sector	Challenges in telecom include changing demand and fast-changing infrastructure. This also includes disposal of assets which are tough to keep track of by any auditor, differentiation between consumable and fixed assets, or movable or immovable properties, inter GSTIN and international network sharing transactions and netting off of revenue, transactions with international branches etc.
5.	E-commerce Sector	This sector has high sales return issues, stock tracking problems, in-transit damages, small in value but huge in numbers B2C transactions, reconciliation of TCS collection by operator etc.
6.	Real estate Sector	This sector has been given a special place both in respect of rates as well as input tax credit reversal rules in the GST law. GST compliance is tough in terms of the requirement of project wise reversal coupled with computation of reverse charge payment to be made when procurements are not made upto a specified extent from registered taxpayers.
7.	Manufacturing Sector	This sector faces problems in GST compliances with warranties, repairs, customer services etc., when the production is centralized but service centers of the same company are operative across the country. It also faces problems in terms of stock consumption ratios, consistency in consumption patterns etc.

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8.	Transport and goods handling Sector	Being more in unorganized space, this sector is tainted by lack of proper records and reconciliation in terms of their input and outward supplies. They also have major issues with reimbursements and their qualification as pure agent under rule 33 in areas like CHA, forwarding agents etc.
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The following are certain types of transactions, as provided in *Model All India GST Audit Manual 2023*, that are common across almost all sectors, yet the legal provisions governing them can be quite complex. Many of these transactions are frequently disputed during departmental audits. Therefore, registered persons should exercise proper care and attention when dealing with these transactions to ensure compliance and reduce the risk of issues arising during departmental audits:

S. No.	Type of Agreements	Relevancy in terms of scrutiny under Audit
1.	Foreign Technical Collaboration Agreement	Such agreement may be a pure technical collaboration agreement or technical-cum-financial collaboration agreement. In the latter, there is equity participation also. Sometimes, collaboration agreements are only financial in nature wherein only equity participation by a foreign company is involved. • In cases where there is equity participation, imports from the collaborator may be subjected to scrutiny. Also, payment of royalty / technical know-how fee may involve GST liability towards import of services including IPR. • Whether consideration paid to the collaborator has been taken into account in arriving at the cost of production, etc. It will be taken into account when the

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			supply is from a related party: (a)with consideration, or (b)without consideration.
2.	Joint Venture Agreement	Mostly, a joint venture company is set up by Indian companies with equity participation wherein there is a joint venture agreement or promoters' agreement which defines various terms and conditions subject to which the joint venture has been formed.	• To check the nature of shareholding in the company. • To check if there are any clauses in respect of pricing pattern for sale to one of the joint venture partners which may have a bearing on related persons sale or sale at arms-length. This may have an impact on the valuation. • There may be a possibility that the agreement may contain clauses for payment in respect of certain services which may also have tax implications. • There may be a provision for common Managing Director or common directorship indicating control / management of various companies which may have an implication on related persons concept etc.

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3.	Joint Development Agreement in Real Estate Sector	These types of agreements generally involve an element of transfer of land for the purpose of its development in lieu of certain consideration. Transfer of Development Rights (TDR) is covered under the GST and there is no ambiguity in this regard unlike the service tax era. There are various types of transactions with GST implications such as: - Landowner to builder/developer - Builder/developer to landowner - Landowner to customers/buyers - Builder/developer to customers/buyers - Retention of flats/property for own use	• All such transactions have GST implications like the eligibility of ITC, time of supply, rate of tax, value of supply etc. which would require a detailed reading of the various agreements entered between the concerned parties. The point in consideration is the eligibility of ITC only for the portion of the flats or property which are sold before a completion certificate is obtained. The ITC availed and utilized in the flats or property sold after the completion certificate is obtained has to be reversed. The exact liability of the GST on such projects can be arrived at only after the details of the agreements are studied thoroughly in consonance with the provisions of the GST Act and Rules. The treatment of transfer of development rights and implications provided in various schemes like
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			rehabilitation also needs a closure look.
4.	Works Contracts	Under a works contract, there are activities which include both supply of goods and services. For Example, construction of building, erection, commissioning, installation of plant and machinery, etc. In other words, a works contract relates to both movable property and immovable property. But in GST regime, the definition of 'works contract' has been restricted to any work undertaken for immovable property only. Therefore, any composite supply including supply of goods and supply of service on movable property (goods), does not fall within the definition of works contract under the GST law and such type of contracts are treated as composite supplies under GST and taxed accordingly. For e.g., fabrication work or paint work	• If a works contractor has his project office in a particular State, he has to take registration in that State once the threshold limit of Rs. 20 lakhs (Rs. 10 lakhs in a Special Category State) is crossed. • There is no abatement allowed to a work contractor from the value of service under the GST law. • Input tax credit of tax paid on the works contract service can only be availed by the recipient of such works contract service who is using these services for further supply of works contract service, otherwise not. For Example, a company, not engaged in the supply of works contract service, is not entitled to avail ITC of GST paid on the works contract service received from any other works contractor. • From the perspective

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		done in automotive body shop. Works contracts are treated to be supply of services as per Entry No. 6(a) of Schedule II of the CGST Act.	of place of supply, since the supply of works contract service under the GST law involves immovable property only, the place of supply of service would normally be the place, where the immovable property is located. • The value of supply of works contract service, involving transfer of property in land or undivided share of land, as the case may be, shall be equivalent to the 'total amount' (consideration charged for works contract service plus the amount charged for transfer of land or undivided share of land, as the case may be) charged for such supply. Out of this, the value of land or undivided share of land is subtracted or decreased as the case may be and the value of land or undivided share of land, as the case may be, in such supply shall be deemed to be
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			1/3rd of the 'total amount' charged for that supply.
5.	Manufacturing Agreement	A company may enter into manufacturing agreement with another company. Such agreements are usually made by big brand owners. These companies enter into such type of contracts for manufacturing of finished goods under certain terms and conditions.	• In this case, the payment under the manufacturing arrangement may be looked into. • Treatment of waste and scrap generated under the contract. • It is to be checked whether the contract manufacturer is the original manufacturer or dummy only created for the purpose of declaration of lower assessable value. • Whether the agreement contains any other consideration which can be converted into monetary terms etc.
6.	Service Agreement	There may be service agreements / MOUs on various aspects of the business. In some of the businesses like automobile, FMCG and infra projects, purchase orders constitute the agreement which contains various terms and conditions for	• Service provided or parts supplied during AMC. • To verify the terms and conditions specifically with respect to supply of services. • Whether the invoice is correctly raised as per the agreement or contract or not.

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		supply of services.	• To compare the total price charged as per the agreement or contract with the GST invoice issued to ensure that there is no extra flow back, received outside the invoice through commercial invoice or debit note. • To study about tax structure agreed upon in the agreement or contract. • Any other clause regarding liquidated damages, penalties etc.
7.	Job Work Agreement	Job work agreements are formal agreements or letters generally exchanged between the parties which contain the basic terms and conditions of the job work.	• Nature of job work done. • Time period of returning items related to job work as per section 143 of the said Act. • To keep a check on the waste and scrap generated during the job work. • Whether applicable rate of tax is properly charged or not etc.
8.	Dealership / Distribution Agreement	Manufacturers / suppliers usually market goods through a distributor or dealer network and enter into	• Whether the agreement contains any condition or terms whereby the dealer / distributor is to

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		dealer / distribution / stockiest agreements containing various terms and conditions. Supplies between principal and agent as defined in CGST Act 2017 are areas of specific focus.	advertise on behalf of manufacturer; if so, what are the conditions. • Post sale discounts, if any. • Warehousing facility • Any provision for sharing of expenses. • To check whether the goods under supply require after sale service or warranty. • To check whether there is any separate optional extended warranty agreement made which commenced immediately after the initial mandatory warranty period. • Any provision in the agreement for delivery of free gift items through dealer. • What is the pattern for discount or incentive offered by the manufacturer under the agreement? Whether it is based on commercial considerations prevailing normally in the trade or not? • Whether the agreement provides any non-refundable security deposit with
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			or without interest etc?
9.	Purchase Contract	Purchase of materials / goods are under specific contracts or through tenders. These purchase contracts / tenders may also contain information related to audit.	• Who is the supplier? Whether he is related person or not? • Whether the delivery of goods made directly to factory or to job worker place?
10.	Lump sum turn-key contract	The contractors sometimes enter into a turnkey contract which may include supply, erection at site and commissioning of the goods.	• Whether the price of the goods includes work of erection, commissioning at site? • Whether any attempt has been made to overload the charges such as erection and commissioning charges? • Whether the machinery has been supplied by the manufacturer? • Case study of solar project (70% of value as goods @ 5% and 30% of value as services @ 18%).

Besides, there can be many other types of contracts / agreements such as Constructions contracts, Leasing contracts, hire purchase agreements, franchisee agreements, non-disclosure agreement, non-competitive contract, Insurance and reinsurance agreements / contracts, which may be examined by the audit team during the departmental audits.

6.2 Valuation of supplies between distinct persons under GST

Rule 28 of the CGST Rules specifically deals with valuation of supply of goods or services or both between distinct or related persons, except where the supply is made through an agent. Therefore, at the time of supply of goods or services or both between distinct persons, one has to refer to rule 28 for the purpose of valuation of such supply.

Rule 28 of the CGST Rules reads as under:

Value of supply of goods or services or both between distinct or related persons, other than through an agent.-

(1) The value of the supply of goods or services or both between distinct persons as specified in sub-section (4) and (5) of section 25 or where the supplier and recipient are related, other than where the supply is made through an agent, shall-

- (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;*
- (c) if the value is not determinable under clause (a) or (b), be the value as determined by the application of rule 30 or rule 31, in that order:*

Provided that 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:

Provided further that 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.

(2) Notwithstanding anything contained in sub-rule (1), the value of supply of services by a supplier to a recipient who is a related person located in india, by way of providing corporate guarantee to any banking company or financial institution on behalf of the said recipient, shall be deemed to be one per cent of the amount of such guarantee offered per annum, or the actual consideration, whichever is higher.

Provided that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the value of said supply of services.

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As per second proviso to rule 28, if 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. A deeming fiction has been created to adopt the value declared in the invoice as the open market value and whatever value is mentioned in the invoice cannot be challenged by the assessing officer. This version also finds place in the Model All India GST Audit Manual 2023 prepared by the Committee of officers on GST Audit.

However, if the recipient is not eligible for full input tax credit, then the value declared cannot be accepted as an open market value. In other words, if the value is not determinable in accordance with the provisions of clauses (a) or (b) of rule 28, the same shall be determined in accordance with the provisions of rules 30 & 31 in that order.

Illustration -1: The Head office (H.O) of an entity deals in mobile phones and supplies a mobile phone to its Branch office (B.O) for further supply to the end customer. If the B.O is eligible for full ITC, then, the transaction value, whatever it may be, shall be deemed to be the open market value as per the second proviso to rule 28 of the CGST Act.

Illustration -2: A banking company purchased 4 cars and dispatched those cars to its branches in four different States by raising tax invoice where value of each car is shown at a nominal price of Rs.10,000/-. On being asked by the proper officer, the auditee bank replied that valuation has been done as per rule 28 of CGST Act. Whether valuation done by the bank is correct?

As per the second proviso of rule 28, the value declared in the invoice shall be deemed to be the open market value where the recipient is eligible for full input tax credit. In the given case, as the recipient is not eligible to avail full ITC the value declared cannot be accepted as the open market value.

Rules 30 & 31 of the CGST Rules are reproduced hereunder:

Rule 30: Value of supply of goods or services or both based on cost -

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.

Rule 31: Residual method for determination of value of supply of goods or services or both -

Where the value of supply of goods or services or both cannot be

determined under rules 27 to 30, the same shall be determined using reasonable means consistent with the principles and the general provisions of section 15 and the provisions of this Chapter:

Provided that in the case of supply of services, the supplier may opt for this rule, ignoring rule 30.

As per the provisions of rule 30, where the value of supply of goods or services or both is not determinable by any of the preceding rule in such case the value will be 110% of the cost of production or manufacture, cost of acquisition of such goods or the cost of provision of services.

As per the provision of rule 31, where the value of supply of goods or services or both cannot be determinable under rule 27 to rule 30 in such cases the same shall be determined as per rule 31 i.e. Residual Method or Best Judgement Method. Further, in case of supply of services, the supplier may opt directly rule 31 by ignoring rule 30 for the valuation purpose.

6.3 Stock Transfer and other Inter-GSTINs Supplies

It is quite common in PAN India business establishments to transfer stock from one unit to another unit, depots, or warehouses to fulfill orders from various locations promptly. They even provide services *inter se* most of which are not even recorded in books of accounts as they are not billed between the units. For *Example*, supply of tax compliance services located centrally etc. In GST, it is important to understand the tax implications including classification, rate, valuation and other aspects of such transactions.

Before the implementation of GST, when goods were transferred between States or within the same State, they were subject to excise duty upon removal. However, VAT/CST did not apply to these transfers as there was a requirement to file the prescribed form. Under GST regime, tax is now imposed on the supply of goods or services between branches of the same person when such units qualify as distinct persons as per section 25(4) of the CGST Act 2017.

Para 2 of Schedule I to the CGST, Act 2017 (Activities to be treated as supply even if made without consideration) deals with the supply of goods or services or both between related or distinct persons when made in the course or furtherance of business. It states that consideration is not the necessary ingredient to qualify as a supply between related or distinct persons. The concept of distinct person has already been discussed.

Therefore, transfer of stock from one branch office of a company to another branch office registered in a different State will be a taxable supply even if made without consideration as both the branches are distinct persons. Accordingly, the branch office making the stock transfer is required to discharge output tax liability on the said supply and the branch office receiving the stock is entitled to avail input tax credit on the same.

The value of stock transfers between distinct persons is governed by rules 28, 30 and 31 of the CGST Rules as already discussed above.

Any supply of goods or services or both including stock transfers are taxable in the following two cases:

(i) Intra-State supplies: When an entity has more than one registration within a State / Union Territory and supply has taken place between such two places.

Example: XYZ & Co. transfers 500 pipes from its factory located in Lucknow to its retail showroom in Kanpur so that the same can be sold from there. It has taken one registration in the State of Uttar Pradesh declaring Lucknow factory as its principal place of business and Kanpur showroom as its additional place of business. Since it has only one registration within the State, supply of goods from the factory to retail showroom within the same State under single registration does not constitute supply. Goods can be moved only on the basis of delivery challan.

However, if XYZ company obtains separate registrations for Lucknow and Kanpur, then stock transfer will constitute supply.

(ii) Inter-State supplies: When an entity is registered in different States or Union Territories, and a supply occurs between two separately registered premises, the supply between two premises located in different States is taxable.

Example: ABC & Co. transfers 500 pipes from its factory located in Lucknow to its retail showroom in Delhi so that the same can be sold from there. The factory and retail showroom of ABC & Co. are registered in the States where they are located. Though no consideration is charged but the supply of goods from factory to retail showroom constitutes supply.

6.4 Input Service Distributor

The definition of Input service distributor (ISD) is defined under clause 61 of section 2 of the CGST Act, which reads as under:

2(61) “Input Service Distributor” means an office of the supplier of goods or services or both which receives tax invoices issued under section 31 towards the receipt of input services and issues a prescribed document for the purposes of distributing the credit of central tax, State tax, integrated tax or Union territory tax paid on the said services to a supplier of taxable goods or services or both having the same Permanent Account Number as that of the said office;

Let us understand the concept of ISD with an illustration:

A prominent retail chain operates across multiple cities, with its head office situated in City A and various retail units spread across City B, City C, and City D. Each store incurs several expenses for input services, such as security, advertising, and maintenance, which are subject to GST, but the vendor raised invoices on the head office. To streamline the process of input service credits and allocate them appropriately among different units, the retail chain's head office is registered as an input service distributor (ISD). Once registered as an ISD, all the vendors raised invoices on the head office and the head office further distributed the ITC of the input services utilized by each store. Using the appropriate basis, the head office can distribute the input service credits accordingly. Through the ISD mechanism, the large retail chain ensures that each store receives a fair share of the credits to offset their GST liability on the products and services they offer. This approach facilitates efficient utilization of accumulated credit, promoting effective financial management within the organization.

6.4.1 When is an Input Service Distributor (ISD) not allowed to distribute the ITC?

- ✓ **Input Tax Credit on Input and Capital Goods:** ISD is not permitted to distribute the input tax credit when it pertains to input and capital goods. The distribution of credit is limited to input services only.
- ✓ **ITC cannot be passed on by ISD in an arbitrary manner:** Credit can be distributed only as per the mechanism prescribed by law in section 20 read with rule 39.

6.4.2 Basis of distribution of credit by an ISD

The credit of tax paid on input services attributable to a specific unit is to be transferred by ISD as such to that unit. The credit of tax paid on input services attributable to more than one unit shall be distributed amongst such units to whom it is attributable on pro rata basis of their turnover in State or turnover in union territory of such recipient, during the relevant period, to the aggregate of the turnover of all such recipients to whom such input service is attributable and which are operational in the current year, during the said relevant period.

6.4.3 Distribution of credit by ISD by issuing invoice, debit note and credit note

Invoice - ISD issues an invoice known as ISD invoice to those units to whom it intends to distribute the credit of tax paid on services. It should clearly indicate in such invoice that it is issued only for distribution of ITC.

Debit Note – If an ISD issues a debit note, the additional credit of tax should be distributed amongst the units to which that service is attributable. It is not necessary that the input tax credit in debit note will be attributable in the same proportion to the units as it was in the original invoice.

Credit Note – Any input tax credit required to be reduced on account of issuance of a credit note to the input service distributor by the supplier shall be apportioned among each recipient in the same ratio in which the input tax credit contained in the original invoice was distributed. For *Example*, XYZ Ltd. received a credit note from the supplier 'A' in January, 2024 in respect of supplies made in December, 2023 for ITC of Rs. 50,000/-. Now, this ITC mentioned in credit note will be reduced from January month's total ITC distributed, in the same ratio in which the ITC was distributed in the original invoice say, 2:1:2 to Delhi, Pune and Chennai Branches. Therefore, the ITC reduced will be Rs. 20,000 from the Delhi branch; Rs. 10,000 from Pune branch and Rs. 20,000 from the Chennai branch.

6.4.4 Can ISD be used as a conduit for transferring credit from "ITC surplus unit" to "ITC deficient unit"?

ISD can never distribute the credit of input services to the non-related unit having no nexus to that inward supply. The input tax credit of a unit will be allocated only to the unit to which such supply is attributable. If more than one unit is involved, then input tax credit will be distributed on pro rata basis

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of the turnover in State. ISD can never be used as a conduit for transferring credit from “ITC surplus unit” to “ITC deficit unit” because credit of input services can only be allocated to the unit to which that supply is attributable.

The case of *JSW Steel Ltd. vs. Union of India (Orissa High Court)*, 2022 (63) G. S. T. L. 167 (Ori.) will help in understanding this better.

JSW Steel Ltd. operates in various States, including Odisha, and has its head office in Mumbai. The Mumbai office is registered as an ISD. The Odisha office was registered as a regular taxpayer. JSW Mumbai participated in the tender process and was granted mining leases for four iron mines in Odisha. Upon reviewing the tax returns for the relevant periods, it was found that JSW Odisha had paid SGST and CGST under the reverse charge mechanism for bid premiums, royalties, DMF, NMET, NPV and other charges. It was alleged that JSW Odisha had utilized a portion of the tax paid under reverse charge mechanism and passed it on to JSW Steel in Maharashtra, utilizing the ISD registration in the form of integrated goods and services tax (IGST) as outward supply of “facilitation services” to JSW Steel (ISD). This allowed JSW Odisha to utilize the excess or unutilized input tax credit available, while the transferred amount of input tax credit (ITC) from JSW Odisha was further distributed by JSW ISD Maharashtra to other units of JSW-Company located in Tamil Nadu, Maharashtra, and Karnataka. The Court agreed with the Department’s contention that there was no underlining service, and the matter has been proceeded under section 74.

6.4.5 Penalty for irregular distribution of ITC by ISD

As per section 122(1)(ix), where a taxable person takes or distributes input tax credit in contravention of section 20, or the rules made thereunder, he shall be liable to pay a penalty of ten thousand rupees or an amount distributed irregularly, whichever is higher.

6.4.6 Recovery of input tax credit distributed in excess by ISD

Section 21 explains the approach and the procedure for recovering input tax credit that has been excessively distributed by the input service distributor (ISD).

If ISD has distributed an excessive amount of input tax credit to any of its beneficiaries, the recovery of such surplus credit, along with applicable interest, will be initiated against the recipient and not the ISD itself. If the recipient does not deposit the excess amount along with interest, necessary

proceedings may be initiated against the said recipient under the provisions of section 73 or 74 or 74A (FY 2024-25 onwards) as the case may be.

6.4.7 Distribution of ITC on supplies on which tax is to be discharged under RCM - Amendment made vide the Finance Act, 2024

The definition of Input Service Distributor has been substituted vide the Finance Act, 2024 and notified through *Notification No. 16/2024-CT dated 06.08.2024*. The same shall be made effective from 1st April 2025. The substituted definition is as below:

<i>2(61) "Input Service Distributor" means an office of the supplier of goods or services or both which receives tax invoices towards the receipt of input services, including invoices in respect of services liable to tax under sub-section (3) or sub-section (4) of section 9, for or on behalf of distinct persons referred to in section 25, and liable to distribute the input tax credit in respect of such invoices in the manner provided in section 20.</i>

At present ISD is not permitted to distribute ITC in respect of supplies on which tax is discharged under RCM. However, after the amendment made by the Finance Act, 2024 becomes applicable, an ISD shall be permitted to accept any invoices on which tax is to be paid on reverse charge basis under section 9(3) or section 9(4).

The Input Service Distributor shall distribute the credit of central tax or integrated tax charged on invoices received by him, including the credit of central or integrated tax in respect of services subject to levy of tax under sub-section (3) or sub-section (4) of section 9 paid by a distinct person registered in the same State as the said Input Service Distributor, in such manner, within such time and subject to such restrictions and conditions as may be prescribed.

6.5 Cross Charge

Cross charge under the Goods and Services Tax (GST) refers to the supply of services between distinct persons, typically between different business units of the same legal entity that have obtained separate GST registrations. These distinct entities could be branches of the same business located in different States. As per the present provisions of the CGST Act and CGST Rules, it is not mandatory for the HO to distribute such input tax credit by ISD mechanism. Therefore, cross charging can be done in respect of internally generated services as well as services received from third party. However,

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the Finance Act, 2024 has introduced an amendment wherein ITC on invoices received from third parties for provision of services can be distributed through Input Service Distributor (ISD) Mechanism only. This amendment has been made applicable from 1st April 2025.

If a business entity has multiple places of business registered under the same PAN, the Head Office might handle admin work, maintenance of accounts, IT systems, and other operations for all the units present in India. Services provided by the Head Office to the various branches are considered as separate services and allocated to the branches on the basis of services utilized by them. To ensure “Supply” is properly recorded and there is no blockage of credits, the Head Office or Administrative office will issue an invoice to the respective branch offices for such services and transfer the appropriate input tax credit to them by way of cross charge.

It is immaterial whether consideration is involved or not, since Schedule I to the CGST Act specifically provides that any supply made in the course or furtherance of business between related or distinct persons, is considered as a supply.

Extract from the Schedule I to the CGST Act:

Activities to be treated as Supply even if made without consideration:

1.
2. *Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business.*
3.
4.

Further, the term ‘related persons’ has been defined vide explanation to section 15 of the CGST Act, as under –

“Explanation. For the purposes of this Act,

(a) persons shall be deemed to be related persons if-

- (i) such persons are officers or directors of one another’s businesses;*
- (ii) such persons are legally recognized partners in business;*

- (iii) *such persons are employer and employee;*
- (iv) *any person directly or indirectly owns, controls or holds twenty-five per cent or more of the outstanding voting stock or shares of both of them;*
- (v) *one of them directly or indirectly controls the other;*
- (vi) *both of them are directly or indirectly controlled by a third person;*
- (vii) *together they directly or indirectly control a third person; or*
- (viii) *they are members of the same family;*
- (b) *the term person also includes legal persons;*
- (c) *persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related”.*

6.6 Cross Charge vs. Input Service Distributor

Currently, in case the services are procured from third party then HO may distribute the credit as Input Service Distributor (ISD) and distribute the credit of input tax in respect of services attributable to BO's. In case, the HO distributes or wishes to distribute ITC to BOs in respect of such common input services through the ISD mechanism then the provisions of section 20 of CGST Act read with rule 39 of the CGST Rules are to be followed and HO is required to get itself registered mandatorily as an ISD in accordance with section 24(viii) of the CGST Act. Alternatively, HO can also cross charge the expense related to invoice for service received from third party to the concerned BO's. However, the Finance Act 2024 casts restrictions to cross charge services received from third party. Therefore, third party credit will be distributed only through ISD mechanism 1st April 2025 onwards.

In case of internally generated services, there may be cases where HO is providing certain services to the BOs, in such cases the HO may cross charge an expense by issuing an invoice. The value of supply of services made by a registered person to a distinct person shall be determined as per rule 28(1) of CGST Rules, read with sub-section (4) of section 15 of CGST Act. As per clause (a) of rule 28(1), the value of supply of goods or services or both between distinct persons shall be the open market value of such

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supply. However, the second proviso to rule 28 of CGST Rules provides that 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. Accordingly, in respect of supply of services by HO to BOs, the value of the said supply of services declared in the invoice by HO shall be deemed to be open market value of such services, if the recipient BO is eligible for full input tax credit.

It may also be noted that as per **Circular No. 199/11/2023-GST dated 17.07.2023**, all components of such services like employee costs etc., may or may not be included in the value of service in the invoice, still the value declared on the invoice by HO to the said BO in respect of a supply of services shall be deemed to be the open market value of such services. Further, in case of internally generated services where full input tax credit is available to the recipient, if HO has not issued a tax invoice to the BO in respect of any particular supply of services being rendered by HO to the said BO, the value of such services may be deemed to be declared as Nil by HO to BO, and may be deemed as open market value in terms of second proviso to rule 28 of CGST Rules. In case of internally generated services, where full input tax credit is not available to the concerned BO's, cross charging of an expense is required to be done, however, the cost of salary of employees of the HO, involved in providing the said services to the BOs, is not mandatorily required to be included while computing the taxable value of the supply of such services.

Note 1: It is pertinent to mention that the ruling in case of *Columbia Asia Hospitals Pvt. Ltd. Vs. Union of India* by Karnataka Appellate Authority for Advance Ruling vide Appeal Order No. KAR/AAAR/Appeal-05/2018 dated 12.12.2018 that cost of the employees of corporate office need to be allocated to its other units, has been negated by clarification as per the above circular.

Note 2: The Finance Act, 2024 has amended sections 2(61) and 20 of the CGST Act (ISD provisions) and mandated that input services received from third party for and on behalf of distinct persons shall be distributed by way of Input Service Distributor mechanism only.

Particulars	Cross Charge	Input Service Distributor
Statutory Provisions	There is no specific legal definition for the term "cross	The ISD mechanism is governed by the provisions

Key Considerations

	charge" in any legislation. Nevertheless, it is a commonly employed practice that has been derived from the broader provisions of goods and services tax (GST).	of section 20 of the CGST Act.
Creation of charge	Cross charge entails the imposition of a charge, which is treated as an outward supply, thereby making it subject to goods and services tax as per the applicable regulations.	The input service distributor does not generate any charge or liability in itself. Its primary function is to distribute the input tax credit to the relevant units or branches within an organization.
Applicability	Organizations have the flexibility to transfer and utilize these expenses and corresponding ITC as per their requirements without any prescribed restrictions. The Finance Act, 2024 has restricted cross charging of invoices received from third party.	ITC only on input services can be distributed.
Registration	Separate registration is not required.	Separate registration as an ISD is specifically required.
Compliance Rigidity	Regarding cross charges, there are no specific limitations concerning the timing of their application. However, it is essential to adhere to the general principles of invoicing and tax payment as stipulated under GST Law.	1. ISD is required to distribute the ITC in the same month. 2. Credit note of ITC should be given in the same proportion in which original ITC was distributed. 3. An ISD is required to

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		file the return on 13 th of the next month.
Valuation	Valuation becomes complex when supplies are made between related persons. In such cases, it is crucial for entities engaging in cross charges to adhere to the rules of valuation or establish reasonable methods to ascertain appropriate valuation and allocation of cross charges among different units, subject to 2 nd proviso to rule 28 of the CGST Rules, 2017.	The provisions related to input service distributor specify the method by which the distribution of ISD credits is to be carried out on a monthly basis among all relevant units. The amount of ISD credits allocated to each unit is proportionate to their respective turnover, ensuring a fair and equitable distribution of credits within the organization.

6.7 Other Important Aspects Relating to Distinct Persons

- a) **Bill to Ship to Model:** It may be possible that goods are dispatched from where the warehouse is located but billing may be done from the administrative office cum production facility. Since consideration is not the necessary parameter for recognizing supplies between distinct persons, we need to ensure that initial invoicing has already been done from administrative office cum production facility to the warehouse. E-way bill records shall also act as a support to verify the nature of transaction.
- b) **Transfer of right to use an asset for limited time without consideration:** Transfer of right to use an asset to a distinct person even without consideration shall be considered as a supply. Due care needs to be taken to ensure that whether such transaction has been recorded in the books of supplier. If an asset has been transferred, then there is great possibility that the e-way bill must have been generated.
- c) **Computation of aggregate turnover:** Transfer of stock / assets between distinct persons is considered as supply under the GST law

and is considered while calculating the aggregate turnover, however, the same is not considered for calculating the turnover under the Income Tax Act or Companies Act. For the purpose of e-invoicing, Annual Return (GSTR-9), Reconciliation Statement (GSTR-9C) etc., the aggregate turnover under GST law is considered. If the registered person mistakenly calculates its aggregate turnover as per Income Tax Act or Companies Act, then there is a high possibility that he will fail to comply with various provisions under GST Law.

- d) **Time of Supply:** Time of supply is to be adhered to while making supplies to distinct person and provisions of sections 12 & 13 of the CGST Act have to be strictly followed. Special attention needs to be given for recording supply of services to distinct person because there is no “visible trail” for services rendered. Supply of goods involves movement and for this, general provisions of section 12 are followed, however, supply of services needs special attention. For instance, cross charging of management facilitation expense by head office to various units. Non-adherence to time of supply may lead to interest implications under section 50 of the CGST Act.
- e) **Unregistered Branch:** In respect of transactions with a branch, if the head office is registered and the branch had failed to obtain registration. The taxes paid on internally generated services would not be available to such branch.
- f) **Common Cost Allocation:** Common costs incurred by one unit of a multi-locational entity in respect of all units, are required to be allocated between the units based on the turnover of each distinct person, or based on the manpower deployed, or any other suitable cost-driver. However, if any special cost is incurred by the unit, then it should be allocated to that unit only. For example: GSTIN-wise allocation of staff cost, cost incurred commonly at or by the Head Office, such as advertisement, audit, accounting, consultancy, etc.
- g) **Support Cost:** It is common knowledge that several enterprises use infrastructure available in a centralized location or back-office support in respect of Information Technology, Finance, Accounting, Human Resource or Personnel, Corporate Management, etc. These costs are required to be allocated based on ‘end use’ than on turnover.

- h) **Contracts involving supply:** There may be many contracts undertaken by a legal entity with a third party, where its execution may require 'supply' from different locations. The interplay of supplies between branches is required to answer the correct tax payable or input tax credit available to a taxable person.



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