

CHANGES IN GST RETURNS & GST AUDIT



SHARNAM LEGAL

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WHAT IS GST RETURN ?

A return is a document containing details of Turnover and Transactions made by a registered taxpayer, which is to be submitted by a Assesse on a monthly / quarterly and Annually thru a **Common Portal notified** by the GST Authorities.

Under GST, a registered dealer has to file GST returns that include details of:

- ✓ Purchases / Inward Supply
- ✓ Sales / Outward Supply
- ✓ Input Tax credit (GST paid on Inward Supply / purchases)
- ✓ Output GST Payable (On outward Supply /sales)



GST Returns as per the nature of Assesse

S.No	Nature of Assesse	GST Return
1.	Normal Assesse & Casual Taxpayer	GSTR-1, GSTR-2 , GSTR-3 , GSTR-3B, GSTR-9
2.	Composition Dealer	GSTR-4, GSTR-4A, GSTR-9A
3.	Non-resident Taxpayer	GSTR-5
4.	Input Service Distributor	GSTR-6, GSTR-6A
5.	TDS Deductor	GSTR-7, GSTR-7A
6.	E-Commerce Operator	GSTR-8
7.	UIN Holder	GSTR-11

Summary of GST Returns

**Monthly
Returns**

**Annual
Returns**

**Miscellaneous
Returns**

Summary of GST Returns

Monthly Return

Normal Assessee

GSTR-1 (Details of Outward Supply)
(10th of Next Month)

GSTR-2 & GSTR 3
(Kept in Abeyance)

GSTR-3B (Payment of Tax)
(20th of the next month)

Other Assessee

Composition Dealer

GSTR-4 & 4A (18th of Next Quarter)

ISD

GSTR-6 & 6A (13th of Next Month)

Non-resident

GSTR-5 (20th of Next Month & within 7 Days of Expiry of RC)

TDS Deductor

GSTR-7 & 7A (10th of Next Month)

E-Commerce Operator

GSTR-8 (10th of Next Month)

Summary of GST Returns

Miscellaneous Return

**Final Return -
After surrender &
Cancellation of Registration**

GSTR-10 (within 3
months of passing of
Order for Cancellation Of
GST Registration)

**Inward Supplies
by UIN Holder**

GSTR-11 (28th of
Next Month)

GSTR

NIL RETURN

Even in case of no transaction, NIL Return are required to be filled for GSTR 1,4 & 3B

Date of Payment of Tax

Last date of payment of tax is due date of furnishing of returns.

Rectification of Return

Returns cannot be revised however returns can be rectified on earliest of the following:

1. Furnishing of return for
 - September *
 - Second Quarterfollowing the end of the financial year

2. Actual Date of furnishing Annual Return

Return of a tax period cannot be filed if return for any of the previous tax period has not been furnished.

* Some extensions for F.Y. 2017-18 were provided.

GSTR-1

STATEMENT OF OUTWARD SUPPLIES

**DETAILS OF INVOICES, DEBIT NOTES, CREDIT NOTES,
REVISED INVOICES, ADVANCES RECEIVED, HSN WISE
DETAILS AND NUMBER OF DOCUMENTS ISSUED**

- Reconciliation of GSTR-1 Table 4 (4A, 4B, 4C, 9B, 9C) with Books of accounts (sales / outward register) and copy of Tax Invoice / Bill of Supply / Debit / Credit Notes issued by the assessee alongwith Bank reconciliation in order to affirm genuinity of the Transactions declared by the assessee regarding B2B & B2C supplies made by it. (Possible avenues of avoidance and evasion due to differences in recording & declaration of in GSTIN of the recipient, Taxable Value, Rate, HSN/ SAC Code)
- Reconciliation of GSTR-1 Table 6 (6A, 6B, 6C, 9A) with ICE GATE, Books of Accounts pertaining to Exports, Supplies made to SEZ, Deemed Exports vis –a viz Refund Claimed, Sanctioned, Rejected, Pending. (Many assesses have made mistake in declaration of rate of tax on goods exported due to a confusion in '0' rate and "zero rated goods", the '0 rate' in the table pertains to nil rated goods wherein ITC claim is blocked) Further the refunds of assessee are in doubt due to the reason of mis-match of Invoice No., Invoice date, Port Code, Shipping Bill – Date & Number when the same is automatically matched and reconciled with Customs ICE GATE Portal.

- Reconciliation pertaining to Debit / Credit Notes (Table 7, 10) issued by an assessee along with reasons for issue of such Debit / Credit notes. – Too many issue of Debit / Credit Notes of the similar nature without any documented reason could be a possibility of evasion.
- Reconciliation of Books of accounts with GSTR-1 Table 8 (Nil rated, Exempted and Non – GST outward Supply) the declared values should be recorded in the books of accounts by the assessee in such manner that ITC on inward Supplies used for manufacturing / providing Nil rated, Exempted and Non – GST outward supplies is not to be claimed by the assessee as the same is blocked. Further, if an assessee is having taxable and non-taxable supplies then his books of accounts must be prepared in such a fashion in order to transparently record and verify the claim of ITC made by him accordingly.
- Reconciliation of Books of accounts with GSTR-1 Table 11 – If the balance sheet / P&L of the assessee depicts advances received for the appropriated goods / services then the same must be declared by the assessee and due tax must be paid in the very month when the appropriation was made. (copy of contracts, mails, correspondences – could be asked to verify the correct date of liability of payment of tax on such advances.

- Reconciliation of Books of accounts with GSTR-1 Table 12 – Correct HSN / SAC code vis – a vis product / services supplied by the assessee – as the rate of tax may vary depending upon the HSN / SAC code in accordance to the correct classification of the taxable goods / service.
- Reconciliation of Books of accounts with GSTR-1 Table 13 – Details of documents issued during the tax period can be verified through reconciliation with books of accounts , ledgers, physical copies of Invoices, Bill of Supply, Debit Notes , Credit Notes, Advance Receipts, Vouchers, Challans etc. The assessee must have an reasonable explanation for cancellation of any of the document issued by him.

GSTR-1

To be filed by 10th
of the month

**Statement of outward
supplies.**
This is shown in GSTR
2A of the
buyer/recipient of the
goods and services.

**Form of GSTR
6A**
Return of ISD

CMP-08
Return for
composition
dealer

GSTR-2A (Autopopulated Return of Inward Supplies)

Part A of Form
GSTR 2A

Details of outward supplies by
supplier in GSTR-1

Part B of Form
GSTR 2A

Details of invoices by ISD in
GSTR-6

Part C of Form
GSTR 2A

Details of TDS by deductor in
GSTR-7

Part D of Form of
GSTR 2A

Details of TCS by collector
in GSTR-8

Need for matching of GSTR 2A with GSTR 3B

- The return in Form GSTR 2A (auto-populated) is a dynamic statement generated by the system on the basis on information received from GSTR-1, 6, 7 & 8 (Outward Supply Details as declared by the Suppliers/ ISD/ TDS Deductor / TCS Collector).
- ITC is claimed / adjusted in GSTR-3B on monthly basis, the claim of ITC should ideally match with ITC available on all the purchases/ inward supply minus the ineligible ITC u/s 17(5) made by an assessee, a mismatch can be detected by comparing the details in these two forms vis a vis books of accounts which necessitates a reconciliation process in order to ascertain the genuine claim of ITC.

Why GSTR 2A reconciliation becomes important



What to reconcile?

The reconciliation process primarily involves matching the data uploaded by the suppliers with those of the recipient's purchase data. This includes comparing the auto populated GSTR 2A from supplier's data and the purchase data recorded by the receiver of the supplies in his books of accounts as required to be maintained under GST Law.

Why GSTR 2A reconciliation?

It is very important to reconcile GST returns data because under the GST returns, the taxpayers will only be able to claim maximum of 20% additional ITC of total ITC reflecting in GSTR-2A, if the particular invoice is not present in the GSTR 2A or supplier's data. This situation forces the businesses to reconcile and claim ITC correctly.

This matching concept also helps in verifying whether all the transactions which took place in a particular period have been recorded and posted in summary Return GSTR 3B with correct values.



GSTR-3B

- ❖ Form GSTR 3B is a summary return which requires details of Turnover of Outward Taxable Supplies, Zero Rated Supplies, Nil Rated supplies, Inward Supplies liable to RCM, Non – GST Outward Supplies, Supplies to Composition Taxable Persons & un-registered persons, details of ITC - available, eligible and ineligible, reversed, made by an assessee in a tax period.
- ❖ GSTR-3B also requires the details of IGST, CGST, SGST, CESS payable or adjusted through ITC etc.
- ❖ The assessee needs to give the amount of tax paid as TDS, TCS, Tax or Cess paid in cash, Interest & Late Fee.
- ❖ Tax liability of GSTR-3B must be paid by 20th of next month
- ❖ GSTR-3B cannot be revised however by a recent notification the assessee is now allowed to reset his GSTR-3B only once before making of the payment of tax.

- Turnover shown in GSTR-3B vis a vis GSTR-1 and Books of Accounts needs to be reconciled in order to ascertain the authenticity of figures reported and tax deposited.
- Payment of Tax and ITC claimed should match with GSTR-2A, Input Ledger (IGST, SGST, CGST, Cess), Tax Payable Ledger (IGST, SGST, CGST, Cess) – separately.
- Payment of Tax liability on Inputs received on reverse charge vis a vis RCM Ledger vis a vis Balance Sheet – Expenses Claimed.
- Table 3.1 of GSTR-3B – Reconciliation with respective Ledgers in the Books of Accounts as maintained by assessee wherein the Category / nature of supplies declared by an assessee in his GSTR-3B vis a vis GSTR-1 should match & verified with actual facts (if any mis-match then the assessee must have a reasonable explanations for the same)

- Table 4 of GSTR-3B – Reconciliation of Input Ledger vis a vis Eligible ITC – claimed / claimable, Ineligible ITC / Blocked ITC – not claimed / reversed if claimed wrongly.
- Table 5 of GSTR-3B (Value of Exempt, Nil Rated, Non-GST inward supply) – Reconciliation with Expenses claimed by the assessee in his Books of accounts.
- Table 6.1 of GSTR-3B (Payment of Tax) Reconciliation – tax payable should be reflected in Ledgers / books of accounts and due tax paid can be verified through copy of Challans and Cash Ledger and Credit Ledger maintained on Common Portal.

GSTR-6 & GSTR-6C ISD (INPUT SERVICE DISTRIBUTOR)

- ❖ GSTR 6 is a monthly return that has to be filed by an Input Service Distributor.
- ❖ It contains details of ITC received by an Input Service Distributor and distribution of ITC.
- ❖ There are a total of 11 sections in this return.
- ❖ The due date for filing of GSTR 6 as per GST Act is 13th of next month.
- ❖ GSTR 6A is an automatically generated form based on the details provided by the suppliers of an Input Service Distributor in their GSTR 1.
- ❖ GSTR-6A is a read-only form. Any changes to be made in GSTR-6A have to be done while filing GSTR-6.

INPUT SERVICE DISTRIBUTOR (ISD) UNDER GST

An Input service distributor (ISD) is a business which receives invoices for services used by its branches. It distributes the tax paid, to such branches on a proportional basis by issuing an ISD invoice. The branches can have different GSTINs but must have the same PAN as that of ISD.

Let's understand with an example.

Head office of ABC limited is located at Bangalore having branches at Chennai, Mumbai and Kolkata. The head office incurred annual software maintenance expense(service received) on behalf of all its branches and received the invoice for the same. Since software is used by all its branches, the input tax credit of entire services cannot be claimed at Bangalore. The same has to be distributed to all the three locations. Here, the Head office at Bangalore is the Input Service Distributor.

Large Assesse must distribute the common credit to the GSTIN for which the expense is made by the registered Taxpayer. The assessee is not entitled to claim ITC at one single place for the expenses made by it which are of common in nature and pertain to furtherance of business. Same can be verified with nature of expense , copy of contracts / agreements for such expenses , mails , Invoices, Books of accounts / ledgers

PURPOSE OF REGISTERING AS ISD

The concept of ISD is a facility made available to business having a large share of common expenditure and billing/payment is done from a centralized location. The mechanism is meant to simplify the credit taking process for entities and the facility is meant to strengthen the seamless flow of credit under GST.

❑ ISD is not applicable where:

ISD **cannot** distribute the input tax credit :

- GST paid on Inputs e.g. Raw materials and capital goods e.g Machine purchased

The concept of place of supply in each transaction due to which ITC has been arised for ISD is also needed to be analysed for its eligibility to be transferred to branch / head office.

GSTR-7 (TDS Deductor)

GSTR 7 is a return to be filed by the persons who is required to deduct TDS (Tax deducted at source) under GST. GSTR 7 contains the details of TDS deducted, TDS liability payable and paid, TDS refund claimed if any etc.

Filing of GSTR 7 for a month is due on 10th of the following month.

Importance of GSTR-7

- GSTR 7 shows the details of TDS deducted, amount of TDS paid and payable, any refund of TDS claimed. The deductee i.e. the person whose TDS has been deducted can claim the input credit of such TDS deducted and utilize for the payment of output tax liability.
- The details of TDS deducted is available electronically to each of the deductees in PART 'C' of Form GSTR 2A after the due date of filing of Form GSTR 7.

GSTR-8 TCS (TAX COLLECTION AT SOURCE)

GSTR-8 is a return to be filed by the e-commerce operators who are required to deduct TCS (Tax collected at source) under GST. GSTR-8 contains the details of supplies effected through e-commerce platform and amount of TCS collected on such supplies. GSTR-8 filing for a month is due on 10th of the following month.

ANNUAL RETURN & RECONCILIATION STATEMENT

(GSTR-9 & 9C)

GSTR-9 (ANNUAL RETURN)

GSTR 9 is an annual return to be filed yearly by taxpayers registered under GST.

- It consists of details regarding the outward and inward supplies made/received during the relevant F.Y. under different tax heads i.e. CGST, SGST & IGST and HSN codes.
- It is a consolidation of all the monthly/quarterly returns (GSTR-1, **GSTR-2, GSTR-3**, GSTR-2A, GSTR-3B) filed in that year. Though complex, this return helps in extensive reconciliation of data for 100% transparent disclosures.

** Assesses having turnover more than 2 crores are required to file GSTR 9 (Annual return) for FY-17-18 & 18-19, any assessee having turnover less than 2 crores has a option to file GSTR 9*



KEY CHANGES AND SIMPLIFICATIONS OF GSTR-9 & GSTR-9C

- ✓ On 14/11/2019, the government provided major relief to taxpayers by extending the due date for filing GSTR-9 and GSTR-9C. The due date for filing GSTR-9 and GSTR-9C was earlier extended to 31st December 2019 for FY 2017-18 which has now been extended till 31st January 2020 by the GST Council in its 38th Meeting on 18/12/2019 , as of now the Annual Return for FY 2018-19 is due to be filed by March 31, 2020.
- ✓ The Central Board of Indirect Taxes & Customs (CBIC) also simplified forms GSTR-9 and GSTR-9C by making several fields of these forms optional.
- ✓ A taxpayer need not give a breakup of the input tax credits (ITC) he or she claimed on services, capital goods, and raw materials he or she purchased.
- ✓ A taxpayer need not provide details of purchases and sales done at an HSN level

KEY CHANGES IN GSTR-9

Few of the prominent changes include:

- a) A taxpayer can fill in the values net of credit notes, debit notes, and amendments instead of reporting separately.
- b) A taxpayer will now have an option to report a single consolidated figure of exempt supplies made during the year.
- c) A taxpayer will now have an option to report the entire 'ITC' under the 'inputs' row only.
- d) A taxpayer has now been given an option to upload details of ITC availed in PDF format in GSTR-9C without the certification of a Chartered Accountant.

FEW OPTIONAL FIELDS FOR TAXPAYER TO DECLARE IN GSTR-9

- a) Reversal of ITC which as availed in the previous financial year and ITC availed during the previous financial year
- b) Refunds claimed, pending, rejected, and sanctioned during the year
- c) Tax demands, taxes paid and pending demands for the given year
- d) Supplies received via composition taxpayers, deemed supply (under section 143) and commodities sent on the basis of approval but not returned
- e) HSN-wise summary of outward and inward supplies

KEY CHANGES IN GSTR-9

I. Tables 4 and 5 – Details of Outward Supply

- Tables 4B to 4E can be filled net of credit notes, debit notes and amendments, in case there is any difficulty in reporting them separately in tables 4I, 4J 4K & 4L.
- Tables 5A to 5F can be filled net of credit notes, debit notes and amendments, Instead of reporting in separately in 5H, 5I, 5J & 5K;
- In tables 5D, 5E & 5F which relate to exempted, nil-rated and non-GST supplies, a taxpayer has the option to report a single consolidated figure under “exempted” supplies in table 5D.

II. Table 6 – ITC Availed During the FY

- In tables 6B, 6C, 6D & 6E, a taxpayer has the option to report input tax credit (ITC) under the “inputs” row only instead of reporting the break-up under inputs, capital goods and input services.
- In tables 6C and 6D, a taxpayer will have the option to either report the details separately (i.e. inward supplies received from unregistered and registered persons liable to reverse-charge), or report the consolidated details in table 6D only.

KEY CHANGES IN GSTR-9

III. Table 7 – ITC Reversal

- A taxpayer has the option to report details of ITC reversals separately in tables 7A to 7E, or the entire amount can be reported under “other reversal” in table 7H.
- Details of ITC reversals on account of TRAN I & TRAN II credit need to be mandatorily reported in tables 7F and 7G respectively.

IV. Table 8 – Other ITC Related Information

- In table 8A, for FY 2018-19, the GSTR-2A that has been generated as on 1st November 2019 shall be auto-populated in the table.
- A taxpayer can upload details for the entries in Table 8A to 8D (i.e, the reconciliation of GSTR 2A with GSTR 3B) duly signed, in PDF format in Form GSTR-9C (without the CA certification).
- For FY 2017-18, the aggregate value of ITC availed on all inward supplies received from July 2017 to March 2018 (including supplies from SEZ, but excluding supplies on which tax is payable on reverse-charge), but credit that was availed between April 2018 to March 2019 is to be declared in table 8C. For FY 2018-19, the aggregate value of ITC availed on all inward supplies received from April 2018 to March 2019 (including supplies from SEZ, but excluding supplies on which tax is payable on reverse-charge), but credit that was availed between April 2019 to September 2019 needs to be declared in table 8C.

KEY CHANGES IN GSTR-9

V. Tables 10-18 – Other Information

- In Part V, where particulars of transactions for the previous financial year are to be reported, for which tax was paid in FORM GSTR-3B (i.e. tables 10 to 14), for FY 2017-18, the particulars reported between April 2018 and March 2019 is to be declared. For FY 2018-19, the particulars reported between April 2019 and September 2019 is to be declared.
- A taxpayer has the option to not fill tables 12 and 13 (i.e. reversal of ITC availed during the previous FY and ITC availed for the previous FY respectively) for the FY 2017-18 and FY 2018-19.
- A taxpayer has the option to not fill tables 15A to 15D (i.e. refunds claimed, sanctioned, rejected and pending respectively) for the FY 2017-18 and FY 2018-19.
- A taxpayer has the option to not fill tables 15E to 15G (i.e. demand of taxes, taxes paid and demands pending respectively) for the FY 2017-18 and FY 2018-19.
- A taxpayer has the option to not fill table 16A (i.e. supplies received from Composition taxpayers), 16B (i.e. deemed supply under section 143) and 16C (i.e. goods sent on approval basis but not returned) for the FY 2017-18 and FY 2018-19.
- A taxpayer has the option to not fill tables 17 and 18 (i.e. HSN-wise summary of outward and inward supplies respectively) for FY 2017-18 and FY 2018-19.

KEY CHANGES IN GSTR-9C

- a) Filing details concerning ITC reconciliation for financial year 2017-18 and 2018-19 has now been made optional.
- b) Reporting of turnover adjustment details has now been made optional for the taxpayer.
- c) Language of Verification of GSTR-9C updated.



ELECTRONIC LEDGER BALANCE RE-CONCILIATION

Reconciliations required with books of account

- Electronic cash ledger
- Electronic credit ledger and
- Tax liability register

ELECTRONIC LEDGER

Electronic Liability Register GST PMT 01

Shall be debited for

- ✓ Any amount payable as per return furnished
- ✓ Any amount payable as determined by proper officer
- ✓ Tax and interest payable as a result of mismatch of ITC or reduction in output tax liability
- ✓ Interest

Electronic Credit Ledger GST PMT 02

Credit

ITC as self assessment

Debit

For making payment towards amount of tax

Cash Ledger GST PMT 05

Credit

- Amount deposit for paying tax, interest, penalty, late fee or any other amount
- Amount deducted u/s 51
- Amount collected u/s 22

Debit

- Payment of liability to tax interest, penalty, late fee or any other amount
- Claim of payment from cash ledger



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Thank You

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GST AUDIT
BY
TAX AUTHORITIES
&
ACCOUNTS AND RECORDS



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SYNOPSIS

- ‘Audit’ and Types of Audit including detailed discussion on ‘Audit by Authorities’
- Difference in Audit provisions between the old Indirect Tax Regime and current GST Regime
- Audit Manual
- Accounts and Records alongwith E-Records

Definition - AUDIT

S. 2(13)- **“Audit”** means the examination of **records, returns and other documents** maintained or furnished by the **registered person** under this Act or the Rules made thereunder or **under any other law** for the time being in force **to verify the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed**, and to **assess his compliance with the provisions of this Act or the Rules** made thereunder;

Accordingly, ‘Audit’ means –

(a) Detailed examination of

(i) records, (ii) returns and (iii) other documents -
maintained / furnished by a registered person, under GST law/any other law or rules;

(b) For verification of correctness of -

(i) turnover declared; (ii) taxes paid; (iii) refund claimed; (iv) input tax credit availed;
and (v) assessment of compliances with provisions of GST law and Rules.

Principle and Objective of Audit

1. The objective of audit of taxpayers is to **measure the level of compliance of the taxpayer** in the light of the provisions of the CGST Act 2017 and the Rules made there under.
2. Principles of audit:
 - i. Conducting audit in a **systematic and comprehensive manner**.
 - ii. Emphasis on the **identified risk areas** and **scrutinizing the records maintained** in the normal course of business.
 - iii. Applying **audit techniques** on the basis of materiality i.e. **degree of scrutiny** and **application of an audit tool** depending upon the identified nature of risk factors.
 - iv. Proper **recording of all checks and findings** made during the entire audit.
 - v. Identifying the **unexplored compliance verification parameters**.
 - vi. **Educating the taxpayer** for voluntary compliance.

Types of GST Audit

- **Turnover based Audit** by Chartered Accountants or Cost Accountants
i.e. reported under **Reconciliation Statement-GSTR 9C** along with
Annual Return-GSTR 9
- **Audit** by Tax Authority - Normal Audit or General Audit
- **Special Audit** by Chartered Accountants or Cost Accountants **nominated**
by **Commissioner** at any stage of **scrutiny, inquiry, investigation**

Turnover Based Audit conducted by Chartered / Cost Accountants

Section 35(5) R/w Rule 80(3)

1. Compulsory **Audit of Accounts** as required to be maintained under section 35(1) by registered persons;
2. This Audit to be conducted if the turnover of dealer is more than **2 crore** under **one PAN throughout the country** irrespective of individual turnover in a state under specific GSTN of registered person;
3. To be conducted by **chartered accountant** or **cost accountant** in regular course;
4. **Reconciliation Statement** in the prescribed **Form GSTR 9C** as per Sub Section (2) of Section 44;
5. **Reconciling the value of supplies** declared in the **return furnished** for the financial year with the **audited annual financial statement**;

Audit by Tax Authorities

Section 65 R/w Rule 101

- ✓ **Audit Conducted by:** Commissioner, or any officer authorised by him i.e. by the CGST Officers;
- ✓ **Order Required for Audit:** General or a specific order in respect of a registered person;
- ✓ **Venue:** Audit to be conducted at the place of business i.e. in the office of the registered person or desk review or audit i.e. in the office of the authorised audit officer;
- ✓ **Notice Period:** To be informed 15 days prior to the conduct of this audit in prescribed Form ADT- 01;
- ✓ **Audit Completion time period:** Normally 3 months from the date of commencement + 6 months extension (if Commissioner is satisfied, then reasons to be recorded in writing);

*Commencement of Audit: Date on which records and other documents called for by tax authorities are made available or **actual institution** of audit - whichever is later.*

Audit by Authorities Contd.....

- ✓ **Period of Audit:** Financial year or part thereof or multiples thereof;
- ✓ **To Audit :** Verification of books of account or such other documents, returns and statements.
- ✓ **Object of Audit:** Aim is to ascertain correctness of turnover, exemptions and deductions claimed, rate of tax applied, ITC availed and utilised and refund claimed;
- ✓ **Facilities to be provided:** Registered person to afford necessary facility and furnish required information and render assistance for timely completion of audit;
- ✓ **Information to Registered Person:** Within 30 days of conclusion of audit it is mandatory to inform about Audit findings along with reasons for such findings as well as his rights & obligations in Form GST ADT-02;
- ✓ **Action u/s 73 or 74 to be initiated by the Proper Officer:** If the Audit results in detection of any tax not paid, short paid, erroneously refunded, input tax credit wrongly availed or utilised then it is discretion of the Proper Officer having jurisdiction to assess the Registered Person to initiate demand and recovery proceedings.

Special Audit directed by Authorities

Section 66 R/w Rule 102

- ❖ **Conduct of Audit by:** Cost Accountant or Chartered Accountant as nominated by the Commissioner.
- ❖ **Who can direct:** The officer not below the rank of Assistant Commissioner may direct the Registered Dealer with the prior approval of the Commissioner to get the Special Audit.
- ❖ **When to Conduct Audit:** Having regard to the **nature and complexity of the case**, at any stage of **scrutiny, inquiry, investigation or any proceeding**, where **value has not been correctly declared or the credit availed is not within normal limits**.
- ❖ **Information to conduct Audit:** Assistant Commissioner to communicate in writing to the registered person in form GST ADT-03 to get records including books of accounts examined by the nominated Chartered/Cost Accountant.
- ❖ **Audit completion time period:** 90 days extendable by 90 days (for material or sufficient reason recorded in writing).

Special Audit Contd....

- ❖ **Opportunity of hearing:** Before final reporting on the basis of Special Audit and the material gathered therein, the officer needs to inform the registered person about the findings. The officer after due consideration of the reply shall finalise the findings.
- ❖ **Determination and Payment of Remuneration:** All expenses of this audit including remuneration of chartered accountant or cost accountant to be given by Commissioner.
- ❖ **Final Reporting:** The findings shall be reported to the registered person in form GST ADT-04
- ❖ **Action u/s 73 or 74 to be initiated by the Proper Officer:** If the Special Audit results in detection of any tax not paid, short paid, erroneously refunded, input tax credit wrongly availed or utilised then it is discretion of the Proper Officer having jurisdiction to assess the Registered Person to initiate demand and recovery proceedings.

Access to the Business Premises

Sec. 71 (1) **Any officer** under this Act, **authorized 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 authorized 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;
- (v) the income-tax audit report, if any, under section 44AB of the Income-tax Act, 1961; 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.

Audit by Authorities-Comparison

Cen. Excise / Service Tax Regime Vs GST Regime

OLD REGIME (Departmental Audit)	NEW GST REGIME (Audit by Authorities)
<p>The ‘audit by Central Excise and Service Tax departmental authorities’ was conducted as per the Audit Manual prescribing the procedure by EA-2000, which was improved by CESTAM 2015. Recourse was being taken U/s <u>37(1) & 37(2)(x)</u> read with <u>Rule 22</u> of Central Excise and Rule 5 and 5A of Service Tax Rules which are very general or wide and do not provide specific powers, provisions and details for conducting Audit exclusively.</p>	<p>Statutory provision <u>u/s 65</u> along with <u>Rule 101</u> have clearly incorporated the legal provisions in respect of the ‘Audit by Tax Authorities’, even the aims and object alongwith procedure has also been incorporated. The powers, format of notice, time limit for the audit to be completed, place of conducting audit & documents to be examined, information of final Audit findings to Registered Person etc. have been provided specifically in the GST Act.</p>
<p>No statutory provision and format for the notice to be sent for prior intimation of the audit. To explain with example, we are bringing <u>two notices from the two different regimes.</u></p>	<p>Prior Notice of 15 days in prescribed Form GST ADT-01 is mandatory requirement.</p>

Audit by Authorities-Comparison

Cen. Excise / Service Tax Regime Vs GST Regime

OLD REGIME (Departmental Audit)	NEW GST REGIME (Audit by Authorities)
<p>No specific provision for fixing the responsibility of Registered person to support the Departmental Officer for timely completion of Audit.</p>	<p>Responsibility of Registered Person has been entrusted in <u>Rule 101(5)</u> to afford necessary facility to verify books as well as to furnish informations required by Authorised Officer for timely completion of Audit</p>
<p>Can take a walk-through the plant as well as accounts, records and documents</p>	<p>Only to verify the accounts, records and documents as prescribed in <u>Rule 101(3)</u></p>
<p>Documents of last 5 years (Rule 10, Central Excise Rules, 2002/ Rule 5(3) of the Service Tax Rules, 1994</p>	<p>Documents for 72 months {after the due date of submission of Annual return.} (Section 36 of the CGST Act)</p>
<p>Frequency of Audit is prescribed as per the turnover of the assessee</p>	<p>No such frequency is prescribed in the law, it may be monitored by administrative considerations</p>

Audit by Authorities-Comparison

Cen. Excise / Service Tax Regime Vs GST Regime

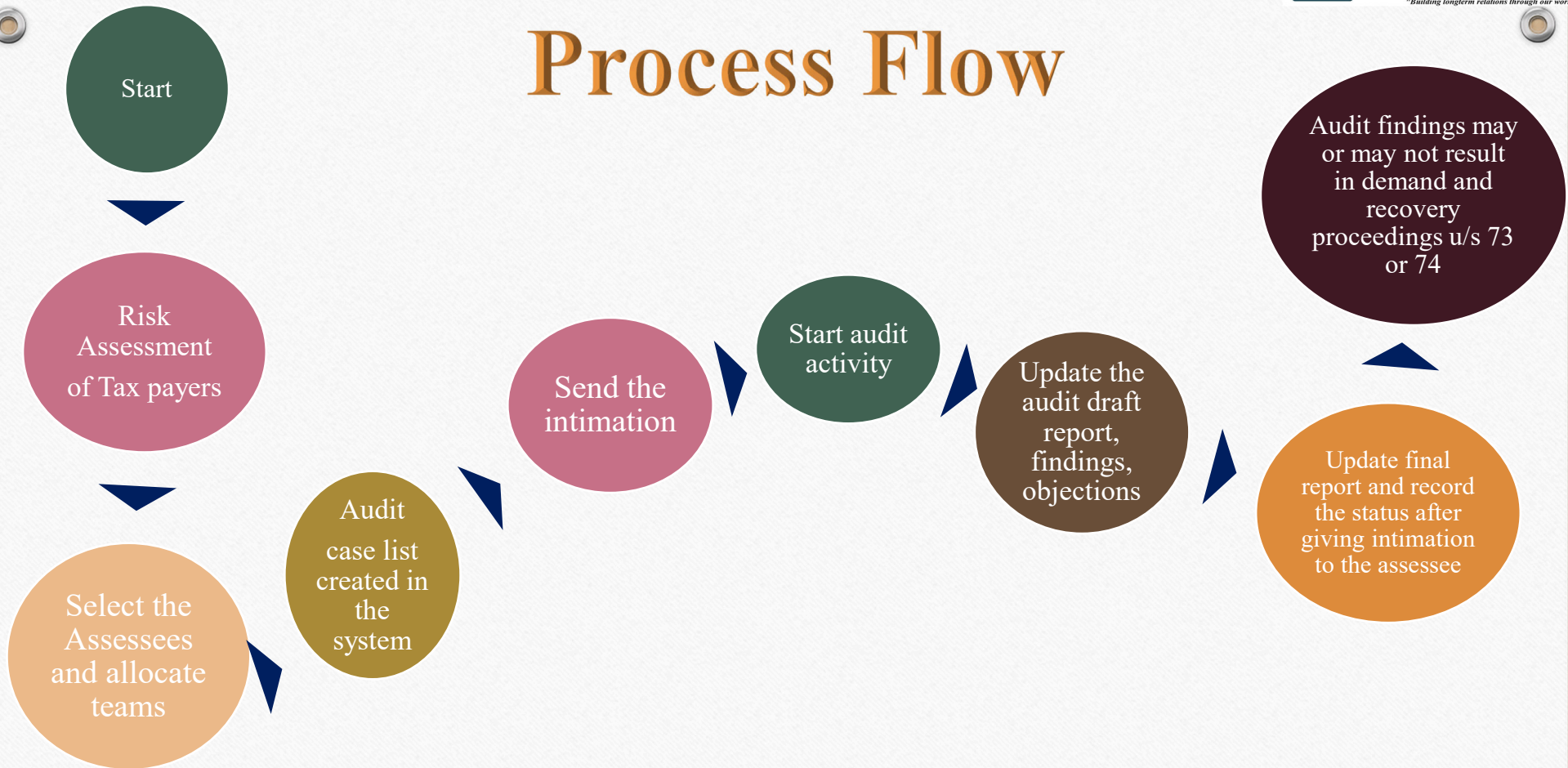
OLD REGIME (Departmental Audit)	NEW GST REGIME (Audit by Authorities)
<p>No time period for completion of the Departmental Audit was prescribed in Law.</p>	<p>Initial time period of 3 months from commencement of Audit extendable further by 6 months by a reasoned order in writing by Commissioner.</p>
<p>No statutory provision for post Audit Report</p>	<p>The post Audit Report incorporating the findings and there logical reason is mandatory to be sent within 30 days to the registered person in the prescribed format GST ADT-02 as per the <u>Sec 65 (6)</u> read with <u>Rule 101(5)</u>.</p>
<p>Post Audit action were taken under other general provisions of Law</p>	<p>Post Audit action to be taken by Jurisdictional Proper Officer <u>U/s 73 & 74</u> has also been provided in <u>Section 65(7)</u> which specifically relates to Audit by Authorised Officer.</p>

GST Audit Manual

(Along with Formats and Annexures)

- Detailed **purpose** of the Audit-Aims & Objectives
- **Role** of Directorate General of Audit, Principal Commissioner, Commissioner Audit and other senior Officers including GST Audit Team
- **Different stage wise process** as prescribed in the audit manual
- **Revenue risk analysis, audit plan, trend analysis, internal checks and control system**
- **Report to be placed** before senior officers, process of **resolution of dispute** with Addl. DG.
- **Keeping & Maintenance of working papers**
- Preparation of **Audit Report**
- **Monitoring committee's meetings MCM's**
- **Formats and timeline of notices and reports**

Process Flow



Issues to be kept in mind for conducting GST Audit

- ✓ Prevalent **trade practices, the economic realities, confidentiality**
- ✓ Registered person will be **selected for audit** based on the **risk evaluation method** prescribed by the Directorate General of Audit in consultation with the Directorate General of Analytics and Risk Management.
- ✓ **Gathering of information** of the registered person - This may be carried out as per the **activity of the taxpayer** as found out during the **Desk Review**.
- ✓ **All the information to be correctly recorded** and every minutest detail collected needs to be recorded as per **formats given**.
- ✓ Techniques to be used : **Walk through documents** on sample method and **ABC analysis** of the data collected.

Parameters for Examination

- The size of the Taxpayer's **turnover / net profit**;
- The size of the Taxpayer's **loss, if any**;
- The size of the Taxpayer's **refund, if any**;
- The size of **change in** the Taxpayer's **turnover/net profit from the previous year**;
- The ratio of **expenses/turnover**;
- The ratio of **turnover/total assets**;
- The ratio of **loans/total assets**;
- The size of **income from high risk activities** (e.g., real estate income)

Parameters for Examination

- The **size of exemptions**, if any;
- The percent of the **net profit in comparison to the activity average**;
- The percent of the **total profit compared to the activity average**;
- The Taxpayers **files inconsistently**;
- The Taxpayer is currently **involved in legal disputes**;
- The Taxpayer's return was previously **investigated for evasion**;
- The Taxpayer received **notices from other governmental entities**;
- The **reliability** of the Taxpayer's **books and records**;
- The **typical high-risk activities** in which the Taxpayer operates;
- The **multitude of the Taxpayer's legal relationships with other entities**;

Parameters for Examination

- The Taxpayer has **supplied goods on which there has been reduction in rate of duty**, in order to examine the **possibility of excess profiteering**.
- The Taxpayer has **stopped filing GST returns**.
- The Taxpayer has applied for **surrender of its registration**.
- Where there is **increase in ratio of Exempted Supplies / Total supplies** of a Taxpayer over time.
- Where higher incidence of **supplies without issuance of e-way Bills** have been noticed.
- The Taxpayer who **does not file periodical return but issues e-way bill regularly**.
- The Taxpayer whose **turnover increased substantially after enactment of GST**.
- The Taxpayer who is **not filing GSTR-3B** but in their **electronic cash ledger, amount of TDS is reflected**.

Accounts and Other Records
as provided under
Section 35
&
their retention under
Section 36 of CGST Act

○ Section 35 : Accounts and other Records

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

- (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;
- (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.

○ **Section 35 : Accounts and other Records** **Contd...** ○

(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.

(4) Where the Commissioner considers that **any class of taxable person is not in a position to keep and maintain accounts** in accordance with the provisions of this section, he may, **for reasons to be recorded in writing, permit such class of taxable persons** to maintain accounts in such manner as may be prescribed.

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.

w.e.f. 01.07.2017 by vide Notification No. 09/2017-Central Tax dated 28.06.2017.

E-Records under GST (Rule 57)

- **GST is a law which recognises Electronic Records.** The records to be maintained by registered person can be in either form i.e. **Manual or Electronic Record.**
- **Section 2(41)** of the CGST Act 2017 "**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.
- **Section 2 (1)(t) of Information Technology Act, 2000 - "electronic record"** means data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated micro fiche.
- **Section 35(1)** of the CGST Act, 2017 provides that "*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*", clearly prescribing other mode of maintenance of records in electronic form.
- By the virtue of the definitions, **electronic credit and electronic cash ledgers, electronic mails and communications made also form part of electronic records.**

Additional Records To Be Maintained Under Goods and Services Tax Law - Rule 56

<i>Account/Records</i>	<i>Information Required</i>	<i>By Whom?</i>
Register of Goods Produced	Account should contain detail of goods manufactured in a factory or production house	Every assessee carrying out manufacturing activity
Purchase Register	All the purchases made within a tax period for manufacturing of goods or provision of services	All Assessee
Sales Register	Account of all the sales made within a tax period must be maintained	All Assessee
Stock Register	This register should contain a correct stock of inventory available at any given point of time	All Assessee
Input Tax Credit Availed	This register should maintain the details of Input Tax Credit availed for a given tax period	All Assessee
Output Tax Liability	This register should maintain the details of GST liability outstanding to be adjusted against input credit or paid out directly	All Assessee
Output Tax Paid	This register should maintain the details of GST paid for a particular tax period	All Assessee
Other Records Specified	Government can further specify by way of a notification, additional records and accounts to be maintained	Specific Businesses as notified by the government

Accounts to be maintained by Manufacturers

Rule 56 (12)

All persons involved in the manufacturing of Goods under GST are required to maintain their 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.

Accounts to be maintained by Service Providers

Rule 56 (13)

All taxable persons providing services taxable under GST are required to maintain accounts showing quantitative details of goods used in the provision of services, details of input services utilised and the services supplied.

Accounts to be maintained for Works Contract - Rule 56 (14)

All persons having **GST Registration** involved in executing works contract are required to keep separate account for works contract with details including:

- ❖ 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
- ❖ The names and addresses of suppliers from whom he received goods or services.

Accounts to be maintained by Agents, Brokers, Real Estate Brokers and Stock Brokers Rule 56 (11)

All agents or brokers, including real estate agents and brokers are required to maintain the following additional records:

- Particulars of authorization received by him from each principal to receive or supply goods or services on behalf of such principal separately;
- Particulars including description, value and quantity (wherever applicable) of goods or services received on behalf of every principal;
- Particulars including description, value and quantity (wherever applicable) of goods or services supplied on behalf of every principal;
- Details of accounts furnished to every principal; and
- Tax paid on receipts or on supply of goods or services effected on behalf of every principal.

Particulars of suppliers and customers

- Details of **Suppliers** with information including **names** and **complete addresses of suppliers** from whom he has received the goods or services chargeable to tax under GST;
- Details of **Customers** with information including **names** and **complete addresses of the persons** to whom he has supplied goods or services, where required under GST;

Particulars of Goods stored

- **Complete address of the premises** where goods are stored by the taxpayer, including **goods stored during transit** along with the particulars of the stock stored therein.

Particulars of Stock Account- Rule 56(2)

Particulars of Stock Account:

1. Opening balance, 2. Receipt, 3. Supply, 4. **Goods lost, stolen, destroyed, written off or disposed of by way of Gift or free Sample**, 5. Balance of stock including raw material, finished goods, scrap and wastage thereof.

Section 35 (6) Subject to the provisions of clause (h) of sub-section (5) of section 17, where the registered person fails to account for the goods or services or both in accordance with the provisions of sub-section (1), the proper officer shall determine the amount of tax payable on the goods or services or both that are not accounted for, as if such goods or services or both had been supplied by such person and the provisions of section 73 or section 74, as the case may be, shall, mutatis mutandis, apply for determination of such tax.

General points to be noted- Rule 56 (6), (7) & (8)

- ✓ All GST accounts and records, including the books of account must be maintained at the principal place of business along with records relating to additional place of business must be maintained at respective places.
- ✓ Each of the volume of books of account with GST records maintained manually should be serially numbered.

General points to be noted- Rule 56 (6), (7) & (8)

- ✓ Any documents, registers, or any books of account **belonging to a registered person** that are found at any premises, will be **presumed to be maintained by the taxpayer**, unless proved otherwise. Hence, its important to ensure that all accounting and financial information is maintained safely by the taxpayer.
- ✓ If GST accounts are maintained **electronically**, then there should be a **log of every entry edited or deleted** and should be **authenticated by means of a digital signature** and should be **accessible from every related place of business mentioned on the GST Registration Certificate**.



SHARNAM LEGAL

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"Building longterm relations through our work"

Thank You

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