Technical Guide on GST Audit
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First Edition : October, 2018
Second Edition : May, 2019
Committee/Department : GST & Indirect Taxes Committee
E-mail : gst@icai.in
Website : www.icai.org; https://idtc.icai.org/
Price : ₹ 225/-
Published by : The Publication Department 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. February/2018/P2226
Goods and Services Tax (GST) is perhaps India’s most revolutionary tax reform and has been envisioned as an efficient tax mechanism to simplify taxation procedures and to make India a unified market with its ‘One Nation One Tax’ approach. Under CGST Act 2017, every registered person whose turnover during the financial year exceeds the prescribed limit i.e. Rs. 2 Crore shall have to get his accounts audited by Chartered Accountant or Cost Accountant as specified under sub-Section 35(5) and shall have to submit a copy of audited annual accounts, the reconciliation statement duly certified, in Form GSTR-9C. This being the first year of GST audit, due date for filing the returns now stands extended to 30th June 2019 for the financial year 2017-18, giving taxpayers more time to understand the nitty-gritties of compiling the annual returns and getting their GST audit conducted in a smooth manner.

To help in conducting GST audit and in order to facilitate a clause by clause analysis of Form GSTR-9C by members and other stakeholder, GST & Indirect Taxes Committee has brought out this Technical Guide on GST Audit. I am sure this Guide will provide a crisp and precise view of elaborative provisions of CGST Act 2017.

Government has given the responsibility of certifying the GSTR-9C to Chartered Accountants, which I am sure will be taken care by our members with utmost care and dedication. I am also confident that this technical guide will be of great significance and will provide assistance to our members on the critical issues arising while conducting such audit. I would request my professional colleagues to equip themselves and exercise due care while certifying the relevant form.

I really appreciate the efforts put in by Chairman and Vice-Chairman and other members of the GST & Indirect Taxes Committee of ICAI for undertaking this tedious task and coming out with this Technical Guide on GST Audit in such a short span of time.

I wish the readers a fruitful and enriching experience.

Date: 31.05.2019
Place: New Delhi

CA. Prafulla P. Chhajed
President, ICAI
Preface

The Goods and Services Tax is a trust-based taxation regime wherein a taxpayer is required to self-assess his tax liability, pay taxes and file returns. Thus, to ensure whether the taxpayer has correctly self-assessed his tax liability, the concept of Audit have been incorporated under GST. This involves examination of records, returns and other documents maintained by a GST registered person.

Since GST Audit is the last activity to be done by the tax payers for the financial year 2017-18, this Technical Guide on GST Audit is a written document/attempt to create awareness among the trade/ industry and more importantly among the members to discharge their professional duties. Further, they would be drawing up reconciliation statement as required under Section 44(2) of CGST Act, 2017 in Form GSTR-9C reconciling the figures of the annual return in Form GSTR-9 with the Audited Annual Accounts and certifying the same for those having aggregate turnover over 2 Crores.

An attempt has been made in this guide to cover the areas that are related to the basic principles, policies and special issues pertaining to conduct of a Goods and Services Tax Audit/Certification. This guide may not contain answers to all the problems that may arise in the day-to-day audit work still we tried to cover issues came in our knowledge and in the course of discussion. If something is not covered here in such cases, the GST auditor may have to apply his mind judiciously, keeping in view the intent behind the law, principles and policies.


The users are encouraged to provide suggestions for the improvement of this guide at the link at gst@icai.in.

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Place: Delhi  
Date: 31.05.2019
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Chapter 1
Introduction to GST Audit

Reference to the Central Goods and Services Act, 2017 (CGST Act, 2017), wherever stated, must be understood to mean and include the respective State Goods and Services Tax Act, 2017/ Union Territory Goods and Services Tax Act, 2017 (SGST Act, 2017 / UTGST Act, 2017) and relevant provisions, where required, of Integrated Goods and Service Tax Act 2017 (IGST Act, 2017). While every care has been taken to include the relevant Rules, certain portions may have to be read and understood along with Rules framed with respect to the respective State / UT / IGST legislations.

Introduction

The introduction of the Goods and Services Tax regime is a revolutionary step in the domain of commodity and services tax, which has brought about a paradigm shift in the methodology of levy and collection of taxes. It is an internationally recognized multipoint tax system, providing for levy of tax on goods as well as services on the value addition occurring at every stage of business activity. Today, it can be said that the GST, being a self-assessment tax, requires the introduction of audit procedures for ensuring its proper compliance.

The audit of accounts in Corporate Sector has been made compulsory by legislation over decades. In addition to the above, the specific legislations governing different types of entities also mandates audit under the respective statutes. Realizing the importance of audit of businesses which are essentially not governed by the Companies Act or any other special statutes, the Income-tax Act introduced audit of businesses that have crossed the turnover limit provided in Section 44AB of the Income-tax Act. This has always helped the Government to ensure its statutory compliance under the provisions of the Income Tax Act.

Under the Central Excise Act, 1944 and Service Tax law (vide Finance Act, 1994), special audit was prescribed under Section 14A and 14AA of Central Excise Act, 1944 and Section 72A of Finance Act, 1994. Special Audit was required to be conducted by a Chartered Accountant or a Cost Accountant in cases where the Commissioner of Central Excise had reasons to believe that the credit of duty availed of and utilized under the rules are not within normal limits or that there is a case of under valuation. However, there was no general provision for audit by Chartered Accountants based on the turnover limit.

Goods and Services Tax was introduced to consolidate most of the indirect taxes and also to increase the tax base with emphasis on compliance. At the same time, thrust was given to self-assessment processes whereby the taxpayers are required to assess their tax liability and pay taxes. While doing so and considering the challenges which the government may face in
handling the volume of taxpayers and transactions, technology support has been taken right from the time of its introduction.

In the self-assessment regime, it becomes essential to have checks and balances to protect the revenues’ interests. The existing bureaucratic machinery would certainly be better placed if professionals are roped in. Because of this, the Government always looks for professional help. Invariably, they take the help of trained Chartered Accountants who are experts in accounting, statutory provisions, financial transactions, etc., and being a part of the Institute of Chartered Accountants of India set up by an Act of Parliament. This time, in addition to the Chartered Accountants the Government has also sought the help of Cost Accountants for the same.

Meaning of Audit in General

Audit is a subject with which members of the accountancy fraternity are familiar. Auditing is a systematic and independent examination of the books and records of an entity to ascertain and report on the facts regarding its financial operations and results thereof. The systematic and independent examination of the books and records may be limited to transactions and performances of an entity for a stated purpose, say audit under GST. Such an audit may be conducted to ascertain whether they present a true and fair view of the financial transactions vis-a-vis returns filed with the authorities. This compulsory audit is intended to ensure proper maintenance of books of account and other records, in order to reflect the true turnover and purchase of a dealer and also to reflect the correctness of input tax claimed and output tax paid, to facilitate the administration of tax laws for his further assessment.

Objective of Audit under GST Law

The objective of the GST audit can be ascertained from the definition of Audit given in Section 2(13) of Central Goods and Services Tax Act, 2017(CGST Act). The said definition reads as follows:

“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 there under.”

From the above, it can be deduced that:

(a) Audit is examination of records, returns and other documents;
(b) Those records, returns and documents might have been maintained or furnished under GST Law or any other law;
(c) The examination is to verify the correctness of:
Introduction to GST Audit

(i) Turnover declared;
(ii) Taxes paid;
(iii) Refund claimed; and
(iv) Input tax credit availed;

(d) The examination is also to assess auditee’s compliance with the provisions of GST Act and Rules.

All this makes it clear that the objective of GST Audit is to ensure the correctness of Turnover declared, Taxes paid, Refund claimed, and Input Tax Credit availed in addition to compliance of the GST Act and Rules. The intent is that the compliance of the GST law has to be confirmed by the GST audit.

The objective of Audit under GST as per the definition under Section 2(13) can be explained as follows:

Legal provisions of GST Audit

In order to understand the gamut of the GST Audit and its requirement, it is relevant for us to understand the legal provisions related to the GST audit. Two important provisions which are relevant and important in this context are Section 35(5) and Section 44(2) of the CGST Act, 2017.

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

In terms of section 44(2) “every registered person who is required to get his accounts audited in accordance with the provisions of sub-section (5) of Section 35 shall furnish, electronically, the annual return under sub-section (1) along with a copy of the audited annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement, and such other particulars as may be prescribed”.

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

Comment: Section 35(5) begins with the expression “every registered person whose turnover during a financial year exceeds the prescribed limit” whereas the relevant Rule 80(3)
uses the expression “every registered person whose aggregate turnover during a financial year exceeds two crore rupees”. It must be noted that the word turnover has not been defined whereas the expression aggregate turnover has been defined. One may note that the expression turnover in State or turnover in the Union territory is defined. In this backdrop the following understanding is relevant:

(a) Aggregate turnover is PAN based while turnover in a State / UT, though similarly worded, is limited to turnover in a State / UT, which is limited to a State;

(b) It is, therefore, reasonable to interpret that the word turnover used in Section 35(5) ought to be understood as aggregate turnover;

(c) For the financial year 2017-18, the GST period consists of 9 months whereas the relevant Section 35(5) uses the expression financial year. Therefore, in the absence of clarification from the Government, and to avoid any omission due to aggressive interpretation, it is prudent to understand that the turnover limits prescribed for audit i.e., Rs. 2 crores one should consider aggregate turnover for the whole of the financial year which would also include the first quarter of the financial year 2017-18. Please consider that travelling to a period (prior to introduction of GST) is only to identify the ‘trigger’ for applicability or inapplicability of this audit requirement and does not do any great offence to sanctity of limiting GST audit to transactions after 1 July 2017. After considering 12-months transactions, GST audit will however be limited to transactions attracting GST law, that is, 9-months of 2017-18.

However, if taxpayer were to take a view that the threshold of Rs. 2 Crore ought to consider transactions 9 months since implementation of GST from 1 July, 2017, suitable disclosure or intimation to the jurisdictional officer in writing, would be merited.

It can be seen that Section 35(5) read with Section 44(2) of the CGST Act provides that the following documents shall be furnished electronically by the assessee upon conclusion of the audit:

(a) Annual Return;

(b) Copy of the audited annual accounts;

(c) Reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement in FORM GSTR 9C, duly certified;

(d) Such other particulars, as may be prescribed

Vide Rule 80(3) the reconciliation statement shall be furnished in the GSTR 9C. The provisions of Section 44(2) require reconciliation of the figures declared in ‘return furnished for the financial year’ with the ‘audited financial statement’. It appears that the return furnished for the financial year refers to the annual return furnished in FORM GSTR 9.
In addition to the three provisions mentioned above, there are number of provisions which are relevant for carrying out audit or reconciliation.

**Applicability of GST Audit**

Section 35 of the CGST Act, deals with the maintenance of books of accounts, documents and records. Section 35(5) read with Section 44(2) of the CGST Act and the corresponding Rule 80(3) of the CGST Rules relates to audit. In terms of the said section / rule, every registered person whose turnover in a financial year exceeds two crore rupees has to get his accounts audited by either a Chartered Accountant or a Cost Accountant.

Though the definition of Audit under Section 2(13) mandates certain aspects, there is no specific mention of methodology of audit or the manner of reporting either in the Act or the Rules, except for a certificate format which is notified as part of reconciliation statement in Form GSTR 9C.

Combined reading of the Section 35(5), 44(2) along with the notified forms, give rise to two situations, namely, (a) entities not required to be audited under any other statute in which case audit has to be carried out in terms of Section 35(5) and reconciliation statement to be drawn under Section 44(2) duly certified and (b) entities that are required to be audited under any other statutes like the Companies Act, Income-tax Act, Co-operative Societies Act, etc., When the records of the entity are audited under any other statute, reconciliation statement can be drawn up by the same auditor, who will also certify the same or different auditor.

Where the financials are audited (under any other law), then there is no requirement to conduct yet another audit of the same financials for GST purposes. GST audit exercise can proceed with the remainder of the exercise to prepare the reconciliation statement as required in Part A and certify as required in Part B.

Where the financials are (somehow) not audited under any law, then these financials need to be audited for GST purposes apart from the exercise in Part A and Part B of GSTR 9C. Please note that there no guidance as to the ‘terms of reference’ for such a case. Given that this is a case that has come before a Chartered Accountant, his expertise will come to bear in providing a suitably audited financial statement to proceed with the Part A and Part B exercise in GSTR 9C.

The word “certify” indicates absolute level of assurance but GSTR 9C appears to be an amalgam of audit and certificate. As such, it appears to be a certificate of information in Part A that is validated based on applying methods of audit performed by the hands of an expert auditor. In other words, GSTR 9C could be referred to be a certification by way of audit or ‘audit certificate’. Given the approach to audit mandated in ICAI, the assurances will be subject to the limitations inherent in such an exercise and disclosure is key so that revenue authorities will be able to appreciate and understand the dissimilarities in accounting of transactions due to accounting rules like accrual compared to peculiarities in GST such as time of supply, which may not always coincide but present some variations in the turnover in GSTR 9 compared income reported in financial statements.
Implications of GST Audit

- Where a review is undertaken periodically, the discrepancies would be noticed and corrective measures would be taken in a timely manner. Thus, it would lead to optimising credit availment as well as payment of tax / other outgoes.

- A periodic review of information such as computation of total and taxable turnovers, review of rates of taxes, proper application of relevant notifications, circulars, clarifications, Government orders and adherence to the tax compliances.

- Incorrect claims for tax benefits / exemptions would be filtered out, as tax professionals would be in a position to intimate the consequences of such practices and also bring out the systemic failures in their reports.

- It is customary to expect that the departmental audit are conducted long after the end of the financial year except in cases where investigations, inspections or special audits are taken up. Naturally, any levy of additional taxes either due to non-compliance or incorrect comprehension of the complex tax laws would result in taxes plus consequential interest and penalty.

Preparation for the GST Audit

Since this GST Audit would be undertaken for the first time, it demands significant preparation from the auditor as well as the Auditee. While the statutory audit (under the Companies Act) and tax audit (under the Income-tax Act) primarily rely on the financial records, GST audit would require coverage of a larger cluster of records. The GST audit requires deep understanding of the GST laws, IT infrastructure of the auditee, the method in which the GST portal operates, applicability of the various notifications, circulars, clarifications, classification of goods and / or services, the nature of supplies, the manner of availment of credits together with its allowability or otherwise, maintenance of various records and documents specified therein, requirements of reporting and source of information, understanding of the business of the auditee etc. Apart from these issues, it is imperative that an auditor understands the basic functioning of the e-governance model. The audit coverage of all these records and documents would need substantial amount of preparation and time.

To start with, the following (among others) are the various steps an auditor can take in connection with the forthcoming GST audit:

(a) Inform the concerned assessee about the applicability of the GST audit;

(b) Confirm eligibility to be GST auditor under guidelines issued by the ICAI;

(c) Understand the nature of business, the products or services, requirements of records to be maintained, and advise the auditee to maintain accounts and records so required, beforehand;
(d) Prepare a questionnaire to focus on key areas of operations / activities of the auditee, and specifically develop questions on those issues on which the GST law would have a bearing;

(e) Preparation of the detailed audit program and list of records to be verified;

(f) Obtain the relevant reconciliations.

Consequences of failure to submit the annual return and not getting the accounts audited

Section 47(2) of the CGST Act, 2017 provides that in case of failure to submit the annual return within the specified time, a late fee shall be leviable. The said late fee would be Rs. 100 per day during which such failure continues subject to a maximum of a quarter percent of the turnover in the State/UT. There would be an equal amount of late fee under the respective State/UT GST law.

However, there is no specific penalty prescribed in the GST Law for not getting the accounts audited by a Chartered Accountant or a Cost Accountant. Therefore, in terms of Section 125 of CGST Act he shall be subjected to a penalty of up to 25,000/-. This section deals with the general penalty that gets attracted where any person, who contravenes any of the provisions this Act, or any rules made thereunder for which no penalty is separately provided. Similar provision also exists under the State/UT GST law as well. There may be another view that since the return is to be accompanied with the report, if not done it may amount to non-filing of return and late fee may be levied and in that case the general penalty in terms of Section 25 shall not be levied.

Difference between a Certificate and a Report

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

- “A Certificate is a written confirmation of the accuracy of facts stated there in and does not involve any estimate or the opinion.”

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

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

The word ‘certificate’ as described in the laws and regulations or even in the contracts that an entity might have entered into can normally be associated with reasonable assurance.

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_GST & Indirect Taxes Committee_