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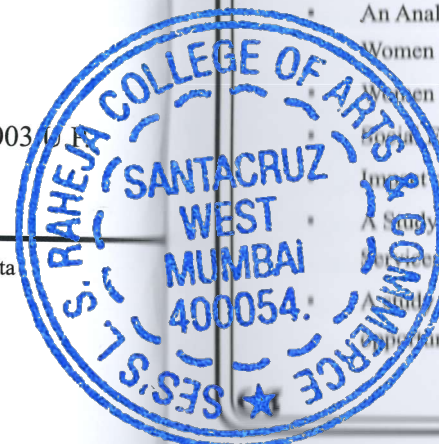
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Manuscripts should be accompanied with brief bio-data, email id and mobile number for future reference.

All diagrams, figures and tables should be in black and white only.

Proper bibliographical references must be given alphabetically in APA style at the end of the text or the following format may be used





GST Annual Returns & Audit - Features & Controversies

CA. Hrishikesh Wandrekar*

ABSTRACT

The Government of India has introduced Goods and Services Tax (GST) from 1st July, 2017. The concept of Goods and Service Tax is promoted as One Nation One Tax, with removal of state barriers and borders for free movement of goods and services. The introduction of GST has also resulted in myriad central and state duties and taxes being subsumed into GST. This has necessitated the need for a comprehensive reporting mechanism for compliance and administration of GST. This paper explores the various GST provisions related to furnishing of GST Annual Returns and Audit and the challenges that have risen in its compliance.

Keywords : Goods & Services Tax, Annual Return, Audit

1. INTRODUCTION

The Goods and Services Tax (GST) has been brought into effect from 1st July, 2017. This landmark legislation promises to change the entire gamut of indirect taxation in India. Indirect taxation in India was a complicated affair, with the levy of myriad duties. These various duties were levied and administered by different government bodies, at the central, state or local level. This resulted in multiple compliances for the businesses as well as led to collection and administrative inefficiencies on the part of the revenue authorities. These multiple compliances resulted in substantial costs, conflicting tax provisions and tax litigation. This made business enterprises uncompetitive in the international market. The paperwork involved at different levels of the government machinery also made completion of business transactions cumbersome.

Goods and Services Tax has been introduced to consolidate most of the indirect taxes and also to increase the tax base with emphasis on compliance. At the same time, thrust has 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 to ensure optimal administration of the tax. With this view, the Government introduced a system of submission of Annual Returns and Audit in GST.

This paper explores the salient features of the Annual Returns and Audit in GST. This paper also brings out certain controversies arising in the course of fulfilling the compliance requirements and interpretation issues in such compliance.

2. CONCEPT OF AUDIT UNDER GOODS & SERVICES ACT

Section 2(13) of Central Goods and Services Tax Act, 2017 defines Audit 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

- Audit is examination of records, returns and other documents;
- Those records, returns and documents might have been maintained or furnished under GST Law or any other law;
- The examination is to verify the correctness of: (i) Turnover declared; (ii) Taxes paid;
- Refund claimed; and (iv) Input tax credit availed;
- The examination is also to assess auditee's compliance with the provisions of GST Act and Rules.

As per Section 35(5) of the CGST Act read with Rule 80(3) of the CGST Rules, every registered person whose aggregate turnover during a financial year exceeds Rs. 2 crore shall get his accounts audited and shall electronically furnish a copy of the audited financial statements along with the reconciliation statement duly certified. Such Audited statements shall be certified by a practicing Chartered Accountant or Cost Accountant. The reconciliation statement shall be furnished in Form GSTR 9C within 9 months of the conclusion of the financial year. However, the due date for furnishing the Form GSTR 9C for the financial year 2017-18 has been extended to 31st January 2020 due to technical exigencies.

Here, it is pertinent to note that the terms used are aggregate turnover during a financial year. Hence, for the financial year 2017-18, the turnover for the period April 2017 to June 2017, covering the pre-GST era shall also be considered for determining the threshold limit of Rs. 2 crore.

Further, the threshold limit is qua registered person and not qua state registration. Hence, a registered person may have separate GST registrations in different states, which may not exceed Rs. 2 crore individually, but the aggregate turnover of all states may exceed Rs. 2 crore. In such a case, the provisions of audit will apply and the registered person will have to get his GST records audited in each state in which it is registered.

3. ANNUAL RETURNS IN GST

As per Rule 80(1) of the CGST Rules, every registered person, except as specified otherwise, shall furnish an Annual Return electronically in the prescribed form. An Annual Return provides an aggregate summary of all GST related transactions made and furnished in periodic returns during a financial year. The different forms applicable to different types of registered persons are as under:

- Form GSTR 9 – This form is to be furnished by regular registered persons.
- Form GSTR 9A – This form is to be furnished by taxpayers registered the Composition Scheme of GST. It represents a summary of all transactions entered into by the Composition dealer and reported in the applicable quarterly returns.
- Form GSTR 9B – This form is applicable to E-Commerce operators who have filed their periodic returns in Form GSTR 8. This form has not been made applicable for the financial year 2017-18.

The original provisions required all registered persons to furnish the Annual Return in the applicable form. However, this form has been made optional to dealers whose aggregate turnover in a financial year does not exceed Rs. Crore, vide Notification 47/2019 dated October 9, 2019. This means that only those registered persons who are subject to audit under GST shall now be required to mandatorily furnish a Annual Return. However, Annual Returns filed before the said relaxation of the Rules shall be considered as valid and final. The due date for furnishing of Annual Return shall coincide with the due date for furnishing of Audit under GST.

4. CONTROVERSIAL ISSUES IN GST ANNUAL RETURN & AUDIT

The introduction of Audit and Annual Return in GST has however given rise to certain issues with respect to interpretation and compliance. This has resulted in changes in audit strategies by auditors, difficulty in complying required data, delay in furnishing of audits and other technological issues. These are briefly discussed as follows:

4.1. Rectification of Errors

The GST law was implemented with much fanfare.

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But the sheer complications in its provisions and their interpretation resulted in widespread confusion. The rampant amendments did not allow the law to settle. This resulted in a number of errors and omissions in filing of the returns by the taxpayers. The erstwhile VAT law provided for rectification of any errors or omissions in furnishing the returns. However, there was no provision for rectification in the GST law. This has resulted in complicated reconciliations between the returns filed and the books of accounts.

4.2. Reconciliation of GST returns with books of accounts

The GST Rules have stipulated various returns required to be furnished by a taxpayer. Form GSTR 1 shows the details of all outward supplies made. Form GSTR 3B shows the summarised details of outward supplies made, the tax thereon, the inward supplies and the Input Tax Credit claimed thereon. The tax liability payable or the refund due is also disclosed in this form. Form GSTR 2A is an auto populated statement indicating the Input Tax Credit available to a taxpayer based upon the outward supplies made to him, and filed by his suppliers. It is imperative for a registered person to reconcile the outward and inward supplies as per the books of accounts with all the GST returns filed. This is an extremely cumbersome exercise, especially in a scenario where there is no provision to rectify any errors or omissions that may have been made.

4.3. Summation of tax liability

The GST Audit lays down the onus of determination of GST liability payable / refundable on the Auditor. Such liability is determined after considering the reconciliation of various GST returns with the books of accounts. Further, the GST Auditor is required to determine the liability on account of tax on outward supplies and on Input Tax Credit separately. This can result in various complications on a practical level. It is felt that the Audit forms could have been simplified in order to reflect the consequent liability in a much easier fashion, as was the case in VAT audit.

4.4. Issues in disclosure of Outward Supplies

Form GSTR 9 requires disclosure of Exempt Supply, Nil Rated Supply and Non-GST Supply.

However, the terms are not well defined in the GST Act or Rules and are often inter-changeably used.

4.5. Issues in disclosure of Inward Supplies and Input Tax Credit (ITC)

Form GSTR 9 requires disclosure of breakup of the Input Tax Credit availed as per the nature of the inward supply into Inputs, Capital Goods and Input Services. These details were not to be disclosed in the periodic returns. Hence, taxpayers have found it difficult to compile this new information from the books of accounts. These details have also to be disclosed as per inward supply from registered person, unregistered person or on reverse charge. This has increased the compliance cost and time required manifold.

Form GSTR 9C also requires the disclosure of all Input Tax Credit as per the respective accounting head. Enterprises have found it difficult to align their accounting systems and software to belatedly introduced reporting requirements.

4.6. Reporting of HSN summaries

Form GSTR 9 requires reporting of inward and outward supplies as per the HSN Code applicable to the particular product or item. This data was not reported previously in the periodic returns and enterprises have struggled to compile this data.

The Government has eased the reporting requirements, by making the reporting the HSN Summaries and breakup of Input Tax Credit optional vide Notification No. 56/2019 dated 14th November, 2019. However, this relaxation has come belatedly for many taxpayers who have already filed their Audits.

4.7. Technology issues

Administering a pan India tax requires a robust IT system in place. The stress on electronic compliance also cannot be under-stated. However, one should also note that basic infrastructure like electricity and internet connection is not always available throughout the country. This has caused a lot of misery among businesses in far flung areas. The spate of amendments over a short period of time has also made it difficult for the GST portal to update their systems and handle the traffic. It can also be argued that the electronic filing systems could have been a lot more user friendly as in the case of other tax

portals in the country.

CONCLUSION

India is at cross roads of tax reforms. The new taxation regime focuses on business discipline and compliance. It is in our best interest to align our business processes and accounting practices to match & comply with the GST regulations. Correspondingly, it is in the interest of the Government to adopt procedures which are business friendly, ensure a robust IT environment and make GST tax-payer friendly. This will ensure healthy GST compliance by businesses. The way ahead is not without hurdles. However, these hurdles can be

overcome through proper planning, implementation, education, sensible regulation and legislation.

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