



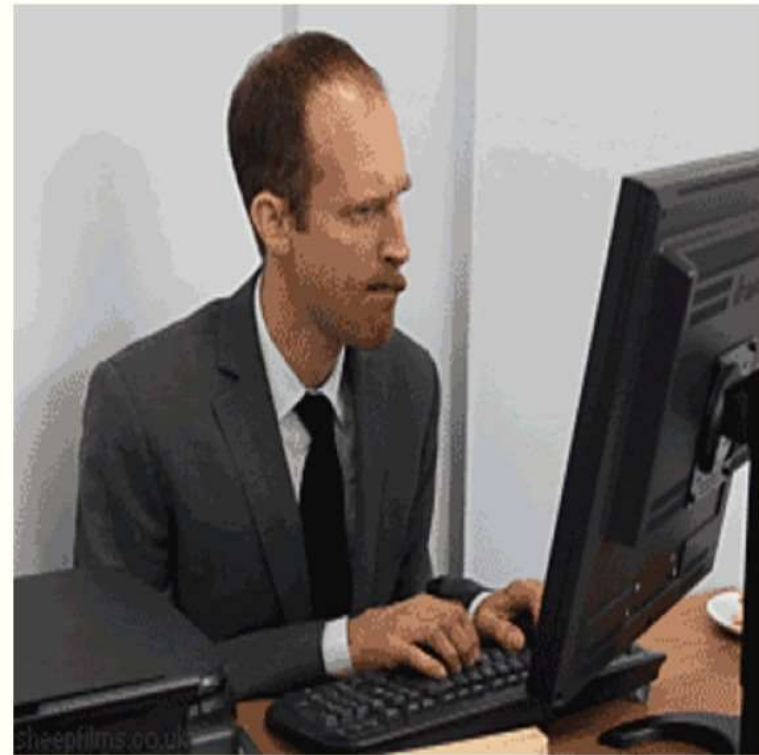
Some Myths Broken?

- COVID-19 brought a change for which we are not trained
 - We are only trained for slow moving changes
 - We are suppose to be calm rather than being fast and restless
- Uncertainty is the new Certainty
 - Technology
 - GST
 - COVID-19
- Expert is the one who can solve a problem
 - Expert is the one who can anticipate a problem also





WHAT GOVT THOUGH WE DO ? || WHAT ARE WE DOING?





GST ANNUAL RETURN & RECONCILIATION FOR F.Y. 20-21



Some Observations / Grapevine for omitting GST Audit?

- No concrete Observations in GSTR-9C
- Request for Repeated Extensions
- Not enough additional collection of revenue
- Increase in Compliance Cost
- No additional usage by Department





What has happened?

- Notification No. 29/2021-Central Tax dated 30/07/2021
- Provisions of Section 110 & 111 of the Finance Act, 2021 w.e.f. 01.08.2021 were notified.
- **Section 35(5) (Omitted)**
- (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 subsection (2) of section 44 and such other documents in such form and manner as may be prescribed.



Section 44

Up till 31.07.21

- **44. (1)** Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return for every financial year electronically in such form and manner as may be prescribed on or before the thirty-first day of December following the end of such financial year.
- **(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.

From 01.08.21

- **SECTION [44. Annual return.** — Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable **person shall furnish an annual return which may include a self-certified reconciliation statement,** reconciling the value of supplies declared in the return furnished for the financial year, with the audited annual financial statement for every financial year electronically, within such time and in such form and in such manner as may be prescribed :
 - Provided that the Commissioner may, on the recommendations of the Council, by notification, exempt any class of registered persons from filing annual return under this section :

Audited AFS are not available because audit not done?



Rule 80

Up till 31.07.2021

- (3) Every registered person [other than those referred to in the proviso to sub-section (5) of section 35,] whose aggregate turnover during a financial year exceeds two crore rupees shall
- get his accounts audited as specified under sub-section (5) of section 35 and
- **he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in FORM GSTR-9C*,**
- electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.

From 01.08.2021

- (3) Every registered person, other than those referred to in the second proviso to section 44, an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, whose aggregate turnover during a financial year exceeds five crore rupees,
- **shall also furnish a self-certified reconciliation statement as specified under section 44 in FORM GSTR-9C along with the annual return referred to in sub-rule (1),**
- on or before the thirty-first day of December following the end of such financial year, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.]



What is the Portal asking for?

Upload Relevant Documents Help ?

1 File with PDF or JPEG format is only allowed
2 Maximum 2 files and 5 MB for each file allowed

Balance sheet * * Indicates Mandatory Fields

No file chosen

Profit & loss statement/Income & Expenditure Statement *

No file chosen

Other Document 1, if any No file chosen

Other Document 2, if any No file chosen

Verification

I hereby solemnly affirm and declare that the information given herein above is true and correct and nothing has been concealed therefrom. I am uploading this self-certified reconciliation statement in FORM GSTR-9C. I am also uploading other statements, as applicable, including financial statement.

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WHAT IS THE CURRENT STATUS?



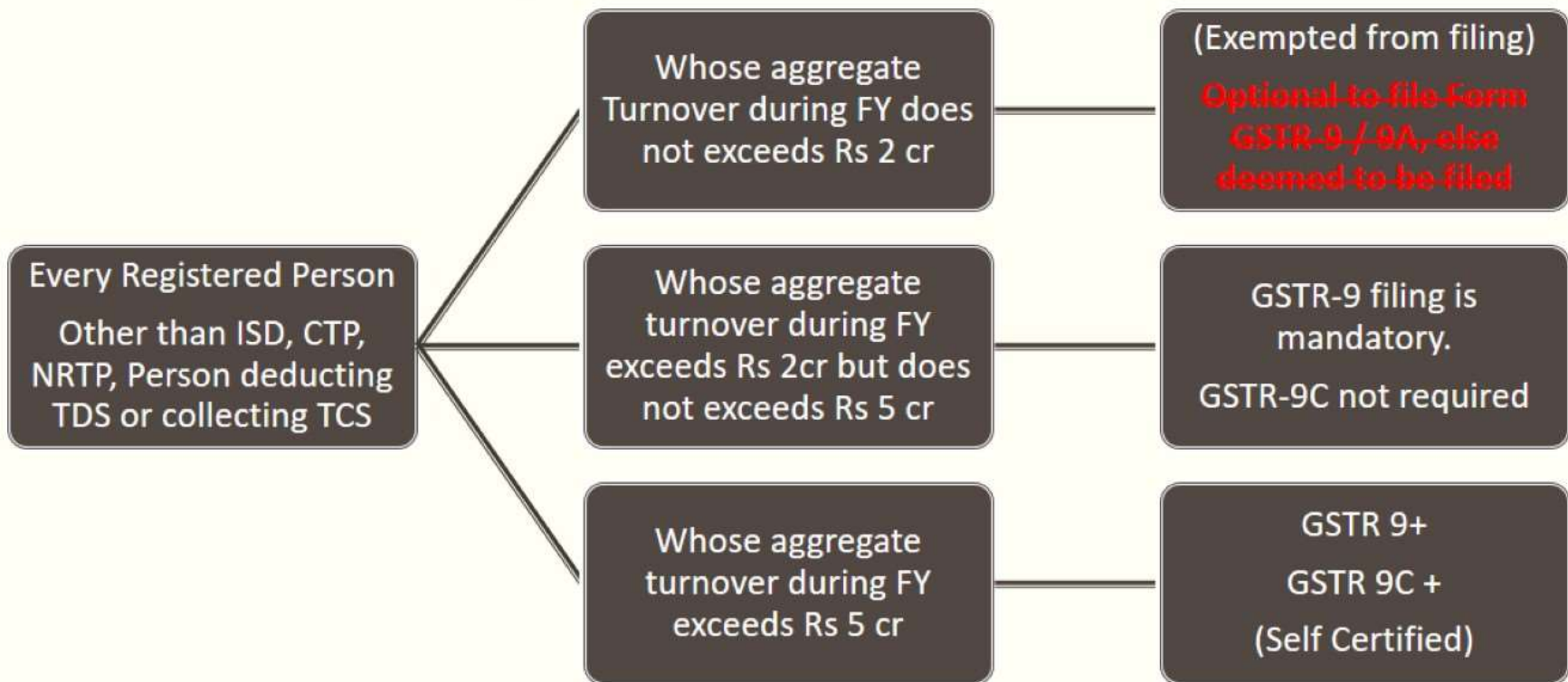
Notification No. 31/2021-C.T., dated 30-7-2021

- Annual return — Exemption to registered person whose Annual Aggregate Turnover (AATO) in the Financial Year 2020-21 is upto ` Two Crore
 - In exercise of the powers conferred by the first proviso to section 44 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Commissioner, on the recommendations of the Council, hereby exempts the registered person whose aggregate turnover in the financial year 2020-21 is upto two crore rupees, from filing annual return for the said financial year.
2. This notification shall come into force from the 1st day of August, 2021.



What is the Current Scenario for FY 20-21?

N.N. 30/2021 CT read with N.N. 31/2021





Relaxation - Optional Filing of the Annual Return

- **Notification NO. 47/2019- CT dated 09.10.2019**
- In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act), the Central Government, on the recommendations of the Council, hereby notifies **those registered persons whose aggregate turnover in a financial year does not exceed two crore rupees** and who have not furnished the annual return under sub-section (1) of section 44 of the said Act read with sub-rule (1) of rule 80 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules) before the due date, as the **class of registered persons who shall, in respect of financial years 2017-18 and 2018-19**, follow the special procedure such that the said persons **shall have the option to furnish** the annual return under sub-section (1) of section 44 of the said Act read with sub-rule (1) of rule 80 of the said rules :
- ***Provided that the said return shall be deemed to be furnished on the due date if it has not been furnished before the due date.***



What if Annual Return is not filed?

- **Explanation 2.to Section 74 —**
- For the purposes of this Act, the expression “suppression” shall mean
- *non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder,*
- or failure to furnish any information on being asked for, in writing, by the proper officer.



RELAXATION IN PUNCHING OF DATA



Relaxations in Information Punching in Form GSTR 9

- **Notification No 30/2021- Central Tax dated 30.07.2021**
- Reporting of C/N or D/N separately made optional. Can be reported in consolidated manner
- Reporting of Exempted, Nil Rated, Non –GST, No Supply in consolidated manner
- Bifurcation of Inputs/ Input Services / ~~Capital Goods~~ not required in ITC
- Reversals can be reported in consolidated manner
- ~~Table 8 can be filed separately and can be attached in PDF with Audit Report~~
- Filing of Table 12, 13, 15, 16, 17 & 18 made optional.



Relaxations in Information Punching in Form GSTR-9C

- **Notification No 30/2021- Central Tax dated 30.07.2021**
- Consolidated reporting of all adjustments from 5B to 5N can be done in Row 50
- Others Tab added in Table 9 & 11
- Reporting in Table 12B, 12C & 14 made Optional
- Additional Liability due to Non-Reconciliation instead of Auditor's recommendation on additional Liability due to non-reconciliation



Verification

- **Up till 31.07.2021**
- Verification by CA / CWA:
 - I hereby solemnly affirm and declare that the information given herein above is **true and correct to the best of my knowledge and belief** and nothing has been concealed there from.
- **Verification of registered person:**
 - I hereby solemnly affirm and declare that I am uploading the **reconciliation statement in FORM GSTR-9C prepared and duly signed by the Auditor and nothing has been tampered or altered by me in the statement.** I am also uploading other statements, as applicable, including financial statement, profit and loss account and balance sheet etc.
- **From 01.08.2021**
- Verification by Registered Person
 - I hereby solemnly affirm and declare that the information given herein above is **true and correct (to the best of my knowledge and belief)** and nothing has been concealed there from. I am uploading this self-certified reconciliation statement in FORM GSTR-9C. I am also uploading other statements, as applicable, including financial statement, profit and loss account and balance sheet, etc.”
- **Part B : Certification : Omitted**



Implication

- GSTR-9C becomes a statement filed by the taxpayer now.
- Information omitted would lead to presumption of wilful suppression by registered person
- Incorrect particulars in GSTR-9C would lead to allegation of wilful mis-statement
- This is not an audit, concept of limited information / belief / test checking will not be handy
- No statutory declaration of non-maintenance of records by taxpayer.
- Caveat and limitations shall not be handy for taxpayer
- The tax liability recommended in Table V needs to be paid



Additional Burden on Taxpayer

- **Internally derived Turnover for multiple GSTIN**
 - No GST Auditor, no plea that total turnover reconciliation at PAN level is not available
 - Internally derived turnover cannot be wrong. Onus on the taxpayer

- **ITC claimed as per books is eligible and self assessed**
 - Internally derived ITC in case of multiple GSTIN
 - E-Invoice VS E-Way Bill VS accounting
 - Receipt of Goods / Services
 - Payment of Tax by Supplier

- **Applicable Rate of Tax**
 - HSN Code Matching

- **Comments on reconciling items**
 - Reason for not paying tax is declared by tax payer now

- **Refund claims**
 - In case of erroneous refund to be paid back, same needs to be reported in Part V of GSTR-9C

- **Credit Notes**
 - Non passing of incidence



PROVISIONS APPLICABLE IN FY 20-21



FY :20-21 Specific Issues for Consideration

- Extension of Time Lines due to Covid
 - ITC Matching
 - Job Work
 - Refunds
 - Late Fees
 - Interest
- Non Extension of Time Lines
 - Time of Supply
 - Payment to the Supplier
- New Compliances
 - E Invoicing (Turnover more than Rs 500 cr)
 - HSN Codes



E-INVOICING



Applicable for

Not Applicable for

- Invoice
 - Different GSTIN
 - Export (LUT)
 - Export IGST
 - Tax Invoice with exempt Supply
 - For suppliers under RCM (except GTA)
- Credit Note
- Debit Note

- Purchase Invoice
- Delivery Challan
- Receipt Voucher
- Payment Voucher
- Bill of Supply
- Bill of Entry
- ISD
- Commercial Credit / Debit Note

In ERP
Acknowledgement Date
E –Invoice with QR Code



E-Invoicing- Every Business is Impacted

▪ **Impact on Supplier**

- “Incorrect Invoice” : Penalty under Sec 122
- It can be Rs 10,000 C/S/I for each instance
- General Penalty under Sec 125 : Rs 25,000 C/S/I
- Interception of Vehicle carrying goods during movement and proceedings for movement on improper documents: Tax and Penalty

▪ **Impact on Receiver**

- ITC can be disallowed under Section 16(2) due to reason of taking ITC on improper document
- Post facto compliance of E-Invoice can be challenged
- Penalty under Sec 122 which can be Rs 10,000 C/S/I for each instance

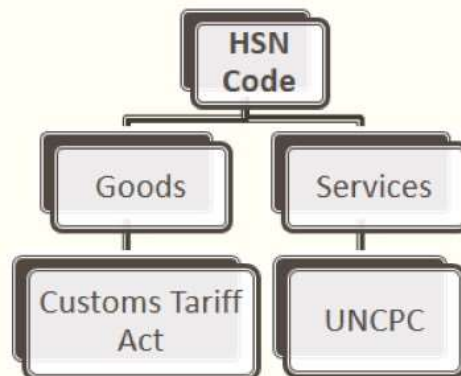


HSN Code

- N.N. 78/2020-CT dated 15-10-2020

Aggregate Turnover	HSN Code Requirement on Tax Invoice
Up to 5 cr	4 digits
Beyond 5 cr	6 digits

- Supplier exporting goods – 8 digits (already)



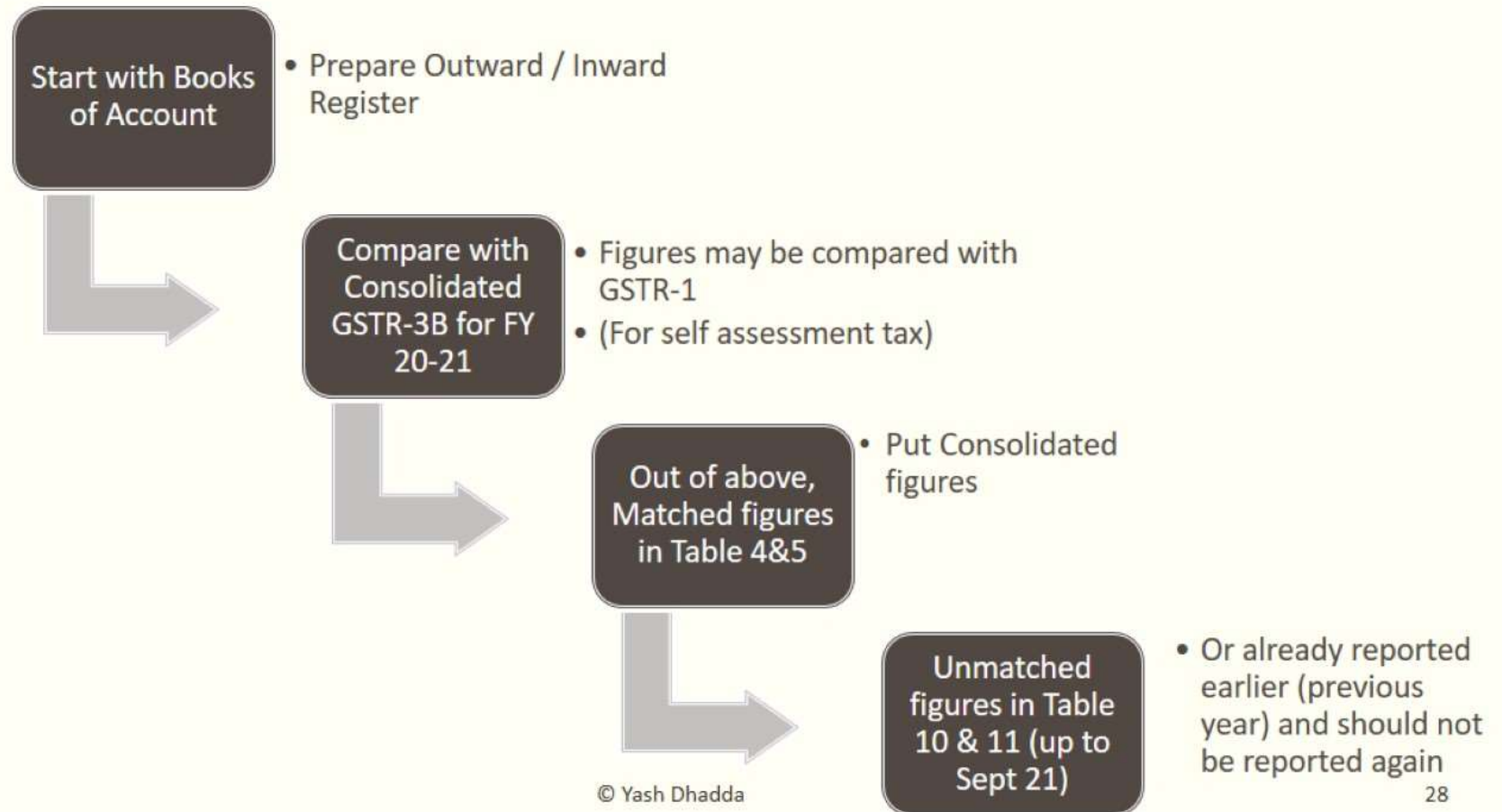
Can one still skip filing Table 16 of GSTR-9?



APPROACH TO REPORT OUTWARD SUPPLIES



Steps adopted for Filing Outward Details in Annual Return





SELF ASSESSED TAX



Kabeer Reality Pvt Ltd vs Union of India – 2020 (33) GSTL 27 (MP)

- Recovery of Government dues - GSTR-1 Return filed by petitioner but GSTR-3B Returns, which are to be paid on GST portal based on self-assessed transaction value shown in GSTR-1 Returns by the petitioner, not filed - Consequently, no revenue actually transferred to Government and on the other hand, persons/tenants, to whom the petitioner has issued invoices, would avail GST credit - Procedure contemplated under Chapter XV of Central Goods and Services Tax Act, 2017 followed as Section 79(1)(c) falls in Chapter XV ibid –
- Petitioner itself having quantified its tax liability under GSTR-1 Returns, Section 73 as well as Section 78 ibid not applicable - Notice rightly issued by Department by invoking Section 79(1)(c) ibid to the tenants of petitioner. [paras 28, 30, 31, 33, 34, 36]



Recovery Proceedings – Section 75

Changes:

75(12) - Notwithstanding anything contained in section 73 or section 74, where any amount of self-assessed tax in accordance with a return furnished under section 39 remains unpaid, either wholly or partly, or any amount of interest payable on such tax remains unpaid, the same shall be recovered under the provisions of section 79.

Explanation - For the purposes of this sub-section, the expression "self-assessed tax" shall include the tax payable in respect of details of outward supplies furnished under section 37, but not included in the return furnished under section 39

Effective Date:

- 1-1-2022

Impact:

- In a judgment passed by Hon'ble MP High Court in case of M/s Kabeer Reality Pvt Ltd that tax declared in GSTR-1 is self assessed tax.
- Now, it has been provided that if a supplier only provides outward supplies in GSTR-1 without including such supplies in GSTR-3B, then the government can directly opt for recovery of taxes under Section 79 without issuance of any show cause notice u/s 73 or 74.



Recovery of Interest

- **M/S RAJKAMAL BUILDER INFRASTRUCTURE PRIVATE LIMITED vs UOI- Guj HC**
- 13 Thus, the aforesaid provisions make it abundantly clear that notwithstanding anything contained in section 73 or Section 74, if there is any amount of interest payable on tax and which had remained unpaid, the same has to be recovered under the provisions of Section 79.
- 14 Section 79 is with respect to recovery of tax. Section 79 provides for the modes of recovery.
- 16 Rule 142 makes it clear that the order referred in subrule (5) shall be treated as the notice for recovery.
- 17 From the aforesaid, we have reached to the conclusion that the notice should have been issued in Form GST DRC 07. The Notice should specify the amount of tax, interest and penalty payable by the person chargeable with tax.

Implication for Table 10 of GSTR-9 also



Recommendation for Interest Liability?

- **For delayed payment of tax?**
- Retrospective Amendment has been made applicable to Sec 50(1)
- Madras High Court Judgement- Refex Industries in favour of assessee
- Department is accepting payment of interest on net basis
- Section 50(2)- should prescribe method of calculating interest, not prescribed yet
- GST Council Minutes explains the intention of the Council for levy of Interest.



APPROACH TO REPORT RCM LIABILITY



RCM Reporting in GSTR-9

G	Inward supplies on which tax is to be paid on reverse charge basis					
---	--	--	--	--	--	--

INSTRUCTIONS:

Aggregate value of all inward supplies (including advances and net of credit and debit notes) ***on which tax is to be paid by the recipient*** (i.e. by the person filing the annual return) on reverse charge basis.

Table 4G to include all RCM related liabilities and no Impact of same should be given in Table 10 or 11.

ITC of RCM in Table 6C + 6D + 6F should be less than or equal to Figure reported in 4G



TABLE 5 WITH NO SUPPLY



Table 5: Supplies with No Tax Implication

S	Details of Outward supplies made during the financial year on which tax is not payable					
A	Zero rated supply (Export) without payment of tax					
B	Supply to SEZs without payment of tax					
C	Supplies on which tax is to be paid by the recipient on reverse charge basis					
D	Exempted					
E	Nil Rated					
F	Non-GST supply (includes _no supply*)					
G	Sub-total (A to F above)					
H	Credit Notes issued in respect of transactions specified in A to F above (-)					
I	Debit Notes issued in respect of transactions specified in A to F above (+)					
J	Supplies declared through Amendments (+)					
K	Supplies reduced through Amendments (-)					
L	Sub-Total (H to K above)					
M	Turnover on which tax is not to be paid (G + L above)					

• No spill over effect to be given in Table 10 & 11 of supplies pertaining to Table 5.

• Report Correct Value





Approach to Punch Figures in No Supply?

- What is no Supply?
 - Schedule-III
 - Supply of Items which are neither goods nor services
- Can Annual Return incorporate all transactions of books of account?
 - Balancing figure in No Supply?
- Whether these are also no supplies?
 - Valuation exclusions? (Pure Agent)
 - Accounting Provisions
 - Exchange Rate Differences
 - Credit in Expense Side
- Whether No Supply can trigger?
 - Issuance of Bill of Supply
 - ITC reversal



PAYMENT OF TAX



Table 9 of GSTR-9

Pt. IV	Details of tax paid as declared in returns filed during the financial year						
	Description	Tax Payable	Paid through cash	Paid through ITC			
				Central Tax	State Tax / UT Tax	Integrated Tax	Cess
9							
	1	2	3	4	5	6	7
	Integrated Tax						
	Central Tax						
	State/UT Tax						
	Cess						

Part IV is the actual tax paid during the financial year. Payment of tax under Table 6.1 of **FORM GSTR-3B** may be used for filling up these details.



Short Comings of Table 9

- **No Impact of Circular No 26/26/2017 i.e. adjustment of excess tax paid in previous FY**
- **Payment of Taxes could have been made through DRC-03 in 2020-21 for**
 - ITC reversal
 - Payment of Additional Tax in pursuance to a Notice
 - E-Way Bill related Notices
 - Payment of Tax, Interest in Annual Return
- To be checked and at appropriate Tables should be reported.
 - **If related to a supply,**
 - Report in Table 4,
 - It shall increase Tax Payable in Table 9
 - Tax Paid shall not change
 - Difference to be disclosed through a note to be attached with GSTR-9C



TABLE 6 & 7



Background of ITC Reporting

- No additional ITC can be claimed through GSTR-9
- In Table-6 & 7 no ITC as such could be reversed also.
- Table 6&7 are reconciliation tables
- Reporting in Table 12 & 13 is optional.
- Data of Table 13 should reconcile with Table 8C of GSTR-9 and Table 12C of GSTR-9C
- Data of Table 12 was treated as an unreconciled item in Table 12 & 14 of GSTR-9C.



Table 6

6 Details of ITC availed during the financial year						
A	Total amount of input tax credit availed through FORM GSTR-3B (sum total of Table 4A of FORM GSTR-3B)		<Auto>	<Auto>	<Auto>	<Auto>
B	Inward supplies (other than imports and inward supplies liable to reverse charge but includes services received from SEZs)	Inputs				
		Capital Goods				
		Input Services				
C	Inward supplies received from unregistered persons liable to reverse charge (other than B above) on which tax is paid & ITC availed	Inputs				
		Capital Goods				
		Input Services				
D	Inward supplies received from registered persons liable to reverse charge (other than B above) on which tax is paid and ITC availed	Inputs				
		Capital Goods				
		Input Services				
E	Import of goods (including supplies from SEZs)	Inputs				
		Capital Goods				
F	Import of services (excluding inward supplies from SEZs)					
G	Input Tax credit received from ISD					
H	Amount of ITC reclaimed (other than B above) under the provisions of the Act					
I	Sub-total (B to H above)					
J	Difference (I - A above)					



Table 7 of GSTR-9

7	Details of ITC Reversed and Ineligible ITC for the financial year			
A	As per Rule 37			
B	As per Rule 39			
C	As per Rule 42			
D	As per Rule 43			
E	As per section 17(5)			
F	Reversal of TRAN-I credit			
G	Reversal of TRAN-II credit			
H	Other reversals (pl. specify)			
I	Total ITC Reversed (Sum of A to H above)			
J	Net ITC Available for Utilization (6O - 7I)			

Details of input tax credit **reversed** due to ineligibility or reversals required under rule 37, 39, 42 and 43 of the CGST Rules, 2017 shall be declared here



TABLE 8



Table 8 of GSTR-9

8 Other ITC related information					
A	ITC as per GSTR-2A (Table 3 & 5 thereof)	<Auto	<Auto	<Auto>	<Auto
B	ITC as per sum total of 6(B) and 6(H) above	>	>		>
C	[For FY 2017-18] ³⁶ ITC on inward supplies (other than imports and inward supplies liable to reverse charge but includes services received from SEZs) received during 2017-18 but availed during April [2018 to March 2019] ³⁷ [For FY 2018-19 , ITC on inward supplies (other than imports and inward supplies liable to reverse charge but includes services received from SEZs) received during 2018-19 but availed during April 2019 to September 2019] ³⁸	<Auto			
D	Difference [A-(B+C)]	>			
E	ITC available but not availed				
F	ITC available but ineligible				
G	IGST paid on import of goods (including supplies from SEZ)				
H	IGST credit availed on import of goods (as per 6(E) above)	<Auto			>
I	Difference (G-H)				
J	ITC available but not availed on import of goods (Equal to I)				
K	Total ITC to be lapsed in current financial year (E + F + J)	<Auto	<Auto	<Auto>	<Auto

Can ITC on imports lapse?



Table 8- Reconciliation with GSTR-2A

- It has been clarified to be an informational Table (Press release dated 03.07.2019)
- However can be used to issue Scrutiny Notices u/s 61.
- Should not be sole basis for issuance of SCN
 - B2B reported as B2C
 - Wrong GSTIN
 - Paid through DRC -03
- After insertion of Rule 36(4), the given table is relevant
- Figures need not be punched in 8E and 8F
- Figures in 8C should match with Table 13 except for ITC of RCM which can be mentioned in Table 13 but not in Table 8C.



Reasons why ITC is not shown in Table 8A

Reason	Details of the reason
Reverse charge document	When the supplier has filed the document in GSTR-1 indicating the supply as reverse charge.
POS lies in supplier's State	When the supplier's State code and POS lie in the same State, but recipient's State is different.
GSTIN is amended	When the supplier has amended the GSTIN, Credit shall be available to amended GSTIN only.
Taxpayer opted for composition scheme	When the document date is during the period when supplier was under the composition scheme.
Invoice date is after supplier's cancellation date	When the document date is after the effective date of cancellation of supplier.



Reversal of ITC due to wrong Place of Supply?

- IGST Credit claimed by a company located in Maharashtra claimed in which the invoice issued by Supplier had mentioned POS as Rajasthan? Should ITC be reversed?
 - Table 8A of GSTR-9 does not auto populates it?
 - Legal Backing?
- CGST & SGST credit claimed by a company located in Maharashtra, where the invoice was issued by a vendor located in Rajasthan?



Clarification in GSTR-2B

- Section 16(2) (aa) to be notified for 100% ITC matching
- Section 16(2)(aa) is proposed to be inserted through Finance Act, 2021, which would provide for 100% matching between GSTR-2B and GSTR-3B.
- It has been clarified that once the section 16(2)(aa) gets notified, Rule 36(4) would be amended to restrict ITC to the extent the invoices/ debit notes are communicated to the registered person in FORM GSTR-2B.
- Presently as per Rule 36(4) provides for restriction on ITC availment upto 105% of the ITC reflected in GSTR-2A/B.



Eligibility and Conditions for taking ITC – Section 16

Changes:

16 (2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless

(a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed

(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37

Effective Date:

- 1st January, 2022



Time Zones for “MATCHING” of ITC

1-7-17 to 8-10-19	9-10-2019 to 31-12-2021	1-1-2022 onwards
<p>GSTR-2A / 3B matching was not mandatory</p> <p>All notices for reversal of ITC are invalid</p>	<p>GSTR-2A/ 3B matching was required up to extent of 120 % / 110% or 105%</p> <p>Matching could have been done on gross basis post-facto</p>	<p>GSTR-2B / 3B matching is mandatory now.</p> <p>The matching has to be on individual invoice level but not on gross level</p>



Eligibility and Conditions for taking ITC – Section 16

Impact:

- Validity of Rule 36(4) has been challenged across India in various High Courts. Hence source of power for matching GSTR-2A with ITC availed in GSTR-3B was always in question.
- Now given insertion gives necessary legal backing for matching of GSTR- 2B with ITC availed in GSTR-3B
- The given amendment does specifies taking 105% of ITC as appearing in GSTR-2A/2B. Hence 100% matching in on the cards for avilment of ITC
- Whether Rule 36(4) shall still remain operative after its enactment?

—(4) No input tax credit shall be availed by a registered person in respect of invoices or debit notes the details of which are required to be furnished under subsection (1) of section 37 unless,-

(a) the details of such invoices or debit notes have been furnished by the supplier in the statement of outward supplies in FORM GSTR-1 or using the invoice furnishing facility; and

(b) the details of such invoices or debit notes have been communicated to the registered person in FORM GSTR-2B under sub-rule (7) of rule 60.}}



Rule 60

- RULE [60. Form and manner of furnishing details of inward supplies. —
- (1) The **details of outward supplies furnished by the supplier in FORM GSTR-1** or using the IFF shall be **made available electronically to the concerned registered persons (recipients) in Part A of FORM GSTR-2A**, in FORM GSTR-4A and in FORM GSTR-6A through the common portal, as the case may be.
- (7) An **auto-drafted statement containing the details of input tax credit** shall be made available to the registered person in FORM GSTR-2B, for every month, electronically through the common portal, and shall consist of



Implication

GSTR-2A

- System-generated (auto-populated) statement reflecting inward supplies (purchase-related transactions)
- It is dynamic and is updated continuously
- Doesn't provide bifurcation of eligible input tax credit and ineligible input tax credit
- Collects/ complies data on the basis of returns filed by the supplier in Form GSTR-1; Form GSTR-5; Form GSTR-6; Form GSTR-7 and Form GSTR-8

GSTR-2B

- System-generated (auto-populated) statement reflecting input tax credit details.
- It is a static documents on the 12th of the succeeding month
- Briefly bifurcates the eligible and ineligible input tax credit.
- Complies data from Form GSTR-1; Form GSTR-5 and Form GSTR-6 filed by the supplier.



Implication

GSTR-2A

- When Supplier files return of any previous period, then ITC will be reflected in the GSTR – 2A of the previous period for which it is filed.
- Eg: GSTR 1 of April filed in July , ITC will be reflected in GSTR – 2A of April.

GSTR-2B

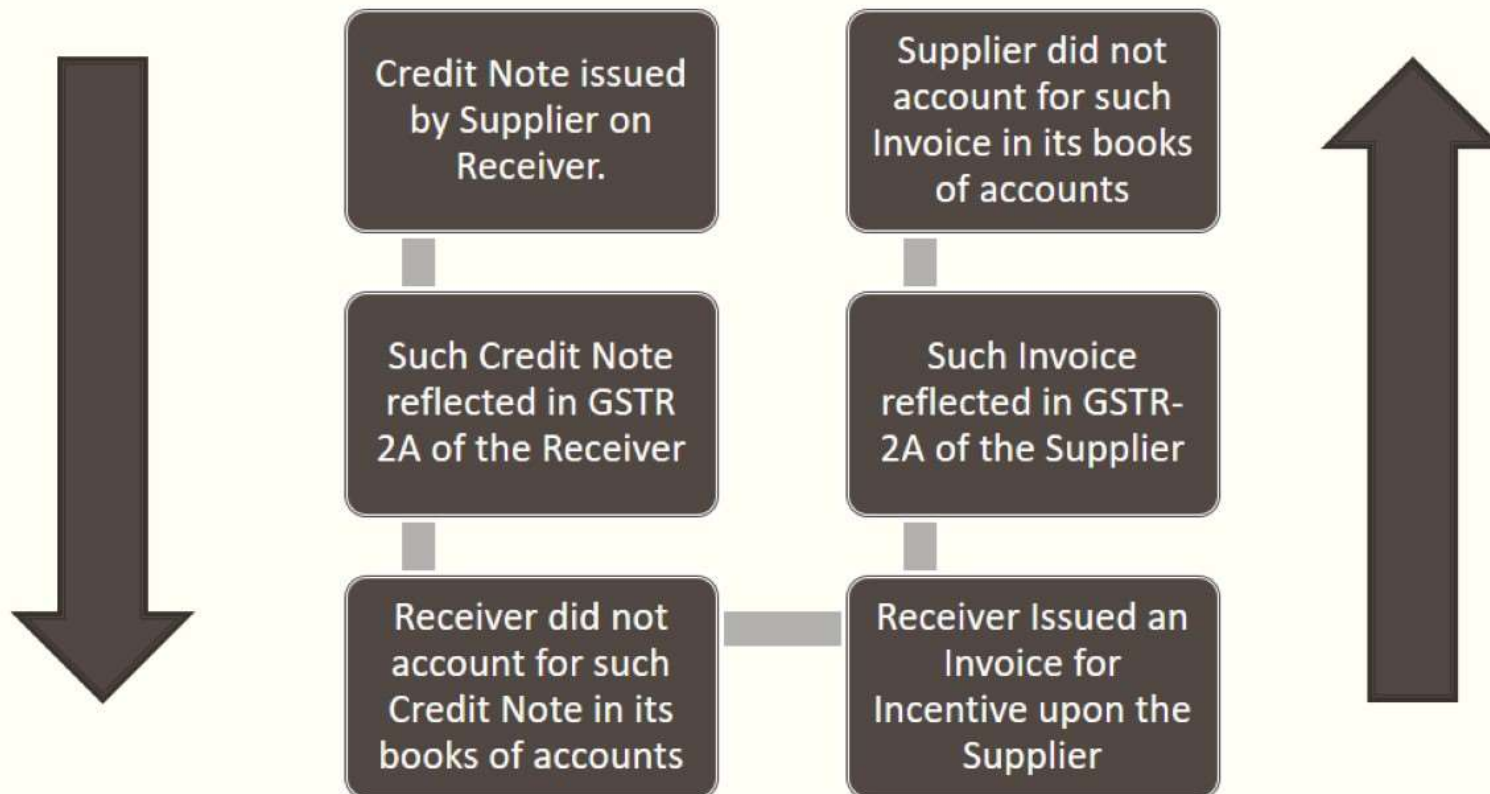
- When Supplier files return, of any previous period then ITC will be reflected in the GSTR – 2B of the current period in which it is filed.
- Eg: GSTR-1 of April filed in July , ITC will be reflected in GSTR – 2B of July .



CREDIT NOTES AND GSTR-2A



Issues in GSTR-2A- Credit Note vs Invoices





Credit Notes and Debit Notes

Credit Notes

- Proof of “Incidence of Tax” not passed on.
- Taking necessary certificate from the customer for reversal of ITC
- Copies of GRN, E-Way Bill for receipt of rejected goods
- Recording of Credit Note as Sales Return or part of claims, damages
- To ensure Purchase Invoice of customer is not entertained
- Delinking of C/N does not mean that time limit for issuance has been extended from 17.09.2020

Debit Notes

- Segregating Financial vis-à-vis GST Debit Notes
- Ensuring to GST effect not taken of Debit Note issued by the customer.
- Taking ITC of Debit Notes issued for prior periods also from the supplier in the current FY (2020-21) after 1.01.2021
- For debiting account of customer, employee or vendor for tolerating any situation check if requirement of issuance of “Tax Invoice” is there.



TABLE 5 OF GSTR 9C



Table 5

Pt. II	Reconciliation of turnover declared in audited Annual Financial Statement with turnover declared in Annual Return (GSTR9)		
5	Reconciliation of Gross Turnover		
A	Turnover (including exports) as per audited financial statements for the State/UT (For multi-GSTIN units under same PAN the turnover shall be derived from the audited Annual Financial Statement)		
B	Unbilled revenue at the beginning of Financial Year	(+)	
C	Unadjusted advances at the end of the Financial Year	(+)	
D	Deemed Supply under Schedule I	(+)	
E	Credit Notes issued after the end of the financial year but reflected in the annual return	(-)	
F	Trade Discounts accounted for in the audited Annual Financial Statement but are not permissible under GST	(+)	
G	Turnover from April 2017 to June 2017	(-)	
H	Unbilled revenue at the end of Financial Year	(-)	
I	Unadjusted Advances at the beginning of the Financial Year	(-)	
J	Credit notes accounted for in the audited Annual Financial Statement but are not permissible under GST	(+)	
K	Adjustments on account of supply of goods by SEZ units to DTA Units	(-)	
L	Turnover for the period under composition scheme	(-)	
M	Adjustments in turnover under section 15 and rules thereunder	(+/-)	
N	Adjustments in turnover due to foreign exchange fluctuations	(+/-)	
O	Adjustments in turnover due to reasons not listed above	(+/-)	
P	Annual turnover after adjustments as above	<Auto>	
Q	Turnover as declared in Annual Return (GSTR9)		
R	Un-Reconciled turnover (Q - P)	AT1	
6	Reasons for Un - Reconciled difference in Annual Gross Turnover		



Some Learnings

- Turnover should be
 - Revenue from Operations?
 - Total of Credit Side?
 - Total of Outward Register?

- 50 should contain figures?
 - Eg : Accounting Provisions
 - Minimum figures
 - Reason for figures in 50 should be mentioned in Table 6



RATE WISE LIABILITY TABLE



Other Cross Head Taxes?

Scenario	Possible Outcome
Correct IGST charged in invoice and collected from customers. Tax wrongly paid as CGST + SGST	
Wrong CGST+SGST charged on invoice instead of IGST. However, while paying correct type of taxes IGST paid.	
Wrong CGST + SGST charged from Customer and paid instead of IGST	



TABLE 12 & 14



Table 12 & 14

Pt. IV Reconciliation of Input Tax Credit (ITC)			
12	Reconciliation of Net Input Tax Credit (ITC)		
A	ITC availed as per audited Annual Financial Statement for the State/UT (For multi-GSTIN units under same PAN this should be derived from books of accounts)		
B	ITC booked in earlier Financial Years claimed in current Financial Year	(+)	
C	ITC booked in current Financial Year to be claimed in subsequent Financial Years	(-)	
D	ITC availed as per audited financial statements or books of account		<Auto>
E	ITC claimed in Annual Return (GSTR9)		
F	Un-reconciled ITC		ITC 1
13	Reasons for un-reconciled difference in ITC		
A	Reason 1	<<Text>>	
B	Reason 2	<<Text>>	
C	Reason 3	<<Text>>	
14	Reconciliation of ITC declared in Annual Return (GSTR9) with ITC availed on expenses as per audited Annual Financial Statement or books of account		
	Description	Value	Amount of Total ITC
	1	2	3
			Amount of eligible ITC availed
			4



Interest on ITC availed but not utilized not to be levied

For wrong availment of ITC?

- No express mechanism in the law.
- Interest liability to be discharged by taxpayer only on ineligible ITC availed and utilized at the rate of 18% w.e.f. 1st July 2017 under Section 50(3) of the CGST Act.
- Retrospective Amendment proposed
- Retrospective application of Section 50 for applicability of interest on net tax liability i.e. for amount paid through cash only is proposed to be notified at the earliest



PART V : ADDITIONAL TAX PAYMENT



Part V: Additional Liability due to Non Reconciliation

- **No longer it is a certification by CA / CWA**
- Any other amount paid for supplies not included in Annual Return (GSTR-9)
- Erroneous refund to be paid back
- Outstanding demands to be settled

Pt. V	[Additional Liability due to non-reconciliation]					
	Description	Value	To be paid through Cash			Cess, if applicable
			Central tax	State tax/ UT tax	Integrated tax	
1	2	3	4	5	6	
	5%					
	12%					
	18%					
	28%					
	3%					
	0.25%					
	0.10%					
	[Others				-]	
	Input Tax Credit					
	Interest					
	Late Fee					
	Penalty					
	Any other amount paid for supplies not included in Annual Return (GSTR-9)					
	Erroneous refund to be paid back					
	Outstanding demands to be settled					
	Other (Pl. specify)					



PAYMENT OF TAX THROUGH ITC?



Can ITC be used for payment of tax determined under GSTR 9/9C?

- SECTION 41. Claim of input tax credit and provisional acceptance thereof. — (1) Every registered person shall subject to such conditions and restrictions as may be prescribed, be entitled to take the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited on a provisional basis to his electronic credit ledger.
- (2) The credit referred to in sub-section (1) shall be utilised only for payment of self-assessed output tax as per the return referred to in the said sub-section.

SECTION 49. Payment of tax, interest, penalty and other amounts

(4) The amount available in the electronic credit ledger may be used for making any payment towards **output tax** under this Act or under the Integrated Goods and Services Tax Act in such manner and subject to such conditions and within such time as may be prescribed.



Pre-Deposit only through Cash Ledger

- **1st Appeal: 10% of Disputed Tax**
- **2nd Appeal: Additional 20 % of Disputed Tax**
- **M/s JYOTI CONSTRUCTION Vs DEPUTY COMMISSIONER OF CT AND GST BARBIL CIRCLE, JAJPUR AND ANOTHER 2021-TIOL-2007-HC-ORISSA-GST**
- Held: It is not possible to accept the plea of the Petitioner that “Output Tax”, as defined under Section 2(82) of the OGST Act could be equated to the pre-deposit required to be made in terms of Section 107(6) of the OGST Act
- Court is unable to find any error having been committed by the appellate authority in rejecting the Petitioner's contention that the ECRL could be debited for the purposes of making the payment of pre-deposit –



DOCUMENTATION



Standard & **Ideal** Documentation

Outward Register with **E-Way Bill Details**

Inward Register **reconciled with GSTR 2A**

RCM Register with **bifurcation of R/UR supplier**

Stock Register **with details of wastage & E-Way Bill**



Annexures with GSTR-9C

Disclosures with Cavets

Observations

Methodology adopted for Filing GSTR-9

Table 8 or 9 of GSTR-9



THINGS TO WATCH OUT



Points to Consider

- Disallowance of Expenses in IT Return u/s 37.
 - ITC reversal?
- Impact of judgement by Hon'ble SC in case of VKC Footsteps on Inverted Duty Structure
 - Suo-motto paying back of refund along with interest
- Delayed monthly returns
 - Disclosure Note on Sec 16(4)?
- Giving Additional Notes
 - Non reversal of ITC under Rule 42
 - Non checking condition of payment of tax within 180 days
 - Non maintenance of Stock Records
 - Payment of Tax under Protest / Tax Positions taken

Sec 126(5) When a person voluntarily discloses to an officer under this Act the circumstances of a breach of the tax law, regulation or procedural requirement prior to the discovery of the breach by the officer under this Act, the proper officer may consider this fact as a mitigating factor when quantifying a penalty for that person.



OTHER RECENT UPDATES



PROVISIONAL ATTACHMENT



Provisional Attachment – Section 83

Changes:

(1) Where, after the initiation of any proceeding under Chapter XII, Chapter XIV or Chapter XV, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue it is necessary so to do, he may, by order in writing, attach provisionally, any property, including bank account, belonging to the taxable person or any person specified in sub-section (1A) of section 122, in such manner as may be prescribed.

Effective Date:

- Date of Enactment

Impact:

- Earlier coverage was restricted to proceedings under Section 62, 63, 67, 64, 67, 73 or 74. Now chapters of Assessment Demand & Recovery
- Now, it means in case of following also , provisional attachment can be done
 - Scrutiny assessment (ASMT-10), & Assessment in certain cases (fast tracked),
 - Issuance of Summon, Access to Business Premises,
 - Tax collected not paid & Tax wrongfully collected
- Attachment of property of persons who are covered by Section 122(1A) i.e. persons who are the beneficiaries or at whose instance the fake invoicing transactions are carried out



Implication

- Beware of following notices **(DO NOT IGNORE)**
- ASMT-10
 - Always give a detailed reply.
- Visit of departmental officer at premises
 - Ensure all premises are added in GST RC
 - Ensure records are proper
- Summon issued under Sec 70
 - Do not ignore a summon
 - Give specific called for information
- Excess Tax collected but not paid
 - Pay tax and then claim refund



E-WAY BILL AND VEHICLE INTERCEPTION



Detention and Seizure– Section 129

Changes:

Current Provision	New Provision
(a) on payment of the applicable tax and penalty equal to one hundred per cent. of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two per cent. of the value of goods or twentyfive thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such tax and penalty;	(a) on payment of penalty equal to two hundred per cent. of the tax payable on such goods and , in case of exempted goods, on payment of an amount equal to two per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such penalty
(b) on payment of the applicable tax and penalty equal to the fifty per cent. of the value of the goods reduced by the tax amount paid thereon and, in case of exempted goods, on payment of an amount equal to five per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such tax and penalty;	(b) on payment of penalty equal to fifty per cent. of the value of the goods or two hundred per cent. of the tax payable on such goods, whichever is higher , and in case of exempted goods, on payment of an amount equal to five per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such penalty;”;
(c) upon furnishing a security equivalent to the amount payable under clause (a) or clause (b) in such form and manner as may be prescribed	No Change



Detention and Seizure– Section 129

Changes:

Current Provision	New Provision
(2) The provisions of sub-section (6) of section 67 shall, mutatis mutandis, apply for detention and seizure of goods and conveyances	Omitted (Provisional Release on execution of Bond and furnishing security)
(3) The proper officer detaining or seizing goods or conveyances shall issue a notice specifying the tax and penalty payable and thereafter, pass an order for payment of tax and penalty under clause (a) or clause (b) or clause (c).	(3) The proper officer detaining or seizing goods or conveyance shall issue a notice within seven days of such detention or seizure , specifying the penalty payable, and thereafter, pass an order within a period of seven days from the date of service of such notice , for payment of penalty under clause (a) or clause (b) of sub-section (1).
(4) No tax, interest or penalty shall be determined under sub-section (3) without giving the person concerned an opportunity of being heard.	(4) No tax, interest or penalty shall be determined under sub-section (3) without giving the person concerned an opportunity of being heard.
(5) On payment of amount referred in sub-section (1), all proceedings in respect of the notice specified in sub-section (3) shall be deemed to be concluded.	No Change



Detention and Seizure– Section 129

Changes:

Current Provision	New Provision
(6) Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty as provided in sub-section (1) within [fourteen days] of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130	<p>“(6) Where the person transporting any goods or the owner of such goods fails to pay the amount of penalty under sub-section (1) within fifteen days from the date of receipt of the copy of the order passed under sub-section (3), the goods or conveyance so detained or seized shall be liable to be sold or disposed of otherwise, in such manner and within such time as may be prescribed, to recover the penalty payable under sub-section (3):</p> <p>Provided that the conveyance shall be released on payment by the transporter of penalty under sub-section (3) or one lakh rupees, whichever is less:</p> <p>Provided further that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of fifteen days may be reduced by the proper officer</p>

Impact:

- Time limit for recovery starts only after passing of order
- Conveyance can be released on payment of Rs 1 lac (minimum) (Not Goods)
- Delinking of provisions of Section 129 and Section 130
- Sale without vesting of property of goods with Government- Is that possible?



TAX ON CLUBS / ASSOCIATIONS



Meaning and Scope of Supply – Section 7

Changes:

7. (1)(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.

For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, **the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another**

Effective Date:

- 1st July 2017

Impact:

- Overturing effect of the decision passed by Hon'ble SC in the case of Calcutta Club Ltd wherein due to operation of concept of mutuality the levy of Service Tax and Sales Tax on supplies by the Clubs, Societies and Unincorporated Associations to its members was struck down



Meaning and Scope of Supply – Section 7

Changes:

Omitted

Schedule-II: ACTIVITIES [OR TRANSACTIONS] TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

The following shall be treated as supply of goods, namely :—

Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.

Effective Date:

- 1st July 2017

Impact:

- The above paragraph becomes redundant with insertion of Section 7(1)(aa)



CHANGES IN TAX RATES



Works Contract Services- Exemption Withdrawan

- Earlier, various exemptions were available when service was provided to '**Governmental Authority /Entity**'.
- W.e.f. 1.01.2022, vide Not. No. 16/2021-CT (R) dated 18.11.2021, certain exemptions have been withdrawn [such as sr. no. 3 of Not. No. 12/2017-CT (R) which provided exemption to pure services provided, *inter-alia*, to 'Governmental Authority /Entity'].
- Thus, its recommended:
- To revisit exemptions claimed, if any (say service provided to 'Governmental Authority /Entity')
- If service has become taxable then raise invoice for December 2021 month on or before 31.12.2021
- To review the Agreements/ Tenders and discuss with recipient levying GST, if applicable



SERVICE OF THE NOTICE



Service of Notice / Orders

- **SECTION 160. Assessment proceedings, etc., not to be invalid on certain grounds. —**
- (1) No assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings done, accepted, made, issued, initiated, or purported to have been done, accepted, made, issued, initiated in pursuance of any of the provisions of this Act shall be invalid or deemed to be invalid merely by reason of any mistake, defect or omission therein, if such assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings are in substance and effect in conformity with or according to the intents, purposes and requirements of this Act or any existing law.
- (2) The service of any notice, order or communication shall not be called in question, if the notice, order or communication, as the case may be, has already been acted upon by the person to whom it is issued or where such service has not been called in question at or in the earlier proceedings commenced, continued or finalised pursuant to such notice, order or communication.



Service of Notice

- **SECTION 169. Service of notice in certain circumstances.** — (1) Any decision, order, summons, notice or other communication under this Act or the rules made thereunder shall be served by any one of the following methods, namely :—
 - (a) by giving or tendering it directly or by a messenger including a courier to the addressee or the taxable person or to his manager or authorised representative or an advocate or a tax practitioner holding authority to appear in the proceedings on behalf of the taxable person or to a person regularly employed by him in connection with the business, or to any adult member of family residing with the taxable person; or
 - (b) by registered post or speed post or courier with acknowledgement due, to the person for whom it is intended or his authorised representative, if any, at his last known place of business or residence; or
 - (c) by sending a communication to his e-mail address provided at the time of registration or as amended from time to time; or
 - (d) by making it available on the common portal; or
 - (e)... (f) ...



Rule 142

- **RULE 142. Notice and order for demand of amounts payable under the Act. — (1)** The proper officer **shall serve, along with the**
- (a) **notice** issued under section 52 or section 73 or section 74 or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130, **a summary thereof electronically in FORM GST DRC-01,**
- (b) statement under sub-section (3) of section 73 or sub-section (3) of section 74, a summary thereof electronically in FORM GST DRC-02*, specifying therein the details of the amount payable.



Service of Notice

- **M/s Shri Shyam Baba Edible Oils vs The Chief Commissioner and another (W.P. No. 16131/2020)**
- The Court concluded that the **only mode prescribed for communicating the show-cause notice/order is by way of uploading the same on “website of the revenue”**. Hence, on the basis of above reasoning, it was concluded in given case that procedure laid down in Rule 142 of the Rules has not been followed and thus the SCN issued was struck down.



Common Portal

(26) “common portal” means the common goods and services tax electronic portal referred to in section 146;

SECTION 146. Common Portal. — The Government may, on the recommendations of the Council, notify the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns, computation and settlement of integrated tax, electronic way bill and for carrying out such other functions and for such purposes as may be prescribed.

Notification No	Purpose	Website Address
04/2017-CT, dt. 19-06-2017 read with 9/2018-CT dt. 23-1-2018	For facilitating registration, payment of tax, furnishing of returns and computation and settlement of integrated tax	www.gst.gov.in
9/2018-CT dt. 23-1-2018	Furnishing electronic way bill.	www.ewaybillgst.gov.in
69/2019-CT dt. 13-12-2019	Preparation of the invoice in terms of sub-rule(4) of rule 48	(i) www.einvoice1.gst.gov.in ; (ii) www.einvoice2.gst.gov.in ; (iii) www.einvoice3.gst.gov.in ; (iv) www.einvoice4.gst.gov.in ; (v) www.einvoice5.gst.gov.in ; (vi) www.einvoice6.gst.gov.in ; (vii) www.einvoice7.gst.gov.in ; (viii) www.einvoice8.gst.gov.in ; (ix) www.einvoice9.gst.gov.in ; (x) www.einvoice10.gst.gov.in .



Thank You

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