



ESTD. - 1989

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AUDIT PROVISIONS UNDER GOODS AND SERVICES TAX (GST) ACT

What does audit mean?

As per Section 2(13) of CGST Act, "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

Objective of audit under Goods and Services Act

- 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

Types of Audit under GST

- Compulsory Audit
- Audit by Tax Authorities
- Special Audit

Compulsory Audit

Every registered person whose aggregate turnover during a financial year exceeds two crore rupees shall get his accounts audited by a chartered accountant or a cost accountant as specified under sub-section (5) of section 35

A copy of audited annual accounts and a reconciliation statement are to be furnished along with annual return as specified under subsection (2) of Section 44

Annual return is to be furnished on or before the thirty-first day of December following the end of such financial year in accordance with the provisions of sub-section (1) of section 44

Therefore, accounts shall get audited on or before the thirty-first day of December following the end of such financial year

As per section 2(6) "aggregate turnover" means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess

Audit by Tax Authorities

The Commissioner or any officer authorised by him, by way of a general or a specific order, may undertake audit of any registered person for one or more than one financial year, at the place of business of the registered person or in their office

The registered person shall be informed by way of a notice not less than fifteen working days prior to the conduct of audit by issuing a notice in FORM GST ADT-01

The audit shall be completed within a period of three months from the date of commencement of the audit.

"commencement of audit" shall mean the date on which the records and other documents, called for by the tax authorities, are made available by the registered person or the actual institution of audit at the place of business, whichever is later

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

DIRECT TAXATION

1.0 Benami assets: Registered properties valued above Rs 30 lakh under income tax scanner

In its fight against black money, the Income Tax Department is matching the tax history of people with property registrations valued above Rs 30 lakh under the provisions of the anti-benami Act. Any mismatch between the reported income and asset ownership will help tax department to identify any tax evasion.

The taxman is also matching the data of shell companies which have been debarred recently. If these companies have some benami property or any other financial transaction that the I-T department has received and that is not matching, action will be taken. In order to implement the anti-benami Act, 24 units of the department have been opened all over the country and information is being sourced from different places.

Benami properties are ones held by an owner through proxies. The 28-year-old Benami Transactions (Prohibition) Act, 1988 suffered from inherent defects. On November 1, 2016, the said Act was amended that empowered the specified authorities to provisionally attach benami properties which can eventually be confiscated. Under the new law, if a person is found guilty of offence of benami transaction by the competent court, he shall be punishable with rigorous imprisonment for a term not less than one year but which may extend to 7 years and shall also be liable to fine which may extend to 25% of the fair market value of the property.

After Rs 500 and Rs 100 notes were outlawed last year, the government launched a surgical strike on Benami Assets. The practice of buying a property in the name of someone other than the buyer has been in practice for a long time with undeclared income and with fake names and identities to avoid paying tax.

2.0 Now, link all your insurance policies to Aadhaar and PAN

In a directive that is likely to pose a huge logistical challenge to insurance providers, the regulator has made it mandatory for companies to link Aadhaar with every individual policy. The move comes even as the Supreme Court has asked

banks not to spread panic through text messages on deadlines for linking bank accounts to Aadhaar.

The task of linking insurance policies to Aadhaar would need as much effort as was required in banks. Policies are issued every year and life insurance policies have long-term validity. Life Insurance Corporation (LIC) alone is estimated to have around 29 crore policies. In addition, there are 21 crore vehicles and a significant number of health insurance policies. Last year, life insurers issued 2.67 crore policies, of which 2.05 crore were from LIC. In addition, motor, health and travel policies are issued to individuals.

There are 54 insurance companies, which include four non-life, one life and one reinsurance company in the public sector. In addition, there are two government owned insurers for exports and agriculture. In the private sector, there are 23 life insurers, 18 general insurers and five health insurance companies.

3.0 High Court annuls 6 ICDS provisions, upholds its overall validity

The Delhi High Court has struck down six of the 10 provisions under the Income Computation and Disclosure Standards (ICDS) as they overrode past judicial precedents. It, however, upheld the overall premise of this accounting principle for computing taxable income.

The introduction of ICDS had helped India improve nearly 50 places on 'ease of paying taxes' parameter in the World Bank's 'ease of doing business' ranking released earlier this month.

The court held that it was contrary to the decision of the Supreme Court earlier. "It (ICDS-II) fails to acknowledge that the valuation of inventory at market value upon settlement of accounts of the outgoing partner is distinct from valuation of the inventory in the books of the business which is continuing, the court said of the provision and held it to be ultra vires the Act.

The court also invalidated fourth ICDS provision saying: "ICDS-IV requires an assessee to recognise income from export incentive in the year of making the claim if there is 'reasonable certainty' of its ultimate collection. This is

contrary to the decision of the Supreme Court in Excel Industries, and is, therefore, ultra vires the Act and struck down as such

4.0 PAN not needed for cash sale of agri produce up to Rs 2 L/day

The revenue department said farmers do not need to quote PAN for cash sale of their produce up to Rs 2 lakh a day

The Central Board of Direct Taxes (CBDT) said in response to representations from stakeholders regarding applicability of provisions of Income-tax Act, 1961 to cash sale of agricultural produce by the cultivators/ agriculturists

The newly inserted section 269ST in the Income Tax Act bans such cash dealings on a single day, in respect of a single transaction or transactions relating to one event or occasion from an individual

The provision implies that any cash sale of an amount of Rs 2 lakh or more by a cultivator of agricultural produce is prohibited under section 269ST of the Act

Also, cultivator will not be required to quote his PAN/or furnish Form No 60 (filed by a person who does not have a permanent account number)

5.0 CBDT signs 7 more unilateral APAs with taxpayers

The Central Board of Direct Taxes (CBDT) has signed seven more advance pricing agreements (APAs) with Indian taxpayers as it looks to reduce litigation by providing certainty in transfer pricing. The seven APAs signed over the last month pertain to sectors like FMCG, semi-conductor, information technology, travel and leisure, office furniture and engineering

6.0 Enhanced compensation was taxable in year of receipt even if dispute was pending in Court

The Supreme Court of India held that where assessee received some amount of enhanced compensation as also interest thereon under an interim order passed by High Court in pending appeals relating to land acquisition, it was liable to be assessed for tax in year in which said amount had been received

Commissioner of Income-tax, Faridabad v. Chet Ram (HUF) [2017] 86 taxmann.com 103 (SC)*

7.0 Sum paid towards transmission charges for electricity won't attract TDS provision

The High Court of Calcutta held that where assessee, engaged in distribution of electricity, made payments of wheeling charges, power factor rebate, unscheduled interchanging charges, transmission charges, power interruption charges and certain other charges to Regional Load Despatch Centre, said payments not being in nature of contractual payments nor they were for receiving technical services, assessee was not required to deduct tax at source under section 194C or 194J

Principal Commissioner of Income Tax-I, Kolkata v. West Bengal State Electricity Distribution Company Ltd. [2017] 86 taxmann.com 100 (Calcutta)*

8.0 HC quashed sec. 153C notice as AO didn't record satisfaction that docs seized from other person belonged to assessee

The High Court of Delhi held that where trial balance and balance sheet seized from other person did not belong to assessee or relate to relevant assessment years and further, they could not be said to be incriminating, assumption of jurisdiction under section 153C was not justified

Principal Commissioner of Income Tax (Central) - 2 v. Index Securities (P.) Ltd. [2017] 86 taxmann.com 84 (Delhi)*

9.0 AO couldn't withhold refund merely by issuing sec. 143(2) notice claiming extended period to process refund

The High Court of Gujarat held that mere issuance of notice under section 143(2) claiming extended period for processing refund under section 143(1), would not be sufficient to withhold refund

Corrtech International (P.) Ltd. v. Deputy Commissioner of Income-tax [2017] 86 taxmann.com 156 (Gujarat)*

10.0 No TDS on sharing receipts with partners if JV was formed to submit tender & actual work was executed by partners

The High Court of Jammu And Kashmir held that where assessee, a joint venture company, was formed for only purpose of submission of tender while actual work was executed by parties to joint venture and no expenditure was incurred by joint venture itself, receipt in respect of said



contract could not be treated as assessee JV's income as there was diversion of income at source; on allocation of aggregate receipts to partners assessee-JV had no TDS obligation

*Soma TRG Joint Venture v. Commissioner of Income-tax** [2017] 86 taxmann.com 83 (Jammu & Kashmir)

11.0 Rental income from letting out properties held as stock-in-trade is taxable as income from house property

The High Court of Delhi held that where assessee-company was formed for purchasing and selling properties, earning of rental income by letting out properties owned by it was chargeable to tax under head 'income from house property' and not under head 'Profits and gains of business'

*Commissioner of Wealth-tax v. Atma Ram Properties (P.) Ltd.** [2017] 86 taxmann.com 89 (Delhi)

12.0 Interest received under Land Acquisition Act forms part of compensation; exempt u/s 10(37)

The High Court of Delhi held that where State Government had acquired assessee's agricultural land located in municipal limits, in terms of section 10(37)(i), income arising from transfer of land would not form part of total income

*Surjit Kumar Chetal v. Commissioner of Income-tax-XV** [2017] 86 taxmann.com 121 (Delhi)

13.0 ITAT justified sec. 69C additions made on account of purchases made from hawala traders

In the ITAT Mumbai Bench 'E' held that where parties from whom assessee made purchases were found to be hawala traders and despite of being given opportunity, assessee had failed to produce said parties for verification and also couldn't furnish relevant purchase documents, additions made under section 69C were justified

*PBA Infrastructure Ltd. v. Assistant Commissioner of Income-tax, 36(2)(1), Mumbai** [2017] 86 taxmann.com 198 (Mumbai - Trib.)

14.0 No penalty if wife offered due tax during assessment on sum received being beneficiary of her deceased husband

The High Court of Bombay held that where assessee was a beneficiary of amount received

as a consequence of transfer executed by her husband of which she had no knowledge and she offered that during assessment proceedings, penalty provision u/s 271(1)(c) not attracted

*Commissioner of Income-tax -3, Pune v. Smt. Madhuri Satish Misal**

15.0 Firm was eligible to claim exp. if it was disallowed in hands of partner claiming having incurred on behalf of firm

The High Court of Gujarat held that where a partner of assessee-firm claimed allowance of certain expenditure in her hands and AO did not allow them and thereafter firm presented a revised computation before AO for allowance of said expenditure in its hands, expenditure in question, if found to be incurred for purpose of business of firm, same would be allowed in its hands

*Hitech Analytical Services v. Principal Commissioner of Income-tax-3, Ahd.** [2017] 86 taxmann.com 164 (Gujarat)

16.0 No denial of sec. 54F relief just because return in response to Sec. 148 notice was filed belatedly

In the ITAT Mumbai Bench 'A' held that claim of exemption raised by an assessee under section 54F in a belated 'return of income' filed in compliance to a notice issued under section 148 is allowable

*Smt. Amina Ismil Rangari v. Income Tax Officer, Ward 17(2)4** [2017] 86 taxmann.com 160 (Mumbai - Trib.)

17.0 Deposit in capital gain scheme before due date of ITR is mandatory to claim sec. 54 deduction

*Anita Ajay Shad v. Income Tax Officer, Ward-10(2), Ahmedabad** [2017] 86 taxmann.com 246 (Ahmedabad - Trib.)

18.0 Exp. debited in P&L a/c showing regular increase was proof that assessee was carrying out business activity

*Bali Trading (P.) Ltd. v. Principal Commissioner of Income-tax, Chennai-1** [2017] 86 taxmann.com 163 (Madras)

AUDIT PROVISIONS UNDER GST..

Contd...from Pg.1

Audit to be conducted to verify, the documents on the basis of which the books of account are maintained and the returns and statements furnished under the provisions of the Act and the rules made thereunder, and the correctness of the turnover, exemptions and deductions claimed, the rate of tax applied in respect of the supply of goods or services or both, the input tax credit availed and utilised, refund claimed, and other relevant issues and record the observations in his audit notes

During the course of audit, the authorised officer may require the registered person,— to afford him the necessary facility to verify the books of account or other documents as he may require; and to furnish such information as he may require and render assistance for timely completion of the audit

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

On conclusion of audit, the proper officer shall, within thirty days, inform the registered person, whose records are audited, about the findings, his rights and obligations and the reasons for such findings in FORM GST ADT-02

Where the audit conducted results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under section 73 or section 74

Special audit

If at any stage of scrutiny, inquiry, investigation or any other proceedings before him, any officer not below the rank of Assistant Commissioner, having regard to the nature and complexity of the case and the interest of revenue, is of the opinion that the value has not been correctly declared or the credit availed

is not within the normal limits, he may, with the prior approval of the Commissioner, direct such registered person by a communication in writing in FORM GST ADT-03 to get his records including books of account examined and audited by a chartered accountant or a cost accountant as may be nominated by the Commissioner

The chartered accountant or cost accountant so nominated shall, within the period of ninety days, submit a report of such audit duly signed and certified by him to the said Assistant Commissioner

Further, the Assistant Commissioner may, on an application made to him in this behalf by the registered person or the chartered accountant or cost accountant or for any material and sufficient reason, extend the said period by a further period of ninety days

On direction, special audit to be conducted notwithstanding that the accounts of the registered person have been audited under any other provisions of this Act or any other law for the time being in force

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

The expenses of the examination and audit of records, including the remuneration of such chartered accountant or cost accountant, shall be determined and paid by the Commissioner and such determination shall be final

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

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



1.0 No GST on advance taken by FMCG companies

In a big relief to all FMCG companies and others that take advance from dealers before they supply goods, no goods and services tax (GST) would be levied on such advance

The department of revenue has issued a notification allowing the relaxation after the same was approved in the GST Council meeting in Guwahati. The notification exempts all taxpayers from payment of tax on advances received in case of supply of goods

2.0 Businesses can revise GST transition claim form now

GST Network today said businesses can now make changes to the forms uploaded on the portal to claim transition credit

The facility to revise Form GST TRAN-1 declaration has been introduced on the GST Portal for taxpayers who had already filed it prior to November 9, 2017

The facility to revise TRAN-1 declaration has been enabled for taxpayers who had already filed it, said GSTN, the company which developed the IT backbone for the new indirect tax regime. Revision can be either an increase or decrease of credit in comparison to the original credit

If the revision is to reduce the credit claimed previously then the taxpayer will be able to file only if he has sufficient balance in his credit ledger

3.0 GSTN eases process for exporters to claim refunds

The Goods and Services Tax Network (GSTN) has said that it has introduced a utility Table 6A in the Form GSTR-1 used by exporters to claim refunds. In a statement, it said Table 6A of Form GSTR1 has been introduced on the GST portal

Table 6A of Form GSTR1 allows taxpayers to file export related data for the period concerned that permits processing of the tax refund on the basis of declaration made under Form GSTR 3B and Table 6A of GSTR-1. An exporter can claim

refund of Integrated GST (IGST) paid at the time of export by filling the details of the shipping bill and tax paid GST invoice in his Form GSTR1 in the relevant month

The shipping bill filed by an exporter with customs authorities is considered to be an application for refund of the integrated tax paid on the goods exported out of India

The GSTN said that this functionality has been made available to enable exporters to file for refund as the dates for filing of GSTR-1 for August onwards have not yet been notified and the form has not been filed. GSTN Chief Executive Prakash Kumar said every registered taxable person who has made exports on payment of IGST, other than an input service distributor or compounding taxpayer or TDS deductor or TCS collector can file Table 6A of Form GSTR-1 electronically on the GST Portal

The table can be filed from the returns section of the GST Portal. The refund amount would be paid either through a credit to the exporter's bank via ECS or by cheque

4.0 Offline version for GSTR-4 preparation launched on GST portal

Flagging off preparation for the filing of GSTR-4, the quarterly return for taxpayers who have opted for Composition Levy, the Goods and Services Tax Network (GSTN) introduced an offline tool on the GST Portal for the same

The offline tool will also allow the taxpayers check final payable amount and save the return for future use. Once they are fully satisfied, they can press a button to create the return file which they will need to upload on the portal. Only for uploading the file, they will need to connect to internet

The objective of composition scheme is to bring simplicity and to reduce the compliance cost for the small taxpayers. Moreover, it is optional and the eligible person opting to pay tax under this scheme can pay tax at a prescribed percentage of his turnover every quarter, instead of paying tax at normal rate. Such taxpayers have to file returns once a quarter



12 KEY TAKEAWAYS OF 23rd GST COUNCIL MEETING

- All taxpayers are required to file monthly return in Form GSTR-3B along with payment of tax by 20th of the succeeding month till March, 2018
- Taxpayers whose annual aggregate turnover is up to Rs. 1.5 crores are required to file GSTR-1 on quarterly basis

For the period of July to September, 2017 - December 31, 2017

For the period of October to December, 2017 - February 15, 2018

For the period of January to March, 2018 - April 30, 2018

- Taxpayers whose annual aggregate turnover is above Rs. 1.5 crores are required to file GSTR-1 on monthly basis

For the period of July to October, 2017 - December 31, 2017

For November, 2017 - January 10, 2018

For December, 2017 - February 10, 2018

For January, 2018 - March 10, 2018

For February, 2018 - April 10, 2018

For March, 2018 - May 10, 2018

- The time period for filing GSTR-2 and GSTR-3 for the month of July, 2017 to March 2018 would be worked out by a Committee of Officers and till then taxpayers will not be required to file GSTR-2 and GSTR-3
- Late fees paid by taxpayers for GSTR-3B for month of July, August and September has been waived and the same will be re-credited to their Electronic Cash Ledger under "Tax" head instead of "Fee" head
- From October 2017 onwards, the amount of late fee payable by a taxpayer shall be Rs. 20 per day if tax liability for the month is 'Nil' (Rs. 10 per day each under CGST and SGST Acts)
- It has been decided to exempt suppliers providing services through ecommerce platform from obtaining compulsory registration if their aggregate turnover does not exceed Rs. 20 lakhs
- The due date of TRAN-1 has been extended to December 31, 2017 and due date for filing of GSTR-4 for the quarter July- September, 2017 has been extended to December 24, 2017

- Only 50 items will remain under 28% tax slab and tax rate of existing 177 items will be reduced from 28% to 18%. The major items on which rate has been reduced are- Furniture, Trunk, suitcase, vanity cases, brief cases, Detergents, Shampoos, Perfumes, Slabs of marbles and granite, Articles of cement or concrete or stone, Chocolates, Chewing gum and Cinematographic cameras and projectors
- It has been decided that a facility for manual filing of application for advance ruling is being introduced for the time being
- All stand-alone restaurants irrespective of air conditioned or otherwise, will attract 5% GST without Input Tax Credit. Restaurants in hotel premises having declared room tariff of less than Rs 7,500 per room per day will also attract GST of 5% without ITC
- It has also been decided that maximum "Annual turnover" eligibility for composition scheme will be increased to Rs. 2 crore from the present limit of Rs. 1 crore in the CGST Act. However, eligibility for composition will be increased from Rs. 1 crore to Rs. 1.5 crore p.a. for the time being

FINANCIAL INDICATORS

	Current Rate*	Previous Month	3 Month ago	6 Month ago
3 Month LIBOR (%)	1.38	1.33	1.31	1.31
SENSEX	33178.57	31924.41	31882.16	31531.33
NIFTY	10277.95	10016.95	10006.05	9820.25
CRR (%)	4	4	4	4
REPO (%)	6	6	6	6
REVERSE REPO (%)	5.75	5.75	5.75	5.75
Gold (per 10 gm)	31614	31767	32378	29197
Silver (per kg)	39742	41450	42300	39452
Crude (USD/bbl)	53.06	52.95	49.94	47.66
Rs vs USD	65.29	65.41	63.81	63.95
Rs vs Euro	76.99	76.30	76.39	75.11
Rs vs 100 Yen	57.81	57.87	59.15	58.77
Rs vs RMB	9.84	9.81	9.61	9.65
Rs vs Pound	86.04	81.33	84.02	83.07
MCX Aluminium (per kg)	138.30	139.11	136.31	130.45
MCX Copper (per kg)	442.85	443.05	446.06	417.9

*As on November 10, 2017

(Sources: MoneyControl, NSE, BSE, RBI, MCX)

QUICK UPDATES

- Cabinet approves the establishment of the National Antiprofitteering Authority under GST
- CA S Ravi appointed as new Chairan of BSE
- RBI asks banks to provide doorstep banking facilities to senior citizens & divyangs
- Bitcoins not to be used for payments and settlements for now - RBI
- 20572 Income Tax Returns under scanner for Detailed Investigation
- Revenue Secretary Hasmukh Adhia designated Finance Secretary
- Govt freezes 58,000 bank accounts of 35K shell Cos
- GST registration can now cancelled on GSTN portal
- CBDT extends due-date for furnishing CbCR for FY 2016-17 to 31st March, 2018
- Cabinet approves bank capitalisation plan of Rs 2.11 lakh crores
- Income Tax dept launches ONLINE CHAT to answer taxpayers queries
- SEBI sets norm for physical settlement in commodity derivative
- Leasing of vehicles purchased and leased prior to 1st July, 2017 would attract GST
- Cabinet approves MoU between SEBI and FSC
- PAN card not required for jewellery purchase above Rs 50,000

GST

- Transitional Phase Implementation
- IT System Integration
- Business Advisory Services
- Pre Implementation Guidance
- Input Credit Planning & Management



Compliances

- Preparation of Return
- Maintenance of Records
- Business Advisory Compliances



- Departmental Audit
- Preventive Audit
- Compliance Audit



Audit

- Business Operating Procedures
- Automation
- Reconciliation
- Planning



System Designing

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