Critical issues in Filing of the GSTR 9C (GST Audit)

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Role of
Chartered
Accountants

Role of a Chartered Accountant in GST Audit

• CBIC Press Release dated 03.07.2019:

• h) Role of chartered accountant or a cost accountant in certifying **reconciliation statement**: There are apprehensions that the chartered accountant or cost accountant may go beyond the books of account in their recommendations under **FORM GSTR-9C**. The GST Act is clear in this regard. With respect to the reconciliation statement, their role is limited to reconciling the values declared in annual return (FORM GSTR-9) with the audited annual accounts of the taxpayer.

Legality of Press Release

• The press release may not have any statutory enforcement. However it may depict the intention of the government, hence it may help in the interpretation of Statute. Further, in the event of any penal proceedings, such clarification may aid the taxpayer.

Issues in GST Audit

- Whether the Threshold limit is to be considered for the full Financial Year or for July'2017 March'2018?
- Whether certain transactions like the Dividend Income, Duty drawback, sale of shares and securities, Interest income, Ind AS entries, Provisional entries, sale of duty credit scrips, etc... to be considered for the computation of the threshold limit of Rs. 2 Crore?
- Reconciliations to be considered in the Annual return or in GSTR 9C?
- Assesse dealing in multiple goods and services, whether the Classification (HSN/SAC), TOS, POS etc. to be fully verified?

- Basis of Disclosure As per Press Release Dated 03.07.2019, the primary source of data should be based on GSTR 1 and GSTR 3B. However, there may be certain transactions which may not have been reported in GSTR 3B and 1. In this scenario, certain questions arises as to whether:
- a) Incremental liability on account of non-reporting of Outward liability should be reported in GSTR 9?
- b) Can we avoid reporting the same in GSTR 9 and directly pay through DRC 03 and report the same in GSTR 9C as reconciliation and state that tax is already paid under DRC 03.
- c) "No input tax credit can be reversed or availed through the annual return. If taxpayers find themselves liable for reversing any input tax credit, they may do the same through FORM GST DRC-03 separately." Where there is huge ITC c/f what if the same is not followed and DRC-03 is pulled from ITC available.

- Interest implication on the taxes deposited but not off-setted/returns not filed?
- In case of returns filed after the due date, the interest was paid on the net liability (after adjusting ITC). How to report in GSTR 9C?
- A dealer in goods, paid tax on advance received for goods in October 17, the billing was done in December 17 and tax was also paid on billing basis. What options are available with the dealer? Can he adjust the excess tax paid in the current period 3B?
- The correct tax was IGST, however the auditee has paid CGST+SGST. Should it be reported in GSTR 9C?
- ITC of CGST was wrongly taken as SGST. Should it be reported in GSTR 9C?.

• ITC wrongly claimed in GSTR-3B in 2017-18. The same was realized and was subsequently netted off in GSTR 3B of 2018-19, where in only net ITC after reversing wrong credit was claimed. How the same needs to be reported;

• ITC was claimed for FY 2017-18 by filing delayed return of March 2019. Auditee is taking the credit based on latest decision of Gujarat HC (GSTR-3B is not return). How to report in GSTR 9C?

• Books of accounts are maintained at the additional place of business instead of principal place of business. Where to report in GSTR 9C?

- Intermediary services provided by a service provider in India and service recipient is outside India. Since the Place of Supply is the location of supplier, assessee has discharged CGST and SGST on the same. Thereafter a couple of AAR's have held that IGST shall be applicable on such cases. The assessee is desirous to understand the reporting of the same in Annual return in following situations:
- a) They continue with the position as adopted for applicability of CGST & SGST.
- b) They desire to change the position to IGST.
- c) CGST & SGST charged till September 2017 and thereafter IGST.
- The auditee has registration in 3 States, but cross charging has not been done. How to report in GSTR 9C?

- GST was not paid on Advance but paid when the tax invoice is issued. How to report in GSTR 9C?
- The applicable rate of tax is 18% where as, tax has been paid at 12%. How to report in GSTR 9C?
- RCM liability not discharged and not reported under GSTR-3B for the year 2017-18. How should the disclosure for RCM liability be made in following scenarios:
 - a. RCM paid in the year 2018-19 and ITC claimed in 2018-19
 - b. RCM paid in the year 2019-20 and ITC not claimed
 - c. RCM not paid but intended to be paid through DRC-03

• RCM payments not made for first 4 months u/s 9(4). Auditee engaged in exempted supplies. Auditee feels that exemption is having retrospective effect. Should it be reported in GSTR 9C?

• ITC on input was wrongly expensed out in the books but correctly taken in GSTR 3B. How to report in GSTR 9C? What if it is a capital goods?

• Stock is written off in the books of accounts, no reversal is made in the GSTR 3B. Any reporting requirement in GSTR 9C?

- Identification/Reporting of transactions in the nature of the deemed supplies viz., FOC removals, warranty replacements, Stock transfers, trials, testing etc.
- Impact in the above case where ITC is reversed?
- Liabilities in case various recoveries/reimbursement from employees.
- Vendor recoveries with or without taxes?

- Reversal on account of 180 days Creditors ageing reports not available
- Reversal of credits on account of common inputs & input services

- GST on sale of assets to be higher of TV less Value less Depreciation of 5% per quarter;
- ITC on prepaid expenses..??
- Credit notes wrongly taken as ITC;
- Reconciliation of taxability on transportation expenses viz. with ocean freight, road freight;
- Spill over transactions specially RCM;
- Purchase returns of sales made in the earlier tax regime To be treated as Deemed supply
- Reversal of the transitional credits denied now Edu Cess, SHE Cess

- Turnover + Direct incomes & Indirect incomes;
- Whether turnover to be declared at the entity level or the GSTN level?
- In case of multi-state GSTIN's It is possible that the turnover is declared in the other GSTIN. It is more complex when two different auditors are appointed for two different registrations.
- Declaration of the Invoice for Jul 17 to Mar 18 in FY 18-19 in main return and not as an amendment;
- Inclusion of the turnover of the foreign branch/ operations;

- Export of services made, but the forex proceeds are not received within 1 year and how to report the same in the Form GSTR 9C?
- Assesse claimed for Refund of full unutilized Input tax credit in case of Inverted rate structure or export of the goods and how to report the same in the form GSTR 9C?
- ISD vs Cross Charge?
- Reporting of unbilled revenue and unadjusted advances in case of the multiple GST registration?
- Turnover to be reduced based on requirement of payment of tax under earlier laws (excise/VAT/service tax) and not as per accounting in books Posting date vs Billing Date.

- Whether entire expenses as per financial statements need not be reported in table 14?
- How to declare the details of transitional credits in Table 14?
- Limited scope of adding the fields in the template;
- Review of GST workings of FY 18-19 & 19-20;
- CN issued in FY 18-19 & against which a provision is created in the FY 17-18 needs to be reported in part V of Annual Return of FY 17-18
- Details of Demand notices received, refunds received to be reported as on the end of Financial year or as on the date?

Key Challenges

- Lack of clarity in the GST law.
- Frequent changes in the law, issuance of more than 500 notifications.
- Failure of the matching concept.
- How can an auditor give his opinion on correctness of ITC claim?
- Reliability of the audit software is not tested.
- Absence of mandatory records in most cases.
- Difficulty faced in receiving data in the proper format from the clients
- Conducting the audit or merely form filling exercise?
- Covering all the entities of the clients and all the registrations for Annual Returns & Audit

"Tax complexity itself is a kind of tax"

-Max Baucus

THANK YOU



For any clarification

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