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# Sec 65 – GST Audit

Belagavi Branch

# Types of Audit?

## 35(5) Reconciliation Statement in 9C

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- Conducted by CA
- Omitted by Finance Act, 2021

## 65 Department Audit

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- Conducted by Department

## 66 Special Audit

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- Involve a CA or CWA to conclude audit

# Scope of Audit

- Section 2(13) – Definition of 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;



# Who can audit?

- Introduction of GST – Common Fear of Trade and Industry was that Centre and State will issue notices / initiate enquiries / carry out re-assessments

- Multiple Rounds of discussions by the GST Council
- Circular No.01/2017 to assign taxpayers to Centre and State

Turnover	Centre	State
Upto < Rs 1.5 Crores	10% of the Taxpayers	90% of the Taxpayers
More than Rs 1.5 Crores	50% of the Taxpayers	50% of the Taxpayers

- State / Centre have issued Circulars for Division of Taxpayers
- Profile of the Taxpayer on the GST Portal indicates the Jurisdictional Office

## ○ Cross Empowerment

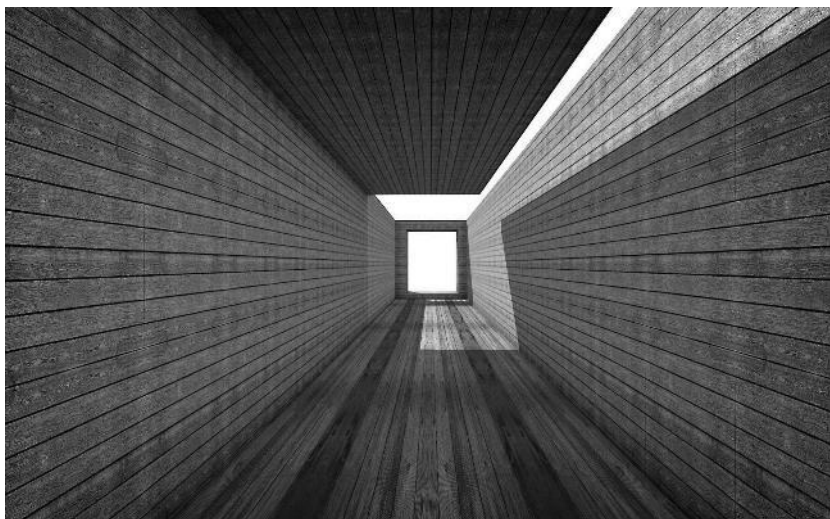
- Section 6(2)(b) – where SGST officer has initiated proceedings on **a subject matter**, CGST officer cannot initiate proceedings on the **same subject matter**
- Notification 39/2017 issued under CGST to cross empower SGST officers to sanction CGST refund
- GST Council and a subsequent clarification letter – *Both Central and State Tax Officers are authorized to initiate Intelligence based Enforcement Action on the entire taxpayer's base **irrespective of administrative control** of the taxpayers to any authority*

# Who can audit?

- Section 65(1) – The **Commissioner** or any **officer authorized by him**, by way of general or specific order
  - Audit of Registered Person only
  - Unregistered person – assessment u/s 63
  - 65(6) – Proper officer to inform about the findings – Deputy or Assistant Commissioner
  - Proper officer technically different from authorized officer

# Where can audit be conducted?

- Section 65(2) – Office of the tax authorities or place of business of the registered person
  - **Not just** Principal place of business
- Place of Business includes
  - *a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or*
  - *a place where a taxable person maintains his books of account; or*
  - *a place where a taxable person is engaged in business through an agent, by whatever name called;*
  - Transporter's Godown
  - Godown of E Commerce Operator
  - Office of the Chartered Accountant
  - Residence of the registered person



# Commencement



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# Commencement of Audit

- Officer to issue Notice in Form GST ADT 01 for commencement of audit
  - DIN if notice from Central Government
  - Period of Audit
  - Location of the Audit
  - To be issued **not less than** 15 working days prior to conduct of audit
- Commencement of Audit – **Later** of the following
  - Date on which records and other documents are furnished; or
  - Actual Institution of Audit at the place of business
- Very Important – **acknowledgement** for every document submitted
  - We refer to our discussion.....
  - In addition to the documents submitted with your good self on \_\_\_\_\_,

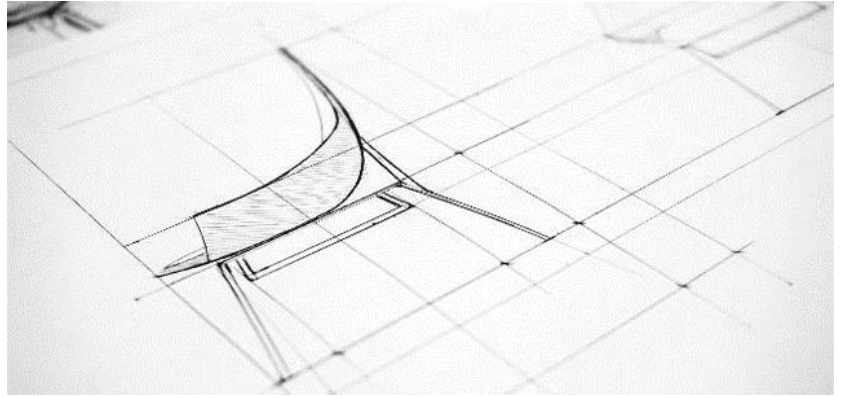


# What documents to be provided?

- Scope of Audit is quite broad
- Documents generated for GST
  - Invoice / Bill of Supply
  - Debit Note / Credit Note
  - Receipt Voucher / Refund Voucher
  - Payment Voucher
- Section 35
  - Production or Manufacture of Goods
  - Inward and Outward supply of goods or services or both
  - Stock of Goods
  - Input Tax Credit Availed
  - Output tax payable and paid
  - **Such other particulars as may be prescribed – Rule 56**
- Documents to be maintained at principal place of business
  - Branches to maintain documents related to their operations

# GST Audit Manual

<b>GSTAM - Annexure I</b>	<b>Registered Person's Master File</b>
GSTAM - Annexure II	GST AD01 - letter of intimation for conduct of audit
GSTAM - Annexure III	Documents required for Desk Review
GSTAM - Annexure IV	Ratio Analysis of Database
GSTAM - Annexure V	Comparative Chart of items from Financial Statement>Returns
GSTAM - Annexure VI	Questionnaire for review of internal control and walkthrough
GSTAM - Annexure VII	Audit Plan
GSTAM - Annexure VIII	Working Papers
GSTAM - Annexure IX	Verification of Records/Registers during conduct of audit
GSTAM - Annexure X	Format of letter to be written by the Registered Person u/s 73 (6) of CGST Act, 2017
GSTAM - Annexure XI	GST ADT 02- communicating the audit report to the registered person
GSTAM - Annexure XII	List of Local Risk Parameters
GSTAM - Annexure XIII	Check List for audit of Traders
GSTAM - Annexure XIV	Check List for audit of Composite Dealers



# At the time of audit

# Issues in Output Tax

- Credits from Suppliers
  - Secondary Discounts
  - Incentives
  - Credit Note for display of products
  - Price Support from Manufacturer
  - Price Support from Supplier
- Cross Charges
  - When credit available to recipient
- Related Party Transactions + Employee
- HSN code and Frequent amendments in GST Rates
- Accounting Income v GST Supplies
- Sale of Fixed Assets – TV or WDV
- Exempt Income
  - Reason for exemption
  - Documentation required
- Concessional Tax Rate
  - Reason for concession
  - Documentation required
- Mismatch between GSTR 1 and E Way Bill
- Cancellation Income
- Interest for delay in payment of invoice
- Reconciliation between GSTR 1 / GSTR 3B / GSTR 9 / GSTR 9C
- Tax Paid or Rectifications made in GSTR 9 / GSTR 9C or payments made in DRC 03

# Issues in ITC

- Receipt of Goods / Services

- GRN
- AMC
- E Way Bill

- Payment within 180 days

- Retention Money
- Secondary Discount

- Accounting of cost related to exempt turnover

- Sale of Securities – 1% of Selling Price

- Sale of Land or Building

- Self Invoice for RCM credits

- GSTR 2A v/s GSTR 3B

- Expenses disallowed under Income Tax

- Exempt Income

- Taxable to Exempt

- Exempt to Taxable

- Concessional Tax

- Composition to Regular

- Regular to Composition

- Invoice not carrying complete details

- Staff Welfare

- Construction Services

- Services related to car

- Tax Paid or Rectifications made in GSTR 9 / GSTR 9C or payments made in DRC 03

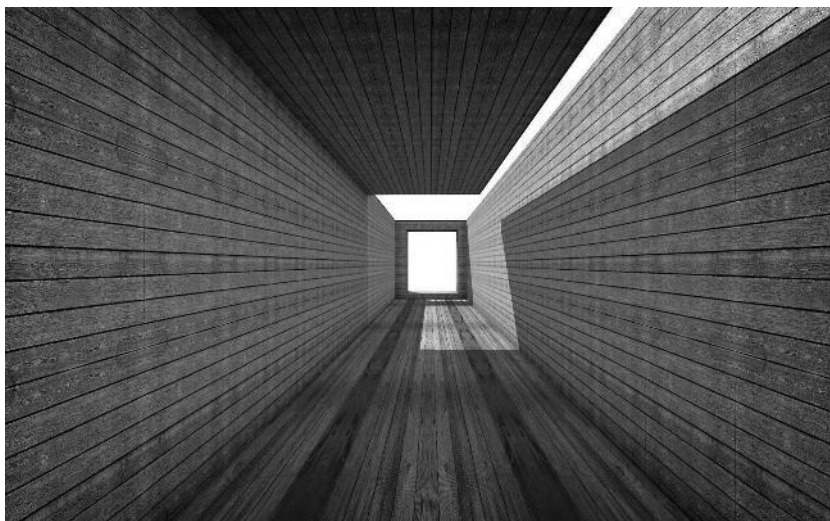
## Rule 36(2)

1. Tax Charged
2. Description of Goods / Services
3. Value of Supply
4. GSTIN of Supplier
5. GSTIN of Recipient
6. Place of Supply in case of Inter State Supply



# Issues in RCM

- Section 9(4) – Procurements from URD liable to tax under reverse charge
  - Notice being issued for payment of tax at 18%
  - “in the course of business of supplier”
  - Exemption upto Rs 5,000
- Section 9(3) / Section 5(3)
  - Tax charged by the supplier then no liability on the recipient
- Government Services
  - Exemption upto Rs 5,000
  - Fees for any act entrusted by Parliament
  - For welfare or safeguard of employees or public at large
- Goods Transport Agency Services
  - Single Truck Operator v Goods Transport Operator
  - Rs 750 / Rs 1500 exemption
- Foreign Currency Expenses
  - Credit Card Payments
  - Provisions v Actual Payments
  - Holding Company holding shares in Subsidiary Company
- Ocean Freight
  - CIF v FoB
  - Mohit Minerals
- Tax Paid or Rectifications made in GSTR 9 / GSTR 9C or payments made in DRC 03



# Completion of Audit



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# Time Limit for Completing Audit

- Audit to be completed within 3 months from the date of commencement of audit
  - Can be extended by Commissioner for another 6 months
  - If satisfied that audit cannot be completed in 3 months
  - Reasons to be recorded in writing
- Proper officer to issue Audit Report
  - Report to be issued in Form GST ADT 02
  - Audit report to be issued within 30 days from conclusion of audit
- Liability accepted
  - To be paid in cash / utilizing credit by way of DRC 03
- Liability not accepted
  - Provide a summary response with reasons for non agreement

# Liability Accepted

- Tax
  - To be discharged by Cash / Utilization of credit
  - DRC 03 can be used to pay the tax
- Interest
  - Interest at the rate of 18% p.a
  - Sufficient credit available – seek interest exemption based on retrospective amendment proposed in Section 50(1)
- Penalty
  - Voluntary Payment and hence no penalty
  - New Law so no fraud merely interpretation issue
  - Liability arising out of audit of documents – no suppression

# Liability not accepted

## ○ Tax

- If forced to pay tax, file refund claim after the audit enquiry is issued
- Else, Department to issue SCN for disputed amount

## ○ Issuance of SCN – Penalty Payable

Issuance of SCN	Section 73	Section 74
Tax and Interest paid before issuance of SCN	No Penalty	15% of Tax Amount
Tax and Interest paid within 30 days of issuance of SCN	No Penalty	25% of Tax Amount
Tax and Interest paid within 30 days of Order	10% of Tax or Rs 10,000	50% of Tax Amount
Thereafter		100% of Tax Amount

## ○ Time Limit for issuance of SCN

Issuance of SCN	2017-18		2018-19		2019-20	
Due Date for filing GSTR 9	5 <sup>th</sup> / 7 <sup>th</sup> of Feb, 2020		December 31, 2020		March 31, 2021	
SCN to be issued under	73	74	73	74	73	74
Last date for issuance of SCN	4 <sup>th</sup> / 6 <sup>th</sup> of November 2022	4 <sup>th</sup> / 6 <sup>th</sup> of Aug, 2024	September 30, 2023	June 30, 2025	December 30, 2023	September 30, 2025
Last date for issuance of Order	4 <sup>th</sup> / 6 <sup>th</sup> of Feb, 2023	4 <sup>th</sup> / 6 <sup>th</sup> of Feb, 2025	December 30, 2023	December 30, 2025	March 30, 2024	March 30, 2026





HSKA

# Thank You



Hanish S



99168 36166



hanish@hskaadvisors.com



www.hskaadvisors.com

