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By

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Dear Readers,

Greetings for the season!

Hope all of you are observing the safety measures when moving to offices and out of home. The lockdown was partially lifted but I wish to remind that threat has completely eliminated. I pray that every one of us should be healthy and least effected.

In this edition, the final part on aspect of dealing with taxation of partner/firm at the time of retirement, dissolution and contribution of asset to the firm. In this edition, we also bring the presentation on GST Audit to help the readers to understand the obligations therein. We also bring two articles on aspects which are effective from 01st Oct 2020, namely on e-invoicing and tax collection at source on sale of goods.

I hope that you will have good time reading this edition and please do share your feedback. I will also urge clients to mail us topics or issues on which you want us to deliberate in our future editions, so that we can contribute to the same.

Thanking You,

Suresh Babu S
Founder & Chairman

DIRECT TAXATION

PARTNER VIS-A-VIS CAPITAL GAINS - PART II

Contributed by CA Suresh Babu S & CA Sri Harsha

(This is Part II of two part series. Please read the earlier edition of our journal for the Part I)

The taxation when a personal asset is contributed as capital to a partnership firmand the taxation of amounts received when the partner retires from the firm or the firm dissolves is quite a complex one and no straight answers can be found. There are conflicting judgments on the said aspects and one has to carefully study between the lines to make a conscious decision as regards to taxability. In this article, we would like to dwell on the major judgments which have contributed to the resolution (or complexity)of issue.

Before proceeding to analyse and understand the relevant judgments, it is necessary to understand the central issues and let us proceed to frame the same:

Issue #1	When a firm pays certain amounts to the retiring partner, can it be said that there is a transfer from partner in favour of continuing partners?
Issue #2	When a firm allocates certain assets to retiring partner, can it be said that there is a transfer of capital asset by such firm to the retiring partner?
Issue #3	When a firm distributes capital assets at the time of dissolution, can it be said that there is a transfer of capital asset by such firm to the persons?
Issue #4	When a personal asset is being contributed as capital to a partnership firm in which the contributor becomes a partner, can it be said that there is a transfer of capital asset by such person to the firm?

In the earlier part, we have dealt with taxation in dissolution of firm and retirement of partner. In this part, we shall deal with taxation when asset is contributed to firm and conclusion of the above issues.

Contribution of Asset to Firm:

In the matter of Sunil Siddharathbhai & Kartikeya V Sarabhai [1] - Supreme Court:

(Contribution of Personal Asset to Firm – Transfer – Extinguishment of Exclusive Right – No Consideration)

The facts in both the matters were identical. For ease of understanding, we shall consider facts of one matter. The assessee, who was a partner in Suvas Trading Company, a partnership firm which was constituted on 27th Sept 1973, contributed to the capital of the firm, certain shares of limited companies which were held by him as capital assets. The book value of those shares were Rs 1,49,819 but on the date of contribution as capital to the firm, he revalued the shares at market value of Rs 1,60,279 and credited the resulting difference of Rs 10,460 to his capital account. The ITO took a view that the contribution of personal asset as capital to the firm resulted in transfer in terms of Section 2(47) and accordingly proposed to tax the difference between original value and market value as gains in the hands of partner.

The assessee contended that there is no transfer in terms of section 2(47), since the partner and firm being one and the same by pressing reliance on the judgment of Supreme Court in the matter of Malabar Fisheries Co (supra). The assessee also placed reliance on the judgment of Supreme Court in the matter of Hind Constructions Limited[2] , wherein it was held that contribution of machinery by a partner to the firm does not amount to sale and assessee therein it did not derive any income.

The Supreme Court stated that the view that when a partner brings his assets as contribution as capital in the firm, he cannot be said to be effected a sale was also taken by Allahabad High Court in the matter of Dr Kackkar[3] , Kerala High Court in the matter of Kunhammed[4] and by Madras High Court in Abdul Khader Motor and Lorry Service[5] . However, the Supreme Court stated that, while the transaction may not amount to 'sale', can it be described as transfer of some other kind?

The Court stated that 'transfer of property' connotes, the passing of rights in property from one person to another. In one case, there may be a passing of the entire bundle of rights from the transferor to the transferee. In another case, the transfer may consist of one of the estates only out of all the estates comprising the totality of the rights in the property. **In a third case, there may be a reduction of the exclusive interest in totality of rights of the original owner into a joint or shared interest with other persons. An exclusive interest in property is a larger interest than a share in that property.** To the extent to which the exclusive interest is reduced to a shared interest, it would seem that there is a transfer of interest. Accordingly, the Supreme Court held that when a partner brings in his personal asset into capital of the partnership firm as his contribution to its capital, he reduces his exclusive rights in the asset to shared rights in it with the other partners of the firm. The Court stated that while he does not lose his rights in the asset altogether, what he enjoys now is abridged right which cannot be identified with the fulness of the right which he enjoyed in the asset before it entered the partnership capital.

[1] [1985] 156 ITR 509 (SC)
[2] [1972] 083 ITR 211 (SC)
[3] [1973] 092 ITR 087
[4] [1974] 094 ITR 179
[5] [1978] 112 ITR 360

The Court further stated that when a partner brings in his personal asset into a partnership firm as his contribution to its capital, an asset which originally was subject to entire ownership of the partner becomes now subject to the rights of other partners in it. It is not an interest which can be evaluated immediately, it is an interest which is subject to operation of future transactions of the firm, and it may diminish in value depending on accumulated liabilities and losses with a fall in the prosperity of the firm. The Court also clarified the misconception that the right of partner arises at the time of retirement or dissolution by stating that the right exists at the time of admission as partner but gets settled at the time of retirement or dissolution. It was this settlement of a pre-existing right which was held not a transfer in the case of Malabar Fisheries Co (supra), Dewas Cine Corporation (supra), Bankey Lal Vaidya (supra) and Mohanbhai Pamabhai (supra). Accordingly, the court held that on introduction of personal asset into firm there will be an interest which will be created among with other partners and such interest will be settled at the time of retirement or dissolution and such introduction of personal asset by partner to the firm will fall under the ambit of 'transfer' in terms of section 2(47).

However, further the Supreme Court held that even though the introduction of personal asset into firm by partner amounts to transfer, the said transaction does not fall under the ambit of section 45, since the computation under section 48 fails, because the consideration for such transfer cannot be determined at the time of introduction of asset into the firm. The value at which the firm records the asset cannot be stated to be a true representation of consideration, because the same may be wiped off because of future losses and liabilities. The firm records the asset as notional value to give the credit to partner's capital account but the same cannot be taken as consideration for transfer. Accordingly, the court held that in absence of determination of consideration and the value fixed by firm does not represent true consideration, the charging section fails following its earlier judgment in the matter of B C Srinivasa Setty (supra).

Key Take-Aways:

The Supreme Court debunked the earlier theories of partner and firm being the same and firm cannot be called as distinct legal entity in this judgement. The holding by the court that contribution of asset by a partner to the firm as transfer is a significant step in the journey. However, the court's observation that in absence of consideration, there cannot be any tax, paved way for an amendment in Section 45(3), which we shall discuss at appropriate place.

Conclusion:

Now, taking clue from the above judgments, let us proceed to address the central issues framed at the beginning of this article.

Issue #	Issue	Response
Issue # 1	When a firm pays certain amounts to the retiring partner, can it be said that there is a transfer from partner in favour of continuing partners?	• Gujarat HC judgement in Mohanbhai Pamabhai has held that on retirement, the partners settles out their rights and nothing more happens. Since the rights were worked out, it cannot be said that there is a transfer from the partner towards the firm or continuing partners. The said judgement was approved by Supreme Court (SC). • So, until the judgement of Bombay High Court (HC) in Tribhuvandas G Patel (supra), the view which continued is that at the time of retirement, the partners only settle their rights and no transfer can be inferred. However, the Bombay HC distinguished the judgment of Mohanbhai Pamabhai (supra) by stating that in such case, the settlement among the partners has taken on the basis of notional sale of assets, which was evident from the recording of the terms of retirement and so the judgment of Mohanbhai Pamabhai (supra) would apply only where the retiring partner was settled based on the footing of notional sale. • Since, in the facts of Tribhuvandas G Patel, the retiring partner was paid certain amount in addition to his credit in his capital account and there was a deed which stated that retiring partner relinquishes his rights in the firm towards continuing partners, the Bombay HC inferred that there is a transfer by a retiring partner towards the firm and accordingly the amount received minus amount lying in credit of capital account was subjected to tax. • The Bombay HC further stated that the retiring partner while going out and while receiving what is due to him in respect of share may assign his interest by a deed or take amount and give receipt and acknowledge that he has no more claim on his co-partners. In a case, where he assigns his interest by a deed, then it would be transfer and in the other case, where he states that he has no further claims on the co-partners, there would not be transfer.

		• The Bombay HC further rejected the plea of assessee that dissolution and retirement are one and the same and the decision of Malabar Fisheries Co (supra) should be applied even in case of retirement. The plea was taken to take shelter from Section 47(ii) which stated that distribution in terms of dissolution is not transfer. However, the Bombay HC stated that there was a difference between retirement and dissolution and instance of retirement was not provided in Section 47(ii) to take an exemption by the retiring partner. • The said judgment was followed subsequently in the matter of HR Aslot (supra) and NA Mody (supra), this too by Bombay HC. • Post this, the Andhra Pradesh (AP) HC in L Raghu Kumar (supra) has followed Mohanbhai Pamabhai (supra), which is also affirmed by Supreme Court by that time and held that there cannot be any transfer inferred when a partner retires from the firm. The Court has stated that the judgments of Bombay HC in Tribhuvandas G Patel (supra) and HR Aslot (supra) were based on facts and cannot be directly applied to facts in L Raghu Kumar (supra).The AP HC further stated that the view of Bombay HC stating that the retirement and dissolution are separate events was erroneous by referring Narayanappa v. Bhaskara Krishnappa (supra). • The only shortcoming in judgment of L Raghu Kumar (supra) was that though the court has stated that the judgments of Tribhuvandas G Patel (supra) and HR Aslot (supra) were not applicable, it failed to apply the tests laid down. The Court has not took look about the mode employed for the retirement or what was the amount that was received by retiring partner, is it, lumpsum amount or amount lying credit to his account. • When the matter was taken to SC by Revenue, the SC has affirmed the decision of AP HC in L Raghu Kumar (supra) by making reference to its earlier judgment in Mohanbhai Pamabhai (supra).

		• The judgment of Bombay HC in Tribhuvandas G Patel (supra) was reversed by SC, when the matter was taken to them by assessee. The SC followed the decision of Sunil Siddharathbhai (supra) and Mohanbhai Pamabhai (supra) and held that the conclusion arrived by Bombay HC is erroneous. • Since the judgement of Tribhuvandas G Patel (supra) was reversed by SC, all subsequent judgments which were delivered based on the Bombay HC judgment would be bad law. If such a view is taken, then it appears that the judgment of Mohanbhai Pamabhai of SC should be applicable even today and all retirements should be held as not transfers and accordingly should not be subjected to tax. • However, it appears that the Tribunals post reversal of Tribhuvandas G Patel by SC, also follows the judgment of Bombay HC by stating that Tribhuvandas G Patel deals with the issue, whether retirement is also covered under Section 47(ii) and now that said section is omitted, the said judgement cannot be applied. • The Pune ITAT in Shevantibhai C Mehta (supra), Mumbai ITAT in Sudhakar M Shetty (supra) and Bangalore ITAT in Savitri Kadur (supra) followed the decision of Tribhuvandas G Patel (supra), even after reversed by SC. • From the perusal of the judgments of Tribunal, it can be inferred that as long as the settlement to retiring partner is happening to the extent of amount lying in his capital account, there cannot be any transfer. This is by following the judgement of Mohanbhai Pamabhai (supra). Where the settlement is more than credit in the capital account or lumpsum amount without reference to capital account, there exists transfer and difference between amount received and credit in capital account is treated as capital gain in the hands of retiring partner. The Bangalore ITAT in Savitri Kadur (supra) stated that even the credit in capital account is by reason of profits arising out of revaluation, said aspect should not bring any tax impact, thereby subtly distinguishing the judgment of Mumbai ITAT judgment in Sudhakar M Shetty (supra).

		• From the above discussion, it is evident that there exists two different views regarding the taxation of amounts received by retiring partner. The same are listed as under: **View #1 – Follow Mohanbhai Pamabhai:** • By following the decision of SC in Mohanbhai Pamabhai, the retiring partner can take a stand that there exists no transfer, when he retires from the firm. **View #2 – Follow Tribhuvandas G Patel:** • If the retiring partner is settled only the credit lying in his capital account, then he can still follow View#1 and take a stand that there should not be any tax. • If the retiring partner is receiving an additional amount or lumpsum amount and there is a deed in place stating that retiring partner relinquishes his rights in assets of the firm to the continuing partners, such amounts may be taxed as capital gains. This was by following the Tribhuvandas G Patel (supra) despite it was reversed by SC. **Conclusion:** • As far as the amounts received are equivalent to credit lying in the capital account of retiring partner, there would not be any tax. The issue arises only if there is a lumpsum or additional amount. • Even in such cases, we are of the view that the judgment of SC in Mohanbhai Pamabhai still holds good even today. This is for the reason that though the ITA was amended to insert Section 45(3) and Section 45(4) to arrest the tax abuse strategies, there is no amendment to get the amounts received on retirement, which suggest that the legislature favours with the view of Mohanbhai Pamabhai.

Issue #2	When a firm allocates certain assets to retiring partner, can it be said that there is a transfer of capital asset by such firm to the retiring partner?	• In the above issue, we have discussed, what would be the taxability when the retiring partner is in receipt of amount. In this issue, we shall deal with taxability when the retiring partner is allotted a capital asset instead of money. • Ideally, the taxability should not be dependent upon the mode of discharge of consideration. Hence, irrespective of the fact, that retiring partner has received money or capital asset, the taxation should not change. • However, the Bombay HC in AN Naik& Associates (supra) held that allocation of capital asset to retiring partner would be taxable under Section 45(4) in the hands of the firm. The HC stated that the term 'otherwise' used in Section 45(4) covers 'retirement' because it has to be read in connection with 'transfer' used therein but not with 'dissolution'. • Accordingly, the Bombay HC held that the distribution of capital asset to retiring partner is taxable in the hands of the firm.The HC has come to such conclusion keeping the intention of legislature behind insertion of Section 45(4). The Court stated that if Section 45(4) is to be interpreted only to cover the cases of 'dissolution', then the entire intention to get Section 45(4) goes into drain. • We are of the view that subject to our comments above, the above decision lays down a good proposition.
Issue #3	When a firm distributes capital assets at the time of dissolution, can it be said that there is a transfer of capital asset by such firm to the persons?	• The SC in Malabar Fisheries Co (supra) has held that there exists no transfer when a firm dissolve. The SC stated that the firm and partners are not different and accordingly held that there cannot be transfer from firm to partners, when the firm dissolves. • However, this is fixed after insertion of Section 45(4). The said section was brought into the tax net only to override the above judgement. Hence, post 1988, when a firm distributes capital assets on its dissolution, the said transaction would be transfer in terms of Section 45(4) and accordingly taxable.

Issue #4	When a personal asset is being contributed as capital to a partnership firm in which the contributor becomes a partner, can it be said that there is a transfer of capital asset by such person to the firm?	• The SC in Sunil Siddharathbhai (supra) has stated that when a person asset is contributed to the firm, there exists a transfer for the reason that the contributing partner loses his exclusive right in the property, which earlier he has. However, the SC stated that the amount recorded in books of the firm may not represent the true value of consideration and accordingly stated that the charge fails in absence of methodology for determination of consideration. • In order to overcome this aspect, the legislature inserted Section 45(3) treating that said transaction as transfer and consideration as the amount that was being recorded in the books of the firm.

Snapshot of Judgments:

Judgment	Forum	Aspect	F	Period	Mode	Cash	Goodwill	Rev Profit	Deed	Approval by SC
Mohanbhai Pamabhai	Guj HC	Retirement	A	Prior	Capital	Y	Y	-	Y	Y
Tribhuvandas G Patel	Bom HC	Retirement	R	Prior	Lumpsum	Y	Y	Y	Y	N
HR Aslot	Bom HC	Retirement	R	Prior	Lumpsum	Y	Y	-	Y	-
L Raghu Kumar	AP HC	Retirement	A	Prior	Capital	Y	-	-	Y	Y
NA Mody	Bom HC	Retirement	R	Prior	Lumpsum	Y	Y	-	Y	-
Shevanthibhai C Mehta	ITAT Pune	Retirement	R	Post	Lumpsum	-	-	-	Y	-
AN Naik	Bom HC	Retirement	R	Post	Assets	-	-	-	Y	-
Sudhakar M Shetty	ITAT Mumbai	Retirement	R	Post	Lumpsum	Y	-	Y	Y	-
Savitri Kadur	ITAT Bang	Retirement	A & R	Post	Lumpsum	Y	Y	Y	Y	-

Judgment	Forum	Aspect	F	J1	J2	J3	J4	J5	J6	J7	J8	J9	J10
Mohanbhai Pamabhai	Guj HC	Retirement	A	F	F	-	-	-	-	-	-	-	-
Tribhuvandas G Patel	Bom HC	Retirement	R	NF	NF	NF	-	-	-	-	-	-	-
HR Aslot	Bom HC	Retirement	R	NF	NF	NF	F	-	-	-	-	-	-
L Raghu Kumar	AP HC	Retirement	A	F	F	F	NF	NF	-	-	-	-	-
NA Mody	Bom HC	Retirement	R	-	NF	NF	F	F	-	-	-	-	-
Shevanthibhai C Mehta	ITAT Pune	Retirement	R	-	-	NF	F	F	NF	F	-	-	-
AN Naik	Bom HC	Retirement	R	-	-	-	-	-	-	-	-	-	-
Sudhakar M Shetty	ITAT Mumbai	Retirement	R	-	-	NF	F	F	NF	F	F	F	-
Savitri Kadur	ITAT Bang	Retirement	A & R	-	-	D	F	F	NF	F	NF	F	F

Legends:

Acronym	Detailed
ITAT	Income Tax Appellate Tribunal
SC	Supreme Court
Y	Yes
N	No
F	Favourable
A	Assessee
R	Revenue
Prior	Prior to 1988
Post	Post to 1988
Capital	Credit lying in his/her capital account at the time of retirement
Lumpsum	Amount paid to retiring partner without reference to Capital
F	Followed
NF	Not Followed
D	Distinguished
J1	Dewas Cine Corporation
J2	Bankey Lal Vaidya
J3	Mohanbhai Pamabhai
J4	Tribhuvandas G Patel
J5	HR Aslot
J6	L Raghu Kumar
J7	NA Mody
J8	Shevanthibhai C Mehta
J9	AN Naik & Associates
J10	Sudhakar M Shetty

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DIRECT TAXATION

TCS ON SALE OF GOODS

Contributed by CA Suresh Babu S & CA Sri Harsha

Finance Act, 2020 with an intention to widen and deepen the tax net has expanded the scope of provisions of tax collection at source for sale of goods. The obligation to collect tax at source is applicable only for specified sellers when sales were made to specified buyers, which are dealt at more appropriate place. The new provisions are made effective from 01st Oct 2020. In this write up, we shall deal with the new provision and obligations under the same.

Applicability of Section 206C(1H):

Section 206C(1H) of Income Tax Act, 1961 (for brevity 'ITA') mandates that every person, who is a seller, who receives any amount as consideration for sale of any goods of value or aggregating of such value exceeding Rs 50 lakhs in any previous year shall at the time of receipt of such amount, collect from the buyer, a sum equal to 0.1% of the sale consideration exceeding Rs 50 lakhs as income tax.

The term 'seller' is defined to mean a person whose total sales, gross receipts or turnover from the business carried on by him exceed Rs 10 Crore during the financial year immediately preceding the financial year in which sale of goods is carried out and not being a person whose is notified by Central Government in this connection. As on date, there is no notification issues exempting persons/class of persons from the current obligation. Hence, all sellers whose turnover/gross receipts/sales in Financial Year (FY) 2019-20 exceeds Rs 10 Crores, they have an obligation under this section.

However, the said obligation will come into play only if the seller who sells goods of value exceeding Rs 50 lakhs in the current year to a buyer. The term 'buyer' is defined to mean a person who purchase any goods and specifically excludes the central government, state government, an embassy, a high commission, legation, commission, consulate and the trade representation of foreign state or local authority or an importer or any other person as notified by Central Government. Further, the said obligation does not apply for sales made by the seller for goods which he has exported out of India or goods covered under Section 206C(1) or (1F) or (1G) .

Hence, the obligation to collect tax arises only if the following conditions gets satisfied:

- Total sales/gross receipts/turnover of seller exceeds Rs 10 Crores in preceding FY
- Seller should be in receipt of sale consideration from a buyer exceeding Rs 50 lakhs in current FY
- Seller is not engaged in goods covered under other notified sub-sections of Section 206C
- The goods are not exported out of India by seller
- The buyer is not an importer
- The buyer is not a central government, state government and others

Only if the seller satisfies all the above conditions, then the obligation to collect the tax from the buyer would arise. Now, let us proceed to examine, the rate of tax which the seller has to collect from the buyer.

Rate of Tax to be Collected:

Once the seller is obliged to collect the tax, the next aspect that would arise, what is the quantum of tax which has to be collected from the buyer. The section states that the seller who is in receipt of sale consideration, at the time of receipt of such amount, collect 0.1% of the sale consideration exceeding Rs 50 lakhs.

Hence, if the seller is selling goods to a buyer worth of Rs 60 lakhs, then at the time of collection of such amount from the buyer, the seller is obliged to collect an additional tax of Rs 1,000/- as tax collected at source. Let us say, sellers sells again to the same buyer goods worth of Rs 1 Crore, then the seller has to collect Rs 10,000/- as additional tax. In other words, once a buyer has exceeded threshold of Rs 50 lakhs, then all subsequent sales in the same year, would be subjected to tax collection at source at 0.1%.

It is important to note that the said obligation on seller would arise only if the transaction with a particular buyer exceeds Rs 50 lakhs in year. If the buyer does not buy goods of value exceeding Rs 50 lakhs from the seller, then the said obligation does not arise on the seller. Let us take some examples, to understand the obligation to collect:

MMM-YY	Seller	Buyer	Value	Applicable	TCS	Remarks
Nov-20	ABC Private Limited	DEF Limited	10,00,000	No	-	Total Sales exceeded Rs 50 lakhs. Hence, tax to be collected applicable for considerataaion exceeding Rs 50 lakhs.
Dec-20	ABC Private Limited	DEF Limited	25,00,000	No	-	
Jan-21	ABC Private Limited	DEF Limited	16,00,000	Yes	100	
Feb-21	ABC Private Limited	DEF Limited	50,00,000	Yes	5,000	
Total			1,01,00,000		5,100	
Nov-20	ABC Private Limited	XYZ Private Limited	15,00,000	No	-	Total Sales not exceeded Rs 50 lakhs, hence no tax to be collected
Dec-20	ABC Private Limited	XYZ Private Limited	10,00,000	No	-	
Jan-21	ABC Private Limited	XYZ Private Limited	20,00,000	No	-	
Feb-21	ABC Private Limited	XYZ Private Limited	2,00,000	No	-	
Total			47,00,000		-	
Nov-20	ABC Private Limited	XY Inc	1,00,00,000	No	-	Export, no tax collection is required
Dec-20	XY Inc	ABC Private Limited	5,00,00,000	No	-	Importer, no obligation on seller
Jan-21	ABC Private Limited	State Government	60,00,000	No	-	Buyer is State Government
Feb-21	Merc ABC Limited	Mr S	75,00,000	No	-	Car Dealer - covered under 206C(1F)
Feb-21	FE Private Limited	Mr U (Scrap Dealer)	75,00,000	No	-	Scrap covered under 206C(1)

Further, vide Press Release dated 13th May 2020, the Central Board of Direct Taxes in light of economic situation arising out of COVID-19, for facilitating more funds at disposal of taxpayers has reduced the rate of tax deduction at source and tax collection at source by 25% during the period from 14th May 2020 to 31st March 2021. Hence, in light of the above press release, the rate of tax collected at source from 0.1% shall stand reduced by 25% making effective rate of tax to be collected at 0.075%. Hence, the sellers can collect tax at the rate of 0.075% instead of 0.1% on the payments received till 31st March 2021.

Further, it is important to note that in case where the PAN or Aadhaar of the buyer is not available, then in terms of Section 206CC(1)(ii), the rate of tax to be collected is 1%. Hence, if buyer does not furnishes his PAN or Aadhar, then seller has to collect tax at the rate of 1% instead of 0.1% or 0.075%. Further, the Press Release (supra) clarified that the reduced rate is not applicable to cases where PAN/Aadhaar is not furnished by the buyer. Hence, the rate of tax will be as follows:

Date of Receipt	PAN/Aadhaar	Rate of Tax	Remarks
13th Feb 21	Yes	0.075%	Reduced Rate for payments received till 31st March 21
18th March 21	No	1%	No PAN/Aadhaar of Buyer
1st April 21	Yes	0.1%	Reduced Rate expires on 31st March 21

Issues:

There are certain issues arising from the language used in the above section and its implementation from the mid of the year. We shall discuss the same hereunder.

Issue #1: Whether the payments received post 1st Oct 20, for the sales made for the period prior to1st Oct 20 is also to be subjected to tax collection at source?

As stated earlier, the sub-section is made effective from 1st Oct 20. Hence, there would be instances where the sale consideration would be realised from the buyer post 1st Oct 20 for the sales made prior to the said period. Now, the issue, which arises, is whether tax collection has to be made on such payments which are realised post 1st Oct 20 for the sales made prior to the said date? This issue arises because the obligation to payment of tax is linked with receipt of the sale consideration.

Since the sale consideration is being received post 1st Oct 20, the tax authorities may take a view that the obligation to collect tax on such amounts too. However, since the payments pertain to the period prior to 1st Oct 20, where the sub-section is not made effective, a strong view may be put forward by tax payers stating that such payments would not be subjected to this obligation.

Further, since the sub-section states that the additional amount is to be collected from buyer, it is evident that there should be a charge when the invoice was raised, though the payment of tax is linked with receipt of consideration. Hence, in our view, the payment for the sales made for the period prior to 1st Oct 20 should not be subjected to additional tax burden. However, a clarification from CBDT is welcome.

Issue #2: Whether the threshold of Rs 50 lakhs is to be considered only from the sales made from 1st Oct 20 or for the period prior also?

The obligation arises on seller if the sales exceeds Rs 50 lakhs qua a buyer. However, for determining, whether the sales qua a buyer exceeds Rs 50 lakhs, should sales only for the period post 1st Oct should be considered or sales for the period 1st April to 30th September should also be considered? Let us say, a seller has made sales to a buyer for period 1st April to 30th September amounting to Rs 40 lakhs. For the same buyer, sales made post 1st Oct was amounting to Rs 20 lakhs.

If only sales post 1st Oct are considered, then there exists no obligation under Section 206C (1H). On the other hand, if the sales made for the period prior to 1st Oct are also considered, then the obligation exists on the seller to collect tax.

In our view, since the sub-section is uses the term 'value exceeding fifty lakh rupees in any previous year', it is safe to consider the sales made prior to 1st Oct 20 also for the purposes of determining the meeting of threshold. However, as stated in the earlier issue, the collection will only be limited to sales made post 1st Oct 20.

Issue #3: Whether while calculating the turnover/gross receipts/sales for the preceding financial year in order to determine, whether the same exceeds Rs 10 Crores or not, should indirect taxes be included?

The obligation to collected tax from the buyer arises only if the turnover/gross receipts/sales exceeds Rs 10 Crores in the preceding financial year. In other words, if the turnover/gross receipts/sales for FY 19-20 does not exceeds Rs 10 Crores, then the provisions of Section 206C (1H) would not apply. However, the question is whether for calculation of Rs 10 Crores, should the goods and services tax (for brevity 'GST') collected should also be included in the above? For example, if the turnover/gross receipts/sales is Rs 8 Crores and GST collected on such sales is Rs 2.24 Cores, then if GST is added to sales, the obligation arises under Section 206C (1H), if not, there does not exist obligation.

In our view, if GST is not included in the sale price, then the same may not be added to the turnover/gross receipts/sales for determining the threshold of Rs 10 Crores. The seller if he indicates that the price is excluding GST and the same is recovered separately from the buyer, the same need not be included to determine the turnover/gross receipts/sales.

Hence, applying above to the instant case, since turnover/gross receipts/sales is Rs 8 Crores and taxes are being collected separately, the obligation under Section 206C (1H) for FY 20-21 would not apply. Reference can also be made to Para 5.9 of 'Guidance Note on Tax Audit under Section 44AB of the Income Tax Act, 1961 ' issued by Institute of Chartered Accountants of India.

Issue #4: Whether tax has to be collected on the GST amounts collected from the buyer or only on the value of goods?

The said sub-section states that seller has to collect an amount as income tax on the sale consideration exceeding Rs 50 lakhs. In such case, a question arises, whether the 'sale consideration' should be interpreted to mean only the value of goods or entire invoice value including GST. Let us say, a seller issues an invoice for Rs 1 Crore and charges GST @ 18% on said goods. Now, the question that arises, is whether tax has to be collected on Rs 1 Crore or Rs 1.18 Crore. In our view, the GST should not be included because the sub-section states that tax has to be collected on 'sale consideration' and GST cannot be said to be 'sale consideration'. Hence, in our view, tax has to be collected on Rs 1 Crore instead of Rs 1.18 Crore.

However, the FAQs available on income tax website , while dealing with tax collection at source in terms of Section 206C (1) state that the tax collected at source should be inclusive of GST. Hence, there is a great chance that tax authorities may ask for tax collection inclusive of GST. Hence, a clarification from CBDT on this would be of great help!

S No	Particulars	Comments
1	Section under ITA	Section 206C (1H)
2	Effective From	01st October 2020
3	Obligation to collect tax	Seller
4	Obligation to pay tax	Buyer
5	Which Seller?	Those sellers whose sales/turnover/gross receipts during preceding FY > INR 10 Cr.
6	Which Buyer?	Only those buyers who have purchased more than 50 lakhs from the seller.
7	Excluded Buyers	CG,SG, local authority, embassy, High Commission, legation, consulate and importer
8	Excluded Goods	Those covered under Section 206C (1), (1F) and (1G).
9	Rate of Tax	0.1% on consideration exceeding Rs 50 lakhs.
10	Reduced Rate of Tax	0.075% for payments received till 31.03.21.
11	Rate of Tax	1% (if no PAN/Aadhaar is not available).
12	Liability to Pay	On Receipt of sale consideration from the buyer
13	Due Date for Payment	7th of next month in which sale consideration is received
14	Challan for Payment	ITNS Challan No 281
15	Form of Returns	Form 27EQ
16	Due Date for Returns	For Q3 of FY 20-21 – 15th Jan 21, For Q4 of FY 20-21 – 15th May 21
17	Interest on delayed payment	1% per month or part thereof from due date to actual date of payment
18	Interest on non-collection	1% per month or part thereof
19	Penalty for non-filing of Returns	Rs 200/- per each day of default subject to maximum of TCS payable under Section 234E
20	Other Penalties	Rs 10,000 to Rs 1,00,000/- under Section 271H. Waiver subject to certain conditions.
21	TCS Certificate	In Form 27D
22	Time Limit for Issuance	Within 15 days from due date of filing of return.

FAQs:

#	FAQ	Response
1	Is every seller obliged to collect tax?	No, only sellers whose turnover/sales/gross receipts exceed Rs 10 lakhs during the preceding previous year are obliged to collect tax.
2	A Limited is incorporated on 13th Oct 20. After incorporation, it has sold goods to PQR Limited worth Rs 1 Crore? Will A Limited required to collect tax?	No, since A Limited has incorporated during FY 20-21 and the turnover/sales/gross receipt during FY 19-20 does not exceed Rs 10 lakhs, the obligation to collect tax does not arise for FY 20-21 on A Limited.
3	Is seller required to collect tax from every buyer?	No, only such buyers who have purchased more than Rs 50 lakhs in a year are required to pay such additional amount as indicated by the seller.
4	For determining the threshold of Rs 50 lakhs, should sales made for the period 1st April to 30th Sept should be considered?	Yes, for determining, whether the buyer has made purchases more than Rs 50 lakhs or not, the purchases for the period 1st April to 30th Sept has to be taken into account. For more on this, please read Issue #2.
5	Whether tax has to be paid on payments realised post 1st Oct, for sales made for the period 01st April to 30th Sept?	No, the transactions for the period 01st April to 30th Sept is only relevant for determination of threshold but not for payment. Since, the tax obligation is made effective from 01st Oct, the past transactions cannot be subjected to this new obligation for the sole reason that they are received post 01st Oct. For more on this, please read Issue #1.
6	Whether the threshold is for all buyers or for each buyer?	The threshold of Rs 50 lakhs is applicable for each buyer. Hence, the same has to be examined with respect to each buyer and not all buyers.
7	Whether the sales made by one branch to another branch exceeding Rs 50 lakhs falls under this obligation?	No, the sales made by one branch to another branch are not treated as sales to another person, hence such sales even they exceed Rs 50 lakhs, are not subjected to this obligation.
8	Does seller require to collect for export transactions?	No, the export of goods outside India are not covered under the obligation. Hence, seller is not required to collect additional tax for export transactions.

9	Under GST, each branch in a state is treated as different person. In such a case, if seller making sale to A Limited (Telangana GSTIN) and to A Limited (Andhra Pradesh GSTIN) should aggregate for determining threshold or will it be seen qua GSTIN?	The treatment of branch of a same entity in different state as distinct establishment applies only for the purposes of GST law and not for the purposes of ITA. Hence, while making sales to A Limited, the total sales has to be considered for determining, whether A Limited has met the threshold or not. Hence, the test is for the entity as a whole and not GSTIN wise.
10	Seller raises invoice on ABC Limited for Rs 60 lakhs. On what amount is the tax to be collected? Assume this is the first invoice on ABC Limited during the year.	Since this is the first invoice, Seller has to collect tax on amount of Rs 10 lakhs, since the sub-section states that tax has to be collected on amounts exceeding Rs 50 lakhs.
11	Continuing with above, if subsequently seller raises another invoice on ABC Limited for Rs 1 Crore, on what amount should be the tax has to be collected?	Since the threshold has exhausted in the previous invoice, the tax has to be collected on the entire Rs 1 Crores.
12	In some industries, there is a practice that the buyer pays an adhoc amount and sales made to such buyer will be adjusted over a period of time. In such cases, when is the seller obliged to collect tax?	Section 206C (1H) states that tax is to be collected at the time of receipt of amount from the buyer. On the other hand, it states that such amount should be consideration of goods. On receipt of advance, seller would not normally know, whether the probable sale would exceed Rs 50 lakhs or not and accordingly he may not be in a position to collect tax on such amounts. Hence, we are of the view, that even though advance is received, only when it is appropriated against sale invoice, the obligation would trigger.
13	Are they any buyers who are exempted?	Yes, central/state government, embassy, high commission, legation, commission, consulate and trade representation of foreign state or local authority or importer is exempted from payment of such additional tax.
14	Can seller exempt buyer, if buyer files a declaration that such goods are used for manufacturing, processing or producing articles or things or for purposes of generation of power?	No, the said exemption is applicable only for sellers who are engaged in dealing the goods specified in Section 206C (1) and not for goods under Section 206C (1H). Hence, the obligation exists on seller if other conditions are met.
15	Are there any goods which are not covered under 206C (1H)?	Yes, the goods which are already covered under Section 206C (1), (1F) and (1G) are not covered under Section 206C (1H).

16	In certain industries, it is mandated by the law that the goods have to be sold through a government department to the buyers. The buyers would be paying the sale consideration to said government department and thereafter payment reaches to seller. In such cases, can seller take a stand that the said sales are made to government and hence they do not fall under the obligation to collect tax?	No, even though the sale is being made through department, since the ultimate buyer is not the state/central government, seller has to collect tax on such amounts.
17	Whether sales made to SEZ Unit can be treated as exports?	No, the sub-section excludes exports out of India. Since sales to SEZ unit are not exports outside India, the seller is required to collect tax.
18	ABC Limited has sold goods worth Rs 1 Crore to PQR. The said amounts are outstanding for long time and ABC Limited decided that the same cannot be realised and accordingly written off. In such case, is ABC Limited require to collect and pay tax?	No, since the obligation to pay arises on receipt of consideration, ABC Limited is not obliged to collect and pay any tax since the consideration has not been received.
19	Whether the amounts collected by the seller can be taken as credit by the buyer?	Yes, the tax collected by the seller will be available for the buyer in his Form 26AS and accordingly the same can be taken as credit.
20	Whether the buyer can take the tax paid to seller and set-off against his advance tax?	Yes, in terms of Section 209(1)(d), the amounts paid to seller as tax can be set-off against his advance tax.
21	Whether the tax has be collected on the invoice amounts including GST?	No, the tax has to be collected on invoice value excluding GST. Since the said section talks about sale consideration, the GST which is collected by the seller cannot be taken into for arriving tax to be collected. For more on this, read Issue #4. Since there is no clarity on this aspect, decision has to be taken judiciously.
22	Whether contract involving both supply of goods and services is also covered under this obligation?	On a bare reading of the provisions of Section 206C (1H), it appears that the said obligation arises only in case of pure trading or manufacturing instances but not in case of works contract services, where goods and services are supplied together. Since there is no clarity on this aspect, decision has to be taken judiciously.

23	What is the rate of tax that has to be applied by the seller?	The rate of tax is 0.1%. The said rate has to be applied on the sale consideration exceeding Rs 50 lakhs and collected as tax.
24	I have heard the rate of tax is 0.075%. Whether the same is correct?	Yes, in light of Press Release dated 13th May 2020, the CBDT has reduced the rate applicable for payments made during 14th May 20 to 31st Mar 21 by 25%. Hence, payments received during such period, the reduced rate of tax at 0.075% can be collected by the sellers.
25	I also heard that the rate of tax is 1%. Whether the same is correct?	The rate of tax of 1% is applicable only when the buyer does not furnish PAN/Aadhaar. In such cases, the seller is obliged to collect tax at 1%.
26	I also heard that the rate of tax is 0.75%. Whether the same is correct?	The Press Release dated 13th May 2020 clarified that the reduction of 25% shall not applicable in case of no PAN/Aadhaar. Hence, in case buyer does not furnish PAN/Aadhaar and receipt is between 14th May 20 and 31st March 21, the rate of tax shall be 1% and not 0.75%.
27	Can the buyer apply for lower rate of collection?	Section 206C (9) only allows certain assessee to apply for lower rate of collection. The said section does not cover (1H) and accordingly the buyers cannot apply for lower rate of collection. This would be a big set- back for buyers who are incurring huge losses or trading in thin margins.

This article is contributed by CA Suresh Babu S & CA Sri Harsha Vardhan K Partners of SBS and Company LLP, Chartered Accountants. The authors can be reached at suresh@sbsandco.com & harsha@sbsandco.com

GST

ALL ABOUT E-INVOICE

Contributed by CA Sri Harsha & CA Manindar

Introduction:

Sources[1] say that 535 cases involving fraudulent input tax credit(ITC) of Rs 2,565 *Crores have* been booked so far in the previous financial year. For Financial Year (FY)2018-19, the statistics were even more staggering with 1,620 cases involving fraudulent ITC claims of Rs 11,251 crore.

Thus, fake invoicing turned out to be a menace in GST implementation and is affecting the GST collections. Government is looking at e-invoicing as effective tool to curb this menace. It has been introduced w.e.f. 01.01.2020 on voluntary basis and is mandatory w.e.f. 01.04.2020.However, the same was relaxed till 30.09.2020 due to myriad reasons. As on date, the Government looks to implement the e-invoicing from 01.10.2020.

e-Invoicing— the myths and reality:

Many people think that e-invoicing involves direct generation of tax invoice in tax portal. This a myth, the invoices continues to be generated in taxpayer's billing/accounting/ERP software. The taxpayers are required to ensure that the data fields as per the prescribed format of standard invoice are adopted. The invoice shall be prepared using existing billing/accounting/ERP software of taxpayers without disrupting their existing business practices.

- Aimed at eradication of fake invoicing!
- Mandatory from 1st Oct 2020 for notified suppliers
- e-invoicing does not mean generation of invoice outside business's ERP.
- Invoice becomes e-invoice with IRN once digital sign is affixed by IR Portal.

The JSON file of the invoice so prepared has to be generated and uploaded in the specified e-invoice registration portal (IRP) which will digitally sign the uploaded invoice and generate unique Invoice Reference Number ('IRN').

Legal Framework Related to e-Invoicing:

Rule 48 (4) of CT Rules[2] provides that invoice shall be prepared by such class of registered persons as notified by Government by including such particulars contained in Form GST INV-01 after obtaining an IRN by uploading in common GST portal subject to such conditions and limitations as may be prescribed. The common GST portal for this purpose is also called Invoice Registration Portal ('IRP'). In order to cater to the requirement of heavy demand, Government has notified ten portals[3] as IRP.

[1] Article in Print Media
[2] Central Goods and Services Tax, Rules 2017
[3] www.einvoice1.gst.gov.in,www.einvoice2.gst.gov.in.....www.einvoice10.gst.gov.in

Notified Suppliers:

A registered person whose aggregate turnover in a financial year exceeding Rs. 500 Crores is notified[4] as a class of registered person who is required to issue e-invoice in respect of supply of goods or services or both to a registered person. E-Invoicing is applicable to B2B[5] GST Supplies, Export Invoices, Credit Notes, Debit Notes issued by the notified class of taxpayers. E-Invoicing is also not applicable in case of B2C[6] invoices.

E-Invoicing is not applicable to the following registered persons even though their aggregate turnover exceed the specified turnover limit of Rs. 500 crores:

- Units located in Special Economic Zones
- Insurer or a banking company or a financial institution, including NBFC (non-bankingfinancial company)
- Goods Transport Agency for transport of goods by road in a goods carriage
- Suppliers of passenger transportation service
- Suppliers of services by way of admission or exhibition of cinematograph films in multiplex screens

Benefits of e-Invoicing:

Apart from the fact that e-invoicing will prevent the menace related to fake invoicing, e-invoicing has the following advantages:

- One time reporting of B2B invoice data. The e-invoicing portal will automatically upload the invoice data in GSTR-1, e-way bill portal. Therefore, there is no need to fill in the invoice data separately in these portals.
- Substantial reduction of input tax verification issues as same data will be reported to tax department as well as to buyer/recipient.3
- e-Invoicing system will leave a complete trail of B2B invoices. This will facilitate tax administrator's system level matching of input tax credit and output tax.

- Notified Suppliers are whose aggregate turnover exceeds Rs. 500 Crs
- Required to be issued for B2B, Exports, Debit Notes, Credit Notes
- Not required in case of B2C supplies
- e-Invoicing helps in input tax verification and matching
- Saves time as data is automated in GSTR-1 and e-way bill portal

[4] NN 13/20-CT dt 21.03.2020

[5] B2B represents class of recipients who are registered under GST laws.

[6] B2C represents class of recipients who are not registered under GST law, example individual consumers.

Documents to be reported through e-Invoicing System:

Though the word 'invoice' is used in the name of 'e-Invoice', in addition to invoice, credit notes, debit notes issued by suppliers shall also be required to be reported to IRP.

e-Invoice Schema:

There are hundreds of accounting/billing/ERP software which generate invoices, but they all use their own formats to store information electronically and data on such invoices cannot be understood by the GST system if reported in their respective formats. Hence a need was felt to standardize the format in which electronic data of an Invoice will be shared with others to ensure there is interoperability of the data. The adoption of standards will in no way impact the way user would see the physical (printed) invoice or electronic invoice.

- Invoice generated will be validated by IRP and returned with digital sign.
- Validated invoice bears unique IRN and QR Code
- QR Code facilitates verification of e-invoice using offline application.

Accordingly, e-Invoice schema was introduced by prescribing invoice format in Form GST INV-1[7] under Rule 48. The said format has mandatory and optional fields. Mandatory fields are required to be included by all business while optional fields can be included or excluded as per the business requirement of each taxpayer.

Invoice Registration Portal (IRP):

Under the e-invoice system, the taxpayer who is required to generate e-invoice is required to register in the Invoice Registration Portal (IRP). Under the e-invoice system, the invoice generated by the supplier will be required to be validated in the IRP portal. As mentioned, to provide higher availability, redundancy, speed and a diversified and distributed service to taxpayers, the Government has notified[8] as many as ten IRP portals.

As on date, the portal einvoice1.gst.gov.in is the IRP that has been made operational. Further, the IRP portal and e-way bill portal are interlinked. If a taxpayer is already registered under e-way bill portal, the same login credentials can also be used for IRP portal. If a taxpayer has not previously registered under e-way bill portal and has now registered under IRP portal, then the same login credentials can also be used to login to e-way bill portal.

Under the e-invoice system, the invoice generated by the supplier will be required to be validated in a specified GST portal. As mentioned, to provide higher availability, redundancy, speed and a diversified and distributed service to taxpayers, the Government has notified as many as ten IRP portals.

[7]https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-60-central-tax-english-2020.pdf

[8]Under N. No. 69/2019-CT(R) dated 13.12.2019, ten IRP portals are from www. einvoice1.gst.gov.in to www.einvoice10.gst.gov.in are notified for this purpose.

The invoice data will be uploaded on the IRP which will also generate the hash in order to verify it and then digitally sign it with the private key of the IRP. In case the taxpayer submits hash also along with invoice data, the same will be validated by IRN system. The IRP will sign the e-invoice along with hash and the e-invoice signed by the IRP will be a valid e-invoice and used by GST/E-Way bill system.

Invoice Reference Number (IRN):

The unique IRN will be based on the computation of hash of GSTIN of generator of document(invoice or credit note etc.), year and document number like invoice number. This hash will be as published in the e-invoice standard and unique for this combination. This way hash will always be the same irrespective of the registrar who processes it. Alternatively, the hash could also be generated by the taxpayers based on above algorithm. The providers of accounting/billing/ERP software are being separately asked to incorporate this feature in their products. One can pre-generate and print it on the invoice book, however, the same will not make the invoice valid unless it is registered on the portal along with invoice details.

Quick Response (QR) Code:

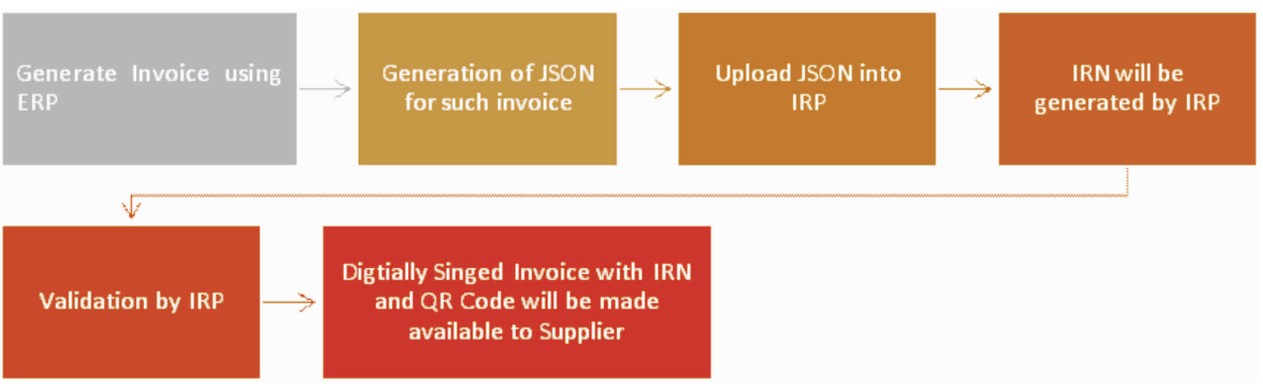
The IRP will also generate a QR code containing IRN, some important parameters of an invoice, digital signature so that it can be verified by anyone using an offline application as well. The officers can check these invoices on roadside without the help of internet. The QR code will consist of GSTIN of supplier, GSTIN of recipient, invoice number as given by supplier, Date of generation of invoice, invoice value (taxable value and gross tax), number of line items, HSN code of main item(the item having highest taxable value) and IRN.

Step by Step procedure for Generation of e-Invoice:

Generation of e-invoice will be the responsibility of the taxpayer supplying the goods or services or both. The e-invoicing system being implemented consists of two aspects viz.\

- Generation of invoice in standard format so that invoice generated on one system can be read by another.
- Reporting of e-invoice to a central system

The broad procedure involved is as follows:

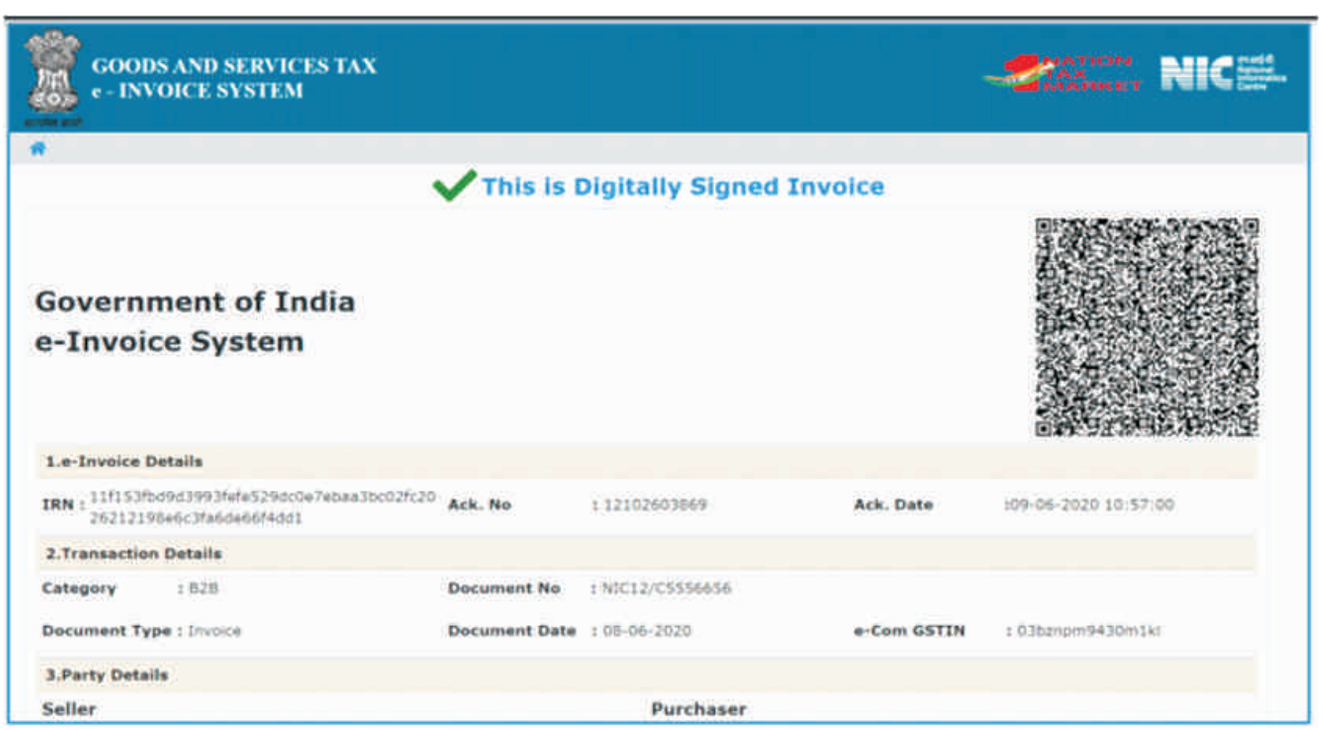


The digitally signed e-invoice received in JSON shall be converted into readable formats viz. word/PDF and can be printed for the purpose of sharing to the corresponding recipient, transporter and for other purposes.

Upon generation of e-Invoice in the IRP portal, the details of e-invoice will be shared by IRP portal with GST portal and e-way bill system. The GST portal will update the details of the said invoice under B2B column of respective month GSTR-1 return. The e-way bill system will fill in the Part-A of the e-way bill based on the details of e-invoice received from IRP and the respective supplier is required to fill in Part-B of the e-way bill by filling relevant details of the transporter in order to generate e-way bill. Thus e-invoice system is not only a tax reform but also a business reform as it makes e-invoices inter-operable eliminating duplication of efforts and avoiding transcription and other errors.

Generation of Json file from Invoice Generated in ERP/Accounting Package:

Json file for the invoice generated in ERP/Accounting package can created using API access tools. Json file can be generated based on invoice generated in ERP/Accounting package using web system or bulk upload system. Under web system, invoice details can be typed in the portal to generate Json file. Whereas under bulk upload system, the taxpayers can download an offline tool from IRP Portal .Details of more than one invoice can be uploaded in the offline tool. After validating the data filled in offline tool, Json file can be generated. The said Json file can be uploaded in the IRP portal and can be validated. Upon validation, e-invoice involved will be digitally signed in the portal and a unique has code called IRN. After validating the IRN, e-invoice generated in the portal can downloaded in PDF format. A sample copy of e-invoice is given as under:



GOODS AND SERVICES TAX
e - INVOICE SYSTEM

This is Digitally Signed Invoice

Government of India
e-Invoice System

1.e-Invoice Details

IRN : 11f153fbd9d3993fefe529dc0e7ebaa3bc02fc2026212198e6c3fa6da66f4dd1 | Ack. No : 12102603869 | Ack. Date : 09-06-2020 10:57:00

2.Transaction Details

Category : B2B | Document No : NIC12/CS556656

Document Type : Invoice | Document Date : 08-06-2020 | e-Com GSTIN : 03bznpm9430m1kl

3.Party Details

Seller | Purchaser

GST

GST AUDIT

Contributed by CA Sri Harsha & CA Manindar

Coverage

- ❑ Statutory Background
- ❑ Objective of GST Audit Reconciliation
- ❑ Overview of Annual Return
- ❑ Overview of Reconciliation Statement
- ❑ Reconciliation of Turnover
- ❑ Reconciliation of Tax Payment
- ❑ Reconciliation of ITC
- ❑ Practical Issues

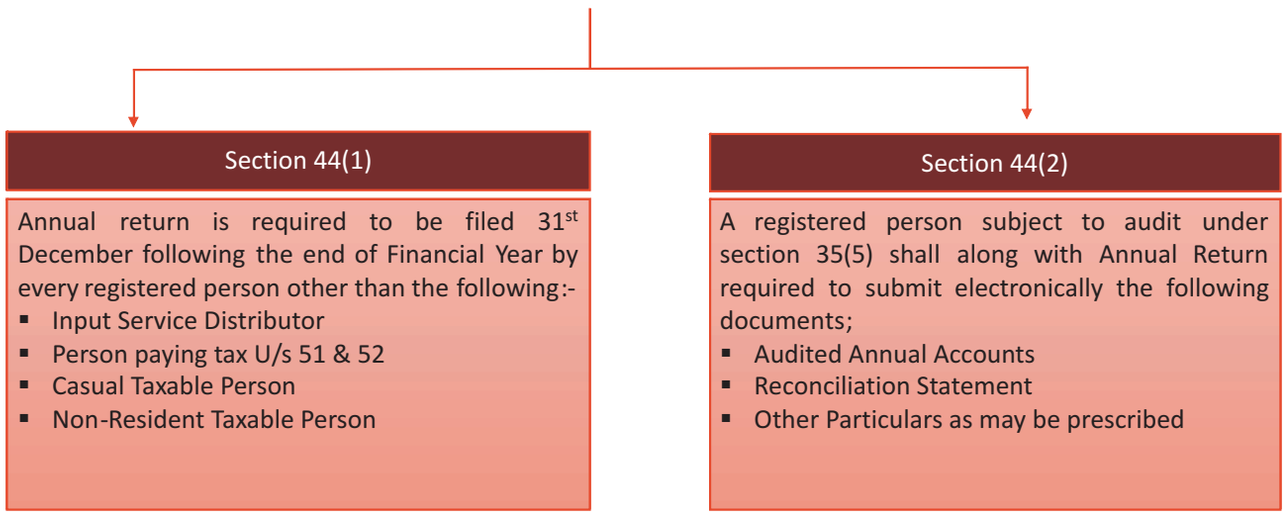
Statutory Requirement of Annual Returns & Audit

*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 sub-section (2) of section 44 and such other documents** in such form and manner as may be prescribed.*

*Provided that **nothing contained in this sub-section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor** appointed for auditing the accounts of local authorities under any law for the time being in force.*

- ❑ A registered person is subject to audit if turnover during the FY exceeds the prescribed limit
- ❑ The audit can be undertaken by a cost accountant or chartered account
- ❑ The auditor is required to submit a copy of annual accounts, reconciliation statement as specified under Section 44(2) and other prescribed documents.
- ❑ This audit is not applicable to a department of CG, SG, LA, whose books of accounts are subject to C&AG Audit

Requirement of Annual Return- Section 44



Turnover Prescribed for Audit-Rule 80

- Section 35(5) provides *"whose turnover during a financial year exceeds the prescribed limit"*
- Rule 80 provides for this turnover threshold for Audit— *Aggregate Turnover exceeds two crore rupees during the financial year.*
- Aggregate Turnover—

"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

Registered person with exempted turnover is also covered by GST Audit

*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.*

*Provided that every registered person **whose aggregate turnover during the financial year 2018-2019 exceeds five 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 for the financial year 2018-2019, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.*

Threshold limit of Five Crores is Applicable only for FY 2018-19

Relaxation from filing of Annual Return

Notification No. 47/2019-CT dated 09th October 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.

Deeming fiction w.r.t filing of return is to align with the limitation requirement of section 73 and 74

Whether the turnover limit would be increased up to 5 crores for FY 2018-19?

Circular No. 124/43/2019 – GST:

- It is provided that the annual return shall be deemed to be furnished on the due date if it has not been furnished before the due date for the financial year 2017-18 and 2018-19, in respect of those registered persons. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the said Act, hereby clarifies the issues raised as below

- After the due date of furnishing the annual return for the year 2017-18 and 2018-19, the common portal shall not permit furnishing of FORM GSTR-9/9A for the said period.

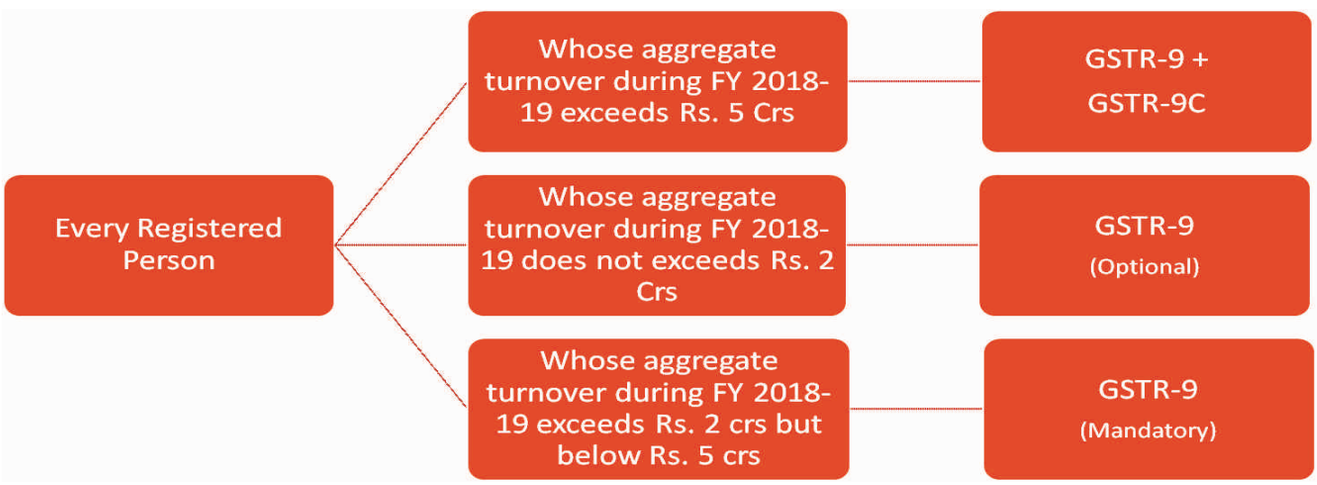
- If any registered taxpayer, during course of reconciliation of his accounts, notices any short payment of tax or ineligible availment of input tax credit, he may pay the same through FORM GST DRC-03.

Whether we file Annual Return or not, review of overall compliance at the year end is must for all taxpayers

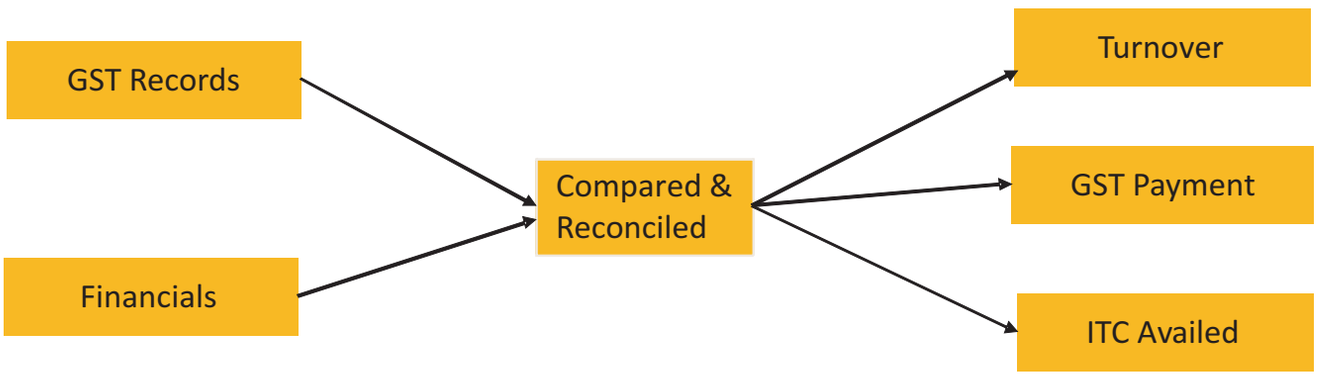
Forms Prescribed -Rule 80

GSTR-9	• Applicable to all Registered Persons
GSTR-9A	•Applicable to Composition Scheme taxpayer
GSTR-9B	•Applicable to e-Comm Operator paying TCS •Annual Statement {form not yet prescribed}
GSTR-9C	• Reconciliation Statement in case of audit

Requirement of Annual Return- Section 44



Objectives of GST Audit Reconciliation



- To report the unreported taxable turnover and ensure tax payment along with interest
- To capture all kinds of adjustments made to taxable supplies by way of credit/debit notes and amendments to invoices
- To correctly report the unreported exempted, nil rated and non-GST turnover
- To ensure that adequate amount of tax was paid and there was no short payment of tax
- To ensure that the ITC availed was inline with the law and there is no irregular availment.
- To ensure that the ITC availed as per GST records and books is synonymous
- Identifying key tax exposures and safeguarding against allegations of Section 74

Overview of Annual Return

Part I	Basic Details
Part II	Details of Outward and Inward Supplies declared during the Financial Year
	Details of Outward and Inward Supplies on which tax is payable as declared in returns filed during the Financial Year
	Details of Outward Supplies on which tax is not payable as declared in returns filed during the Financial Year
Part III	Details of ITC as declared in returns filed during the Financial Year
	Details of ITC availed as declared in returns filed during the Financial Year
	Details of ITC reversed and ineligible ITC as declared in returns filed during the Financial Year
	Other ITC Related Information
Part IV	Details of Tax Paid as declared in the returns filed during the Financial Year
Part V	Transactions of Previous FY declared in April to September Returns of Current FY or up to date of filing of Annual Return whichever is earlier.
Part VI	Other Information
	Demands and Refunds
	Supplies received from Composition Taxpayers, Deemed exports and sale on approval basis
	HSN Wise Summary of Outward Supplies and Inward Supplies
	Late Fee payable and Paid

Optional Fields in GSTR-9

Table No	Description	Remarks
Table No. 4I to 4L	Credit Notes, Debit Notes and Amendments	The net impact of these items on taxable turnover shall be considered and adjusted in Tables 4A, 4B, 4C, 4D, 4E respectively
ITC Details under Table 6A to 6H	ITC is required to be reported between capital goods, inputs and input services	Optional
ITC availed on tax paid under RCM under Table 6C & 6D	Separate breakup of ITC availed for supplies from unregistered persons and registered persons shall be provided in Table 6C and 6D	Optional. Can be reported on consolidated basis in any of the columns.
Reversals under 7A to 7E	Reversals on account of Rule 37, 39, 42, 43, 17(5)	Optional. Can be reported on consolidated basis in table 7H
Table 8A to 8D	ITC Availed as per 2A and GSTR-3B	2A details as on 01.11.2019 are alone auto-populated. Correct figures can be filled in a document and uploaded along with GSTR-9C. No need of CA Certification.
Table 12 and 13	ITC of FY 2018-19 claimed in April 19 to Sep 19 GSTR-3B Returns	Optional
Table 15 to 18	Various information relating to refunds, demands, HSN wise outward and inward supplies	Optional

Overview of Reconciliation Statement

- **Part I** – Basic Details
- **Part II** – Reconciliation of Turnover Declared between Audited Financial Statements and Annual Return
  - Reconciliation of Gross Turnover
  - Reconciliation of Taxable Turnover
- **Part III** – Reconciliation of Tax Paid
  - Reconciliation of Rate wise Tax Liability and Amount Payable thereon
  - Additional Amount Payable but not Paid
- **Part IV** – Reconciliation of Input Tax Credit
  - Reconciliation of Net Input Tax Credit
  - Reconciliation of ITC declared in Annual Return with ITC availed on Expenses
  - Tax Payable on Unreconciled Difference in ITC
- **Part V** – Auditor's Recommendation on Additional Liability due to non-reconciliation

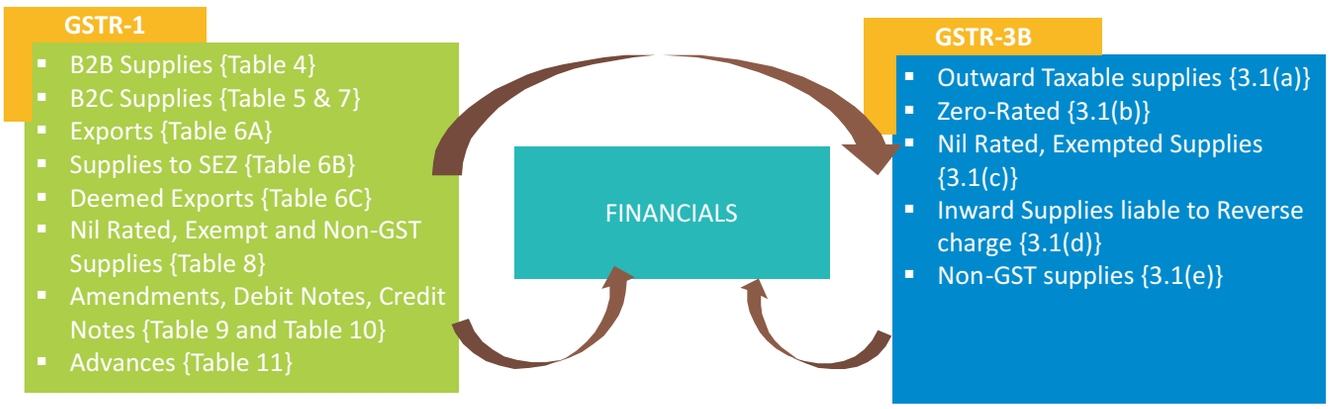
Optional Fields in GSTR-9C Reconciliation Statement

Table No	Description	Remarks
Table 5A to 5N	Various Adjustments	All can be consolidated and reported in Table 50
Table 14	Expense wise breakup of ITC	Optional

Auditor Report in Part B has been changed from "True and Correct" opinion to "True and Fair"

Reconciliation of Turnover

GSTR-1 vs Financials vs GSTR-3B



Reasons for Differences in Turnover

Particulars	Description
Advances for Taxable Supplies	• Closing balance of advances of current FY will be part of GSTR-3B alone • Closing balance of advances of previous FY will be part of GSTR-1 and books
Taxable supplies including zero-rated supplies with payment of tax	• Mismatch of turnover declared in GSTR-1 and GSTR-3B returns • Turnover wrongly reported in GSTR-1/GSTR-3B returns but eventually not part of books • Short/excess payments of previous FY would be reflected in current FY GSTR-3B returns • Difference on account of accounting standards/unbilled revenue/deemed supplies
Exempted, Nil rated and Non-GST supplies	• Under reporting of this turnover in GSTR-1 returns (reporting in GSTR-3B has no significance)
Adjustments, Debit Notes, Credit Notes	• Mismatch between GSTR-1 returns and GSTR-3B returns. • Adjustments made between April to September months of subsequent FY.

Reasons for Mismatch of Turnover from GSTR-1

Reason	Rectification and Disclosure
Cancelled Invoice still reflects in GSTR-1	• Deleted while filing GSTR-1 of latest month • The corresponding B2B value as reflected in Table 4B of GSTR-9 shall be adjusted to this effect
Invoices not uploaded in GSTR-1 or uploaded with incorrect values	• Upload or amend the invoice while filing GSTR-1 of the latest month • The corresponding B2B value as reflected in Table 4B of GSTR-9 shall be increased to this effect.
Excess or Short reporting of B2C supplies	• Cumulative value of adjustments to be made for each month shall be compiled and GSTR-1 returns shall be amended accordingly. • The corresponding B2C value as reflected in Table 4C of GSTR-9 shall be increased to this effect.
Excess or Short reporting of advances or non-adjustment of the same	• The corrections are required to be undertaken in GSTR-1 return of latest month • The closing balance of advances shall be considered in Table 4F
Credit Notes/Debit Notes not uploaded in GSTR-1 or issued in subsequent FY	• Ensure all the credit notes/debit notes are uploaded in GSTR-1 • Quantify the cumulative effect and disclose appropriately in GSTR-9

Reasons for Mismatch of Turnover from GSTR-3B

Reason	Rectification and Disclosure
Invoices reported in GSTR-1 but not considered for payment through GSTR-3B	• Compute the value and tax amount due along with interest • The same can be shown in GSTR-3B of latest month and paid accordingly. • Alternatively, the same can be paid using DRC-03 challan.
Turnover of previous FY reflected in GSTR-3B returns of current FY and accordingly tax was paid	• The same should be identified and cross checked with previous FY workings. • The said amounts should be ignored while checking the adequacy of tax payment for turnover of current FY.
Clerical errors in filing	• Identify the clerical errors crept in while filing GSTR-3B return. • Analyze the tax impact— whether tax was excess paid or short paid. • Consider the rectification measures adopted or to be adopted. • Compute the cumulative effect of such clerical errors while checking the adequacy of tax payment for turnover of current FY.
Non-consideration of debit notes and credit notes	• We need to consider the cumulative impact of these in latest month's GSTR-3B return. • DRC-03 option can also be evaluated if tax is required to be paid.

Reasons for Mismatch of Turnover from Books

Reason	Rectification and Disclosure
Unbilled Revenue	• The opening unbilled revenue should be cross checked with that of previous FY GSTR-9C • The closing balance of unbilled revenue should also be identified. • Appropriate disclosure is to be made in Table 5B and 5H of GSTR-9C.
Accounting Treatment	• Sometimes the accounting treat as per books could be different and entire value of taxable supplies may not be recognized as revenue in books. • We need to analyze the impact and relevant disclosure shall be made in Table 5O of GSTR-9C
Deemed Supplies	• Certain transactions without consideration are deemed as supplies under schedule I • Some of these transactions may not be considered as revenue in books. • We need to quantify the cumulative effect of these transactions and disclose in Table 5D of GSTR-9C.
Financial Credit Notes	• Some of the discounts/reduction in value of supplies would be undertaken without disturbing the GST amounts charged. • The impact of these credit notes would be disclosed in Table 5J of GSTR-9C
Other Income	• Many clients may to analyze the GST implications on other income. • We need to identify taxable supplies and make necessary disclosure in GSTR-1 and GSTR-9

Advances Received for Taxable Supplies

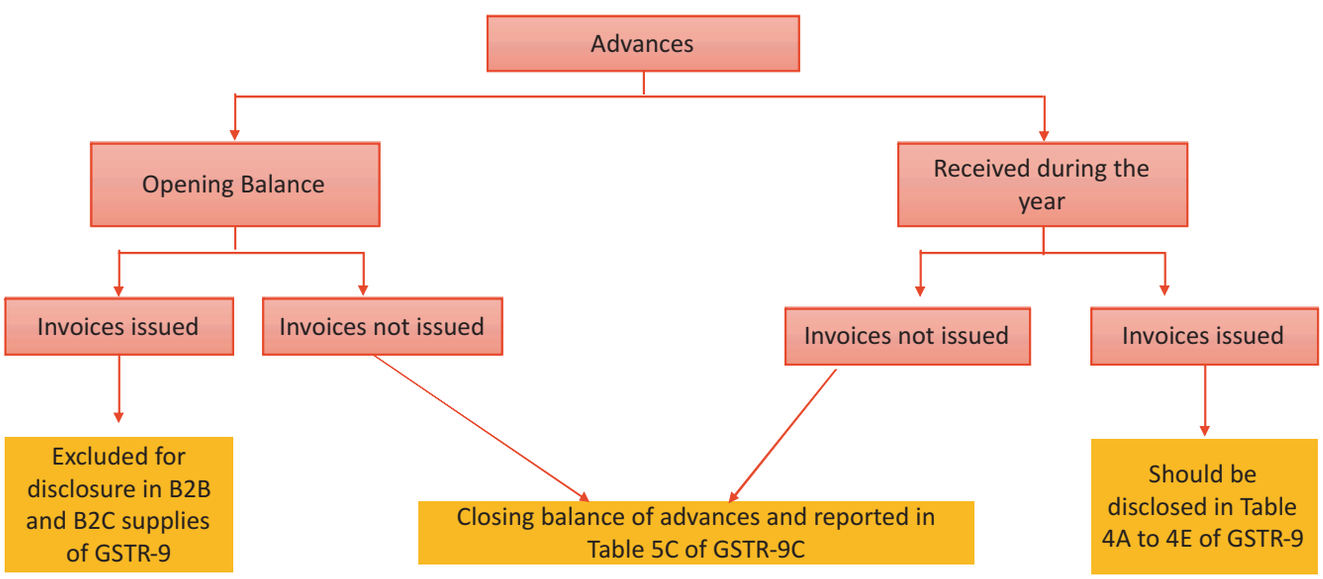


Illustration I :— Advances

Particulars	Amount (Rs)
Turnover as per books of accounts	550
Opening Balance of Advances	100
Invoices issued out of opening balance	50
Advances received during the FY	150
Invoices issued for advances received during the FY	90

Disclosure in GSTR-9 and 9C	Amount (Rs)
Turnover as per GSTR-9 (550-50+150-90	560
Turnover as per Books	550
Difference	10
Opening balance of advances	(100)
Closing balance of advances (100+150-50-90)	110

Disclosure related to Unbilled Revenue

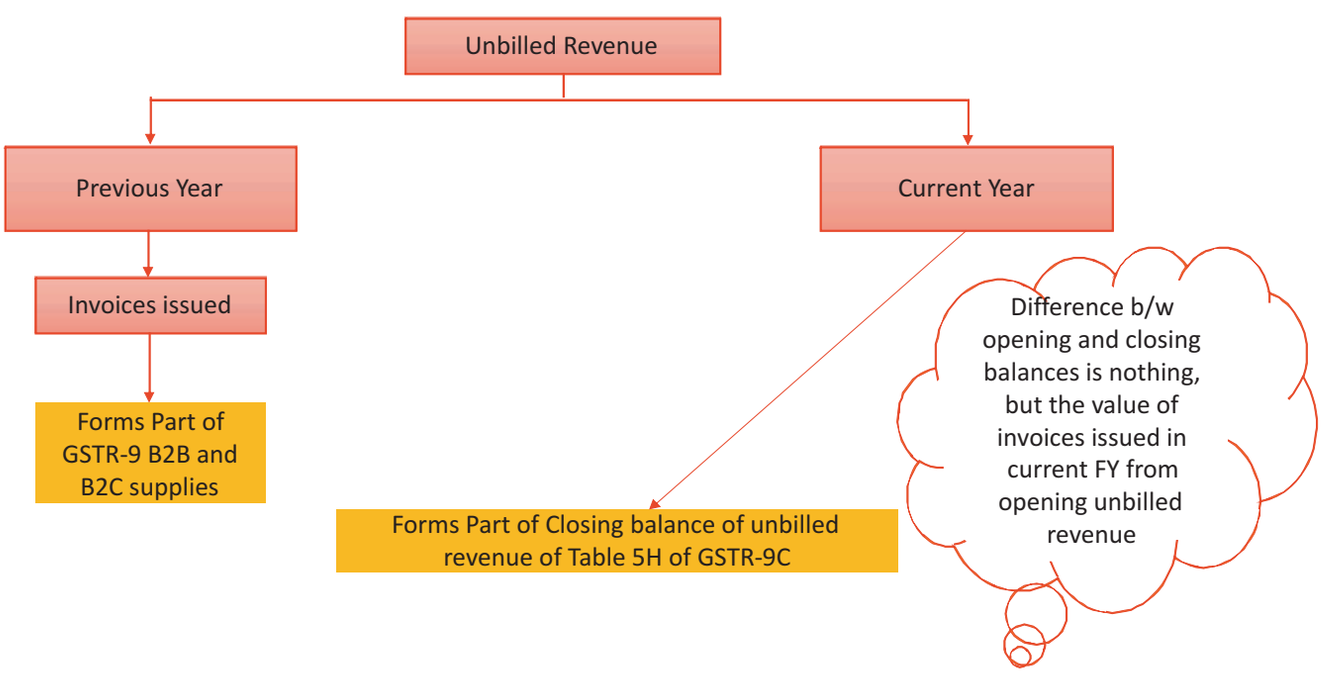
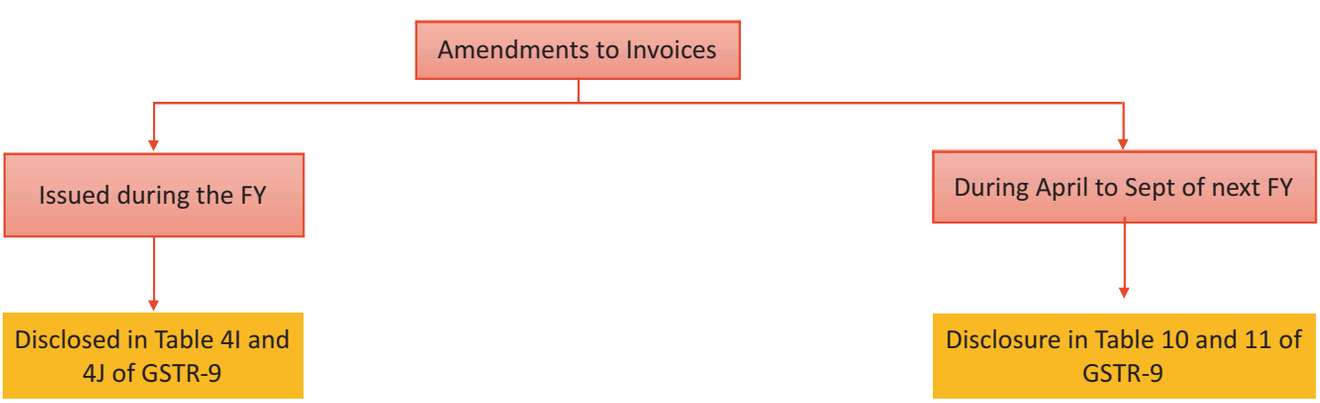


Illustration II :- Unbilled Revenue

Particulars	FY 2017-18	FY 2018-19
Opening unbilled revenue	Nil	150
Unbilled Revenue in current FY	150	300
Invoices issued out of opening unbilled revenue	Nil	100
Turnover considered in GSTR-9 and Books but for this adjustment		1000
Closing balance of Unbilled Revenue	1503	50

Reconciliation	Amount (Rs)
Turnover as per GSTR-9 (1000+100)	1100
Turnover as per Books (1000+300)	1300
Difference	(200)
Opening unbilled revenue	(150)
Closing unbilled revenue (150-100+300)	350

Disclosure Related to Amendments



Disclosure Related to Debit Notes/Credit Notes

Press Release Dated 03.07.2019:

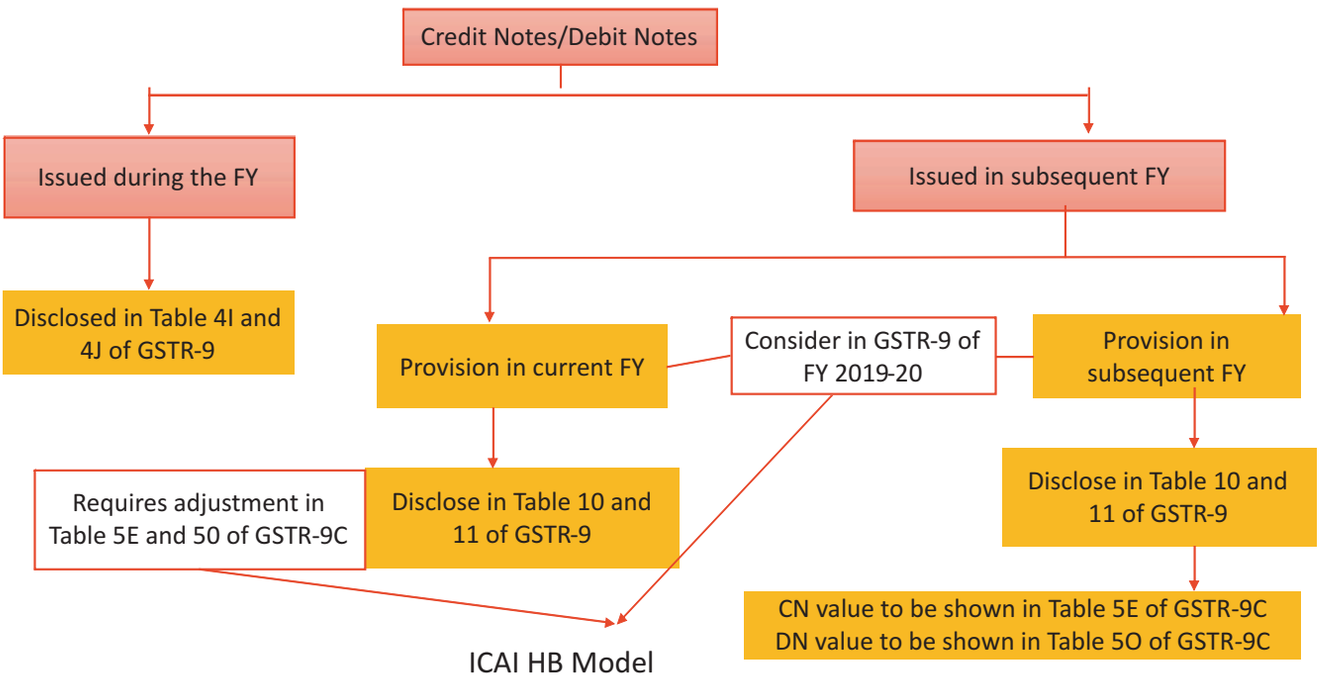
Treatment of Credit Notes / Debit Notes issued during FY 2018-19 for FY 2017-18:

It may be noted that no credit note which has a tax implication can be issued after the month of September 2018 for any supply pertaining to FY 2017-18; a financial/commercial credit note can, however, be issued. *If the credit or debit note for any supply was issued and declared in returns of FY 2018-19 and the provision for the same has been made in the books of accounts for FY 2017-18, the same shall be declared in Pt. V of the annual return. Many taxpayers have also represented that there is no provision in Pt. II of the reconciliation statement for adjustment in turnover in lieu of debit notes issued during FY 2018-19 although provision for the same was made in the books of accounts for FY 2017-18. In such cases, they may adjust the same in Table 5O of the reconciliation statement in FORM GSTR-9C.*

ICAI Handbook on GSTR-9 says that DN/CNs dated in next FY are required to be ignored in Table 10/11 of GSTR-9

Particulars	Scenario-I	Scenario-II	Scenario-III	Scenario-IV
Invoice Date	FY 2018-19	FY 2018-19	FY 2018-19	FY 2018-19
DN Date	FY 2018-19	FY 2018-19	FY 2019-20	FY2019-20
DN/CN disc. in GSTR-1	FY 2018-19	April to Sep'19	April to Sep'19	April to Sep'19
Accounted	FY 2018-19	FY 2018-19	FY 2018-19	FY 2019-20
Press Release	Table 4I/4J of GSTR-9	Table 10/11 of GSTR-9	Table 10/11 of GSTR-9	Table 10 of GSTR-9 Diff: Table 5E/50 of GSTR-9C Press Release
ICAI Handbook	Table 4I/4J of GSTR-9	Table 10/11 of GSTR-9	Consider in 19-20 Diff: Table 50 of GSTR-9C	Consider in 19-20
Hybrid	Table 4I/4J of GSTR-9	Table 10/11 of GSTR-9	Table 10/11 of GSTR-9	Consider in 19-20

Disclosure Related to DN/CN



ICAI HB Model

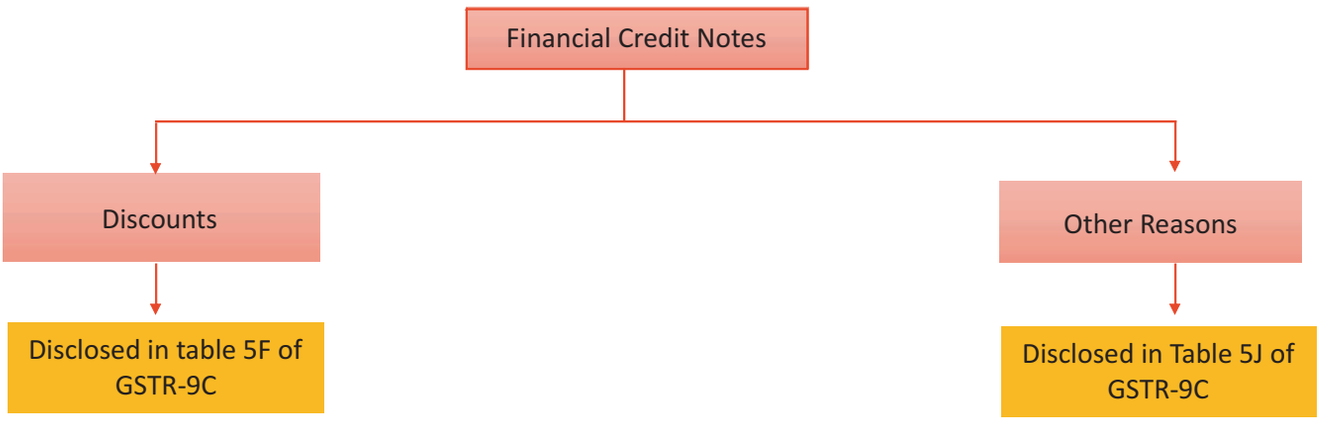
Illustration III :- Credit Notes

ABC Ltd has announced a quantity discount scheme to their dealers for the purchases made during the FY 2018-19. As per the scheme, post supply discount at a specified percentage would be given to their dealers. The eligible discount would be computed after the end of the FY and accordingly credit notes are issued. The total turnover during FY 2018-19 is Rs.300 crores and the discount amount computed at the year end is Rs.30 crores. ABC Limited issued credits to this effect on 01st June 2019 and the same was provided in books of account of FY 2018-19.

ABC Ltd also issued credit notes of Rs. 10 crores towards invoice value adjustments for the supplies made in FY 2018-19 during August 2019. These are not provided in books of account.

Reconciliation	Press Release	HB of ICAI	Hybrid
Turnover as per Books (300-30)	270	270	270
Turnover as per GSTR-9260(300-30-10)200270(300-30)	260 (300-30-10)	300	270 (300-30)
Difference	10	(30)	Nil
Value of Credit Notes to be added in Table 5E/50 of GSTR-9C	(10) (5E)	30 (5O)	

Financial Credit Notes



Deemed Supplies under Schedule I

- ❑ Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.
- ❑ Supply of goods or services between related persons or distinct persons
- ❑ Supply of goods by the principal to agent or vice versa for further supplies.
- ❑ Import of services by a person from a related person or from any of his other establishments outside India

Type of Transaction	Treatment in GSTR-9C
Permanent transfer or disposal of fixed assets	• Deemed as supplies for the purpose of proportionate ITC reversal. • Normally these items are not part of turnover in books. • This value considered for GSTR-1 shall be disclosed in Table 5D of GSTR-9C
Transfer to related persons	• Difference between the value considered for GST purpose and consideration received and accounted in books shall be mentioned in Table 5D of GSTR-9C
Transfer to distinct persons	• Normally these transactions are eliminated from books at the time of their finalization. • The value of these transactions shall be mentioned in Table 5D of GSTR-9C
Transfer to agents	• Stock lying with agent as on 31st March— Value at which the said stock was invoiced should be mentioned in Table 5D of GSTR-9C. • Stock transferred and sold during the FY— the difference in sales value of agent and value adopted by principal for sending stock to agent would be mentioned in Table 5D of GSTR-9C

Illustration III :- Deemed Supplies to Agents

Particulars	Quantity	Amount (Rs)
Quantity and value of stock transferred to agents during the year	100	5000
Quantity and value of stock sold by agents during the year	80	4800
Closing stock lying with agents	20	-

Reconciliation	Amount (Rs)
Turnover as per GSTR-9	5000
Turnover as per Books	4800
Difference	200
Margin accounted in books upon on final sale	800
Value of closing stock which is not considered in books	(1000)

Miscellaneous Transactions

Type of Transaction	Treatment in GSTR-9
Zero-Rated with payment of tax	• Supplies undertaken with payment of tax shall be required to be disclosed in Table 4C (exports) and 4D (supplies to SEZ) of GSTR-9
Zero-Rated without payment of tax	• Supplies undertaken without payment of tax shall be required to be disclosed in Table 5A (exports) and 5B (supplies to SEZ) of GSTR-9
Exempted, Nil Rated and Non-GST supplies	• Normally these values are short reported in GSTR-9 compared to books. • We need to reconcile the figures with books and add to Tables 5D,E & F of GSTR-9 • If the exempted services are
Supplies on which recipient is liable to pay tax under RCM	• This turnover shall be reflected in Table 5C of GSTR-9
Inward supplies liable for RCM	• These transactions are required to be disclosed in Table 4G of GSTR-9 • Only those value of inward supplies which are declared in April 2018 to Mach 2019 months GSTR-3B returns for payment shall be declared.

Reconciliation of Tax Payment

- Payments are to be made through GSTR-3B returns— therefore GSTR-3B returns filed during FY 2018-19 and in the months of subsequent FY shall be verified.
- The tax amounts paid with respect to turnover declared (including corrected figures) shall be shown in table 9 of GSTR-9.
- The cumulative amount of tax payable and paid amounts of amendments/debit/credit notes shall be mentioned in table 14 of GSTR-9
- Table 9 of GSTR-9C captures the rate wise bifurcation of turnover and the corresponding tax amount.
- The difference between tax paid as per GSTR-9 return and table 9 of GSTR-9C should with the tax payable on unreconciled turnover.

Particulars	Amounts
Total tax payable for FY 2018-19 (after reconciliation with books)	XXXXX
Total tax paid through GSTR-3B's filed for FY 2018-19	(XXXXX)
Difference	XXXX
Tax short paid in FY 2017-18 paid through GSTR-3B's of FY 2018-19	XXXX
Excess tax paid for FY 2017-18 adjusted with tax liabilities of FY 2018-19	(XXXX)
Taxes related to FY 2019-20 adjusted with any excess tax paid during FY 2018-19	XXXX
Taxes of FY 2018-19 reported and paid in GSTR-3Bs of FY 2019-20	(XXXX)
Net Difference	0 (ideally)

Otherwise:-

a) The short-paid tax amount shall be payable by interest

b) The excess paid tax amount if any shall be adjusted against future liability in subsequent months or can be claimed as refund. The same should be mentioned in the reconciliation statement.

Tax payments under wrong heads should be addressed considering section 77 of CGST Act and section 19 of IGST Act

Reconciliation of ITC

Particulars	Description
Timing Differences	• Credits of previous FY claimed in current FY but the corresponding expenditure is accounted in previous FY. • Credit notes accounted during the FY but are given effect in GSTR-3Bs April to Sep months of subsequent FY. • Ineligible ITC and blocked credit availed in previous FY but are reversed in GSTR-3Bs of April to Sep months of current FY. • Ineligible ITC and blocked credits availed in current FY are reversed in GSTR-3Bs of April to Sep months of subsequent FY. • Final reversals under Rule 42 and 43
ITC deferred	• ITC related to advances paid to vendors, but the goods and services are not received. • ITC availed but reversed in GSTR-3B returns as payment is not made within 180 days.
Mismatch	• ITC entered in books but not claimed in GSTR-3B returns • ITC claimed in GSTR-3B returns but expensed off in books.

Steps involved in reconciliation

Timing difference

- Identify the ITC of FY 2017-18 availed in GSTR-3Bs of FY 2018-19
- Identify the ITC of FY 2018-19 availed in GSTR-3Bs of FY 2019-20

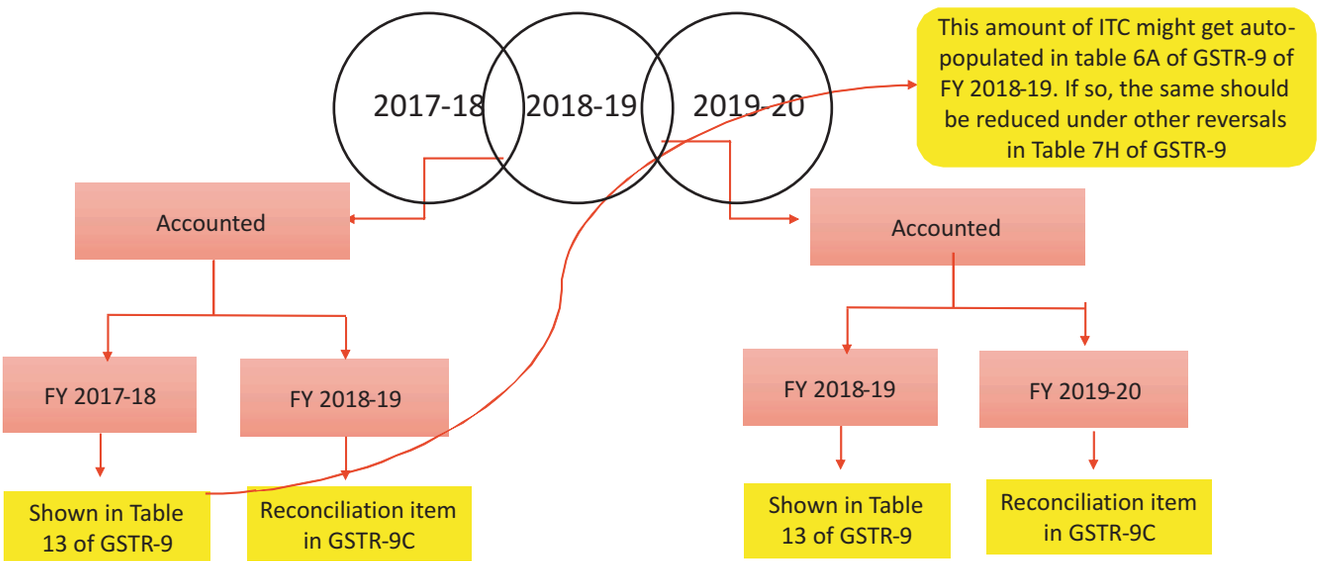
Ineligible Credit and Reversals

- Ineligible Credits of FY 2017-18 reversed in GSTR-3Bs of FY 2018-19
- Ineligible Credits of FY 2018-19 reversed in GSTR-3Bs of FY 2019-20
- Credits of FY 2017-18 deferred and reclaimed in FY 2018-19
- Credits of FY 2018-19 deferred and reclaimed in FY 2019-20

Reconciliation

- Ideally ITC availed as per books should match with ITC availed as per GSTR-9
- Difference is possible only when there is a mismatch in entries or prior period accounting

Disclosure of Overlapping ITC



Disclosure of Deferred Credit

- Deferred credit is nothing but the credit accounted in current FY books but as per the GST law, it can only be availed in subsequent FY.
- Examples:
  - GST paid on advances but the corresponding goods or services are not received
  - GST ITC availed but reversed during the FY for failure to make payment within 180 days. The said ITC can be availed in subsequent FY.
  - GST paid on mobilization advance and retention money
- The impact of deferred credit shall be disclosed in Table 12B and 12C of GSTR-9C

Illustration IV: ITC Reconciliation

Particulars	Amounts
Total ITC availed in GSTR-3B returns filed for FY 2018-19	5000
ITC of FY 2017-18 availed in GSTR-3B returns of FY 2018-19 and accounted in books of FY2017-18	500
ITC of FY 2018-19 availed in GSTR-3B returns of FY 2019-20 and accounted in FY 2018-19	300
ITC of FY 2018-19 availed in GSTR-3B returns of FY 2019-20 and accounted in FY 2019-20	200
ITC accounted on advances paid to vendors in books of FY 2018-19 but ITC will be available in FY 2019-20	800
ITC Availed as per Books (5000-500-200+800)	5600

Illustration IV: ITC Reconciliation

Disclosure in GSTR-9	Amounts
ITC Availed (Table 6A to Table 6H)	5000
ITC Availed (Table 13)	300
Total ITC Availed	5300

Disclosure in GSTR-9C	Amounts
ITC as per books	5600
ITC of earlier FY 2017-18 claimed in current FY 2018-19 (+)	500
ITC of FY 2018-19 to be claimed in subsequent FYs (-)	(800)
Total ITC Availed	5300

Table 8 of Annual Return

- The input tax available in GSTR-2A at the time of filing annual return shall be segregated and reported in this table.
- It was clarified by press release dated 03rd July 2019 that the objective of this table is to provide information to Government for settlement of funds with States.
- The excess available ITC in GSTR-2A than the ITC availed during the financial year requires bifurcation between "ITC available but not availed" or "ITC available but ineligible".
- The IGST paid on imported goods shall also be bifurcated in two availed and non-availed categories and reported in this table.

Certain Practical Issues

Practical Issues

Sl. No	Issue	Resolution
1	Advances not adjusted in GSTR-1 with Invoices	· Advances issued would be wrongly auto-populated in Table 4F of GSTR-9 · The said figure should be corrected with actual closing balance of advances. · Such invoices shall be adjusted in the latest GSTR-1 return.
2	Transport charges	· Transport charges collected from customers would be subject to GST. ▪ However, the said charges collected would be reduced from the transport expenditure incurred in books instead of crediting to sales. ▪ It would be advisable to adjust the same under table 50 of GSTR-9C
3	GSTR-1 vs GSTR-9	▪ As far as practicable, it is advisable to correct the turnover reported in GSTR-1 of respective month by making necessary changes/amendments in the latest month's GSTR-1 return. ▪ Only, then we can choose to disclose corrected figures in GSTR-9 ▪ Otherwise it is advisable not to correct this in GSTR-9 and disclose it in GSTR-9C as reconciliation item by offering suitable explanations.
4	Supply of goods from SEZ to DTA	▪ These sales are usually not reported in GSTR-1 and therefore not auto populated into GSTR-9. ▪ These sales are to be reported in table 5K of GSTR-9C ▪ Turnover if any disclosed in GSTR-1 under exempted/nil rated supplies shall be corrected in GSTR-9
5	Supplies made under Casual Taxable Person	▪ Financial turnover consists of all supplies made through Regular Taxpayer/Casual Taxable Person, but annual return has to be filed only for regular taxpayers. There would be mismatch of aggregate turnover of all GST registrations and Financials. ▪ Thus, it would be advised to upload a statement along with annual return explaining the differences of turnover due to Casual Taxable Person.
6	Reduction of Tax Liability vs Claiming of ITC	• We have observed certain instances where the client has taken Credit for the credit notes issued rather than adjusting the same with the output tax liability due to which there is an excess payment of tax and excess availment of Credit. • Though mathematically it does not have any impact, but it would be a wrong treatment as per the GST Laws. • It is advised to reverse the excess credit availed and claim the benefit of reduction of tax in pending GSTR-3B return/apply for refund of excess paid taxes in RFD-01A.

Summarizing…

Important Parameters

- ❑ Taxable Supplies
- ❑ Non-taxable Supplies
- ❑ Zero-Rated Supplies
- ❑ Advances
- ❑ Debit Notes/Credit Notes
- ❑ Exempted Supplies
- ❑ Financial Credit Notes
- ❑ Unbilled Revenue

- ❑ Inward Supplies under RCM
- ❑ SEZ Supplies to DTA
- ❑ ITC Timing Differences
- ❑ Ineligible ITC
- ❑ ITC Books vs 3B Mismatch
- ❑ Payments Mapping
- ❑ Wrong Payments

This article is contributed by CA Sri Harsha Vardhan K & CA Manindar K, Partners of SBS and Company LLP, Chartered Accountants. The authors can be reached at harsha@sbsandco.com & manindar@sbsandco.com

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