



# Audit

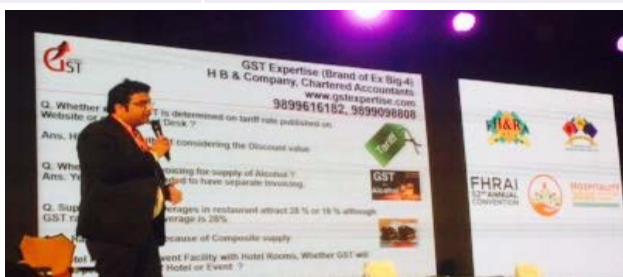


# About: CA Kapil Mahani- +91-9899616182

Current Work Experience	Indirect Tax Partner, KMDG & Associates, Chartered Accountants and Co- founder of GSTExpertise of India and UAE
Prior Work Experience	10 Years in Indirect Tax Practice including Ernst & Young
Sector Expertise	Hospitality, Tour and Travel , Air Ticketing, Textile, Media & E-commerce, Trading, Telecommunication, Tourism, Mobile, Publishing , Event managment , Duty free shops , E commerce and Banking companies , SME's.
Key Achievements in L& D	<p>Indirect Tax Leader for India and UAE and currently working for various companies in GST Matters on PAN India basis.</p> <p>Kapil is frequently quoted and cited in various discussions in GST on Private and Government and is regular speaker and presenter in India and Aboard.</p> <p>Kapil Mahani videos are published on government website and has been interviewed by various media houses and appears as Indirect tax panel expert for various Trade Unions.</p>



Workshop for GST Sensitization for ITDC Group



Nuances of GST on Hospitality Industry at FHRAI



Event managed by GCCI and Goa Branch of WIRC of ICAI



NCEP and STAR Tax programmes at Ernst & Young





## Background

- ▶ He is a qualified Chartered Accountant and has around 10 years of experience in indirect tax consulting
- ▶ Had worked as Manager with EY in Indirect Taxation
- ▶ He has been managing VAT, Service tax, Excise, Customs, SEZ related regulatory advisory, Foreign Trade benefits, Professional tax advisory including VAT Compliance for different companies.
- ▶ Leading the Indirect Tax Practice of India and UAE i.e VAT Implementation in UAE i.e Dubai
- ▶ Exclusively representing various Trade Unions before the Ministry of finance
- ▶ He had trained in various Indirect Tax areas including GST to 1500 CA's, Lawyers and interns including Indirect Tax Consultants in EY newly recruited on PAN India basis

## Achievement

- ▶ Invited as panel Expert by Goa chamber of commerce, IP University, All India tour operator association, All Indian Transport Association and other chamber of commerce
- ▶ Invited as judge by IP University for their National Case development competitions in 2017
- ▶ Awarded by PunjabKesari for its support for obtaining regulatory approvals for non profitable organization
- ▶ Written for Business Standard Budget Impact related to Indirect Tax for Top Traded Companies, NIFTY companies etc.

## Professional Experience

- ▶ Implemented GST at ITDC group including Handholding Support post Implementation
- ▶ Handled Pre Implementation support of GST for the Hospitality Industry, Tourism, Event Management, Textile Manufacturing Industry, Media and Publishing House, Logistics, Telecom companies and top security companies
- ▶ Assisted the companies in identifying the issues which are there under the GST regime on which representation needs to be filed
- ▶ Prepared handbook of the Frequently asked questions on GST for various companies
- ▶ Successfully plotted GST impact for each business transactions for companies with range size of Rs 100 Cr – Rs. 3000 Cr of turnover.
- ▶ End to End assistance in the GST Implementation.
- ▶ He has effectively handled a wide range of indirect taxation matters.
- ▶ **Key areas of expertise include transaction structuring, tax reviews, due diligences, tax modelling, compliance, litigation and end-to-end indirect tax advisory.**
- ▶ Assisted Logistics Company in setting up bonded warehouse in Dubai wherein his role was to analyze the feasibility study of the transaction from Indirect Tax standpoint
- ▶ He has effectively managed VAT and service tax advisory and compliance for various multinational companies (Telecom, Trading company and leasing Company) on PAN India
- ▶ Filed various representations before the CBEC on various Indirect Tax issues under the present regime
- ▶ Successfully obtained positive judgments by represented before various Appellate Authorities on technical grounds
- ▶ Experience in handling assessment and appeal proceedings before VAT authorities of different States
- ▶ Obtained Landmark judgments in VAT which had resolved the issue for manufacturing companies in Chennai

# Types of Yearly Reconciliation under GST

Annual  
Returns



Every Assessee is required to furnish the Annual returns irrespective of the Turnover under the GST

GST  
Audit



Apart from the Annual Return, GST Audit would be conducted for the assesses whose aggregate turnover exceeds 2 crores

# Annual Return – Who shall file Annual Return?

## Every registered person except:

- an input service distributor (ISD),
- person required to deduct tax at source (TDS),
- person required to collect tax at source (TCS),
- casual taxable person (CTP) and non-resident taxable person

shall furnish an annual return for every financial year before 31<sup>st</sup> December of the following Financial Year.

## What Documents required to be filed along with annual return?

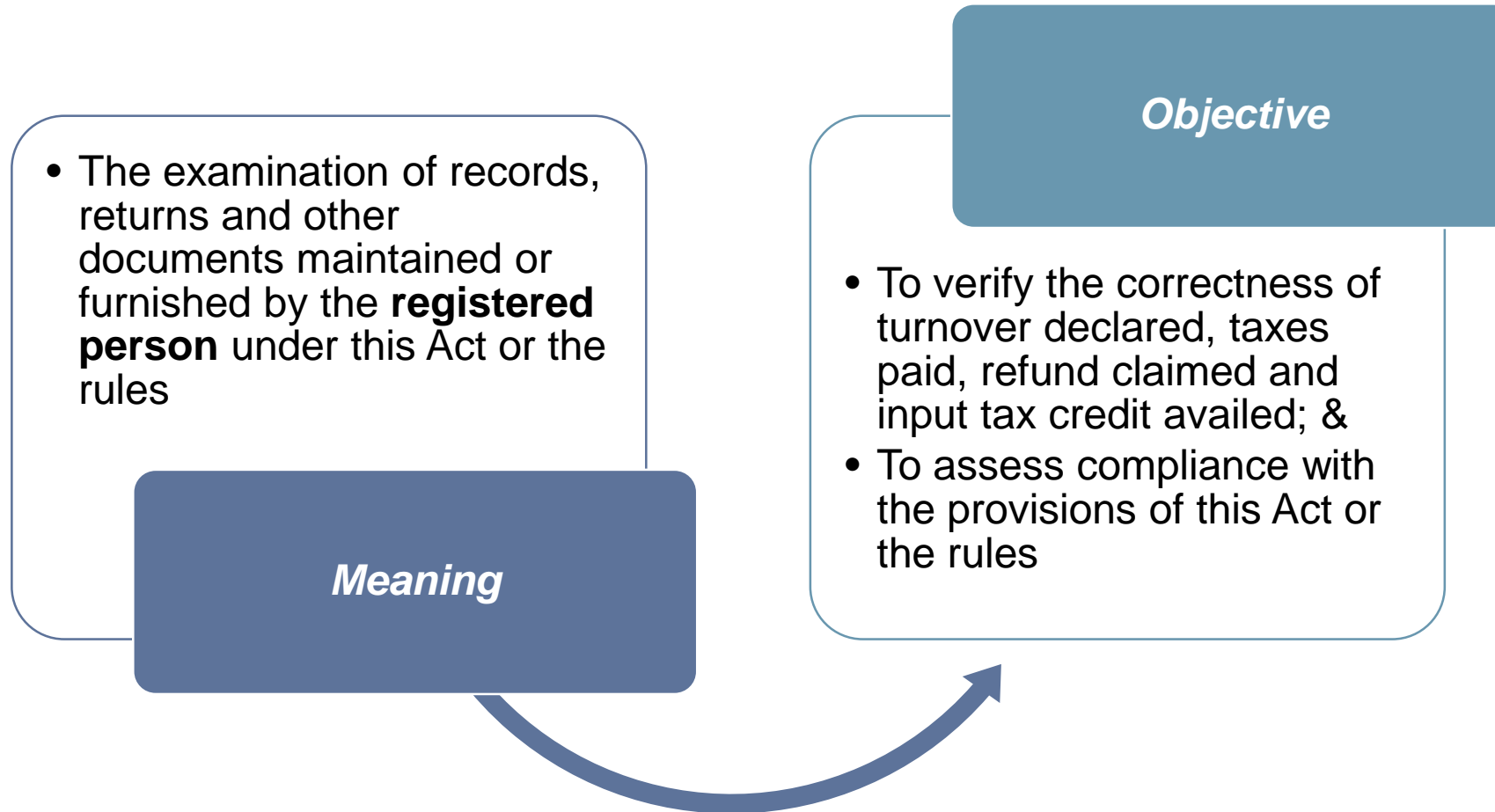
Registered persons, who are required to get their accounts audited u/s 35(5) shall furnish following documents:-

- (a) Audited annual accounts, and
- (b) Reconciliation statement between Audited accounts and GSTR -01

## Time Limit for filing annual return- 31<sup>st</sup> December of the following financial year

Registered Person	Annual Return FORM
Normal Registered Person	GSTR-9
Composition Supplier	GSTR-9A
E-commerce Operator	GSTR-9B

# What is the meaning of Audit under GST Law ?



# Categories of Audit under GST







**Audit by CA/ ICWA**



# Which assesseees are required to conduct GST Audit ? & When?

Mandatory  
audit u/s  
35(5)

- 'Aggregate turnover' during a financial year exceeds **Rs 2 Crores**

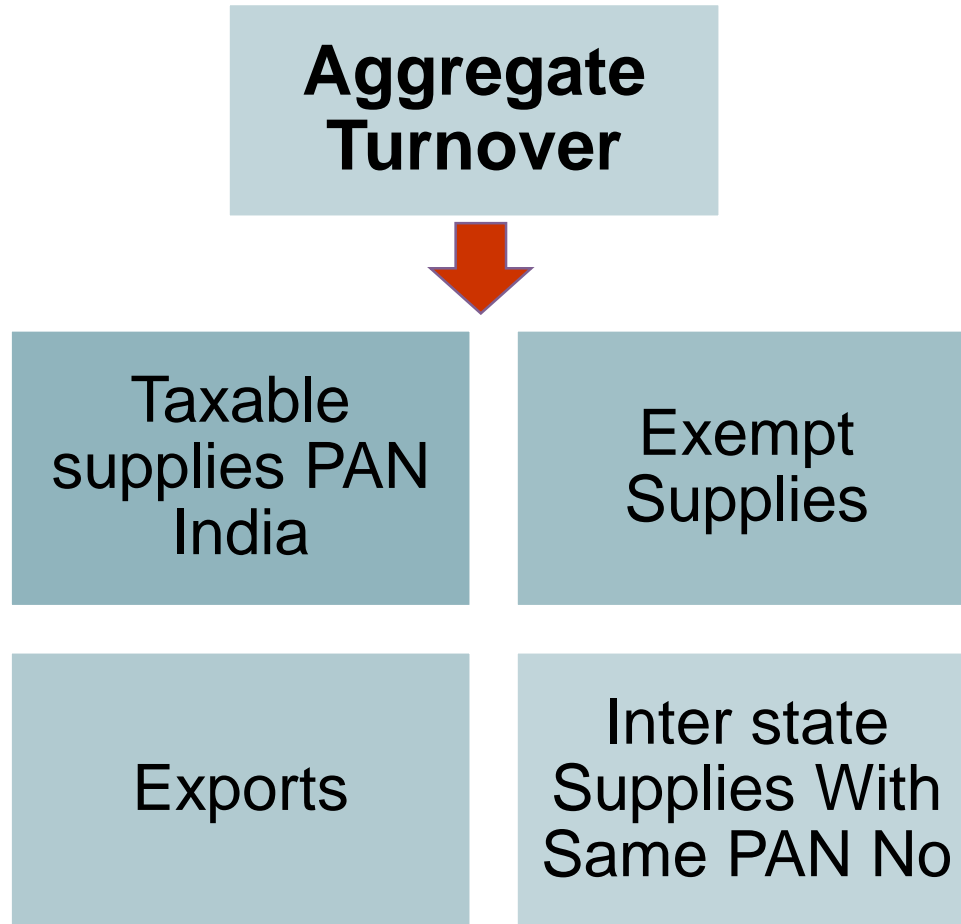
FORM

- FORM 9C ( Format yet to be launched) reconciliation statement between 'return furnished for the financial year' with the 'audited financial statement'

Time Limit

- Audited annual accounts shall be submitted by **31<sup>st</sup> December** of the next financial year

# Whether state or PAN India Turnover ?



PAN India wise ?

State-wise ?

# Relevance of September 2018 over 31 December 2018 ?

Importance	Last date of 20 <sup>th</sup> October 2018	Last date 31 December 2018
Claiming input tax credit for the invoices issued during the period ending 31 March 2018	✓	Post 30 September 2018 not benefit will be available in respect of each scenarios even if the due date of audit is extended post 31 December 2018 as the company may loose the benefit which can accrue from the GST Audit
Adjustment of Mismatch in credit claimed & liability declared by vendors	✓	
Reporting of Credit notes	✓	
Reversal of Input tax Credit - Exempted yearly reversals	✓	
Reversal due to non- payment of consideration within 180 days	✓	

**!! It is suggested for the auditors to approach the clients in telling them importance of 30 September 2018, rather than waiting for 31 December 2018**

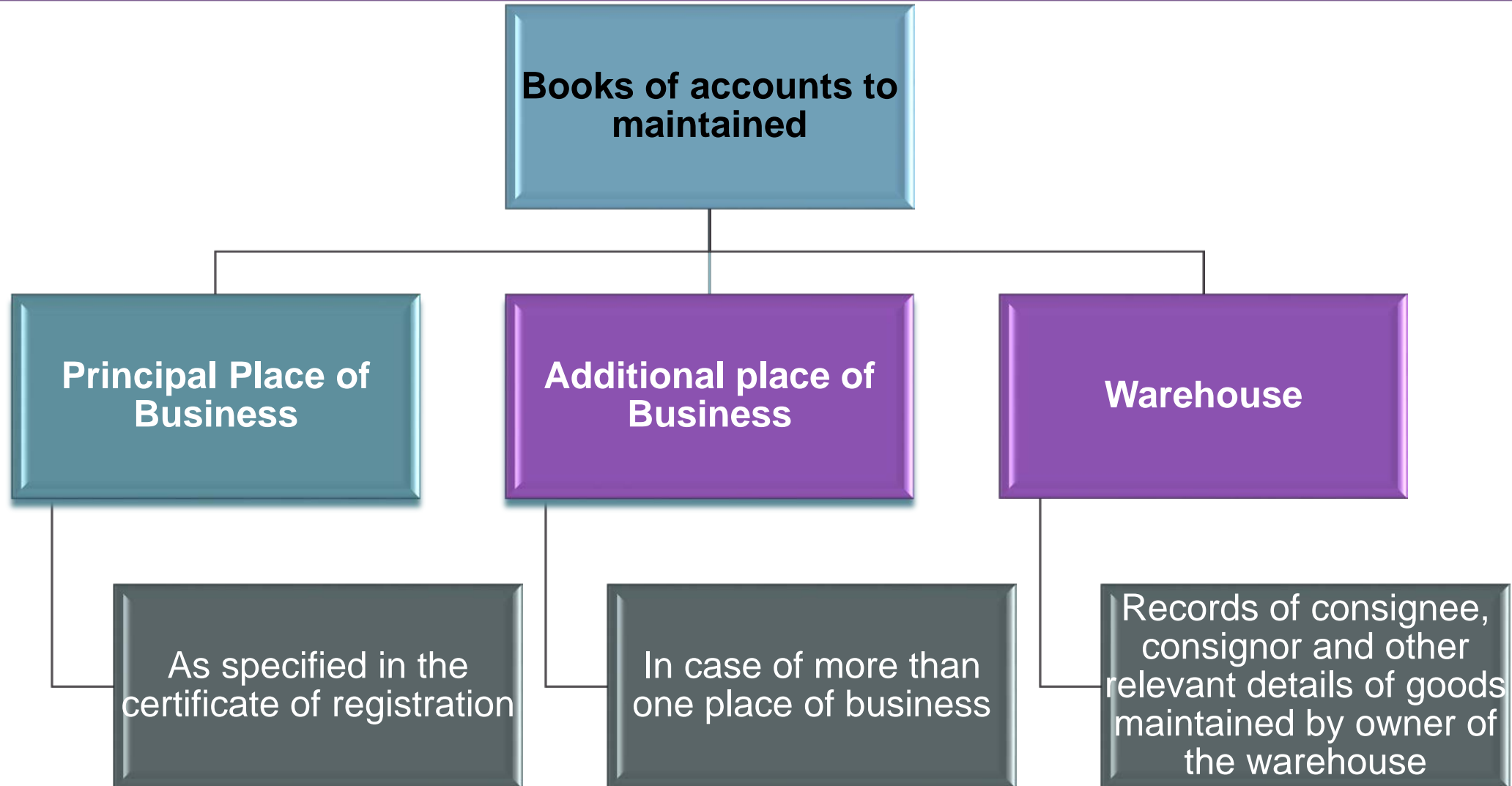
# Return Reconciliation

- Rule 80(3) provides that the reconciliation statement shall be furnished in the FORM GSTR-9C (format yet to be notified)
- Provisions of Section 44(2) require reconciliation of the figures declared in '**return furnished for the financial year**' with the '**audited financial statement**'. It appears that the return furnished for the financial year refers to the annual return furnished.

**There is no proper format has been notified by the government for reconciliations & particulars for which reconciliation is required.**

**Note: In case where the auditor opines that reconciliation for any other item, not specified above, needs to be incorporated then he may include the same as separate annexure to the report**

# Where Books of Accounts to be Kept for audit Purpose?



# FAQ's

Mr "X" has taxable turnover and exempted turnover in Haryana is Rs 1.5 crores & 75 lakhs respectively. Whether audit u/s 35(5) required?

- Aggregate turnover includes taxable turnover & exempt turnover i.e. Rs 2.25 Crores
- Yes, audit is required (aggregate turnover > Rs 2crores)

ABC Ltd has taxable turnover of Rs. 1.5 Crores in Maharashtra & taxable turnover of Rs. 75 Lacs in Haryana . Whether ABC Ltd. is required to get his accounts audited u/s 35(5) ?

- Aggregate turnover is to be computed on PAN India wise and not state wise, and the same shall be Rs 2.25 Crores
- ABC Ltd. is registered in two states having separate GSTINs, therefore GST audit has to be conducted in both states i.e. Maharashtra & Haryana.

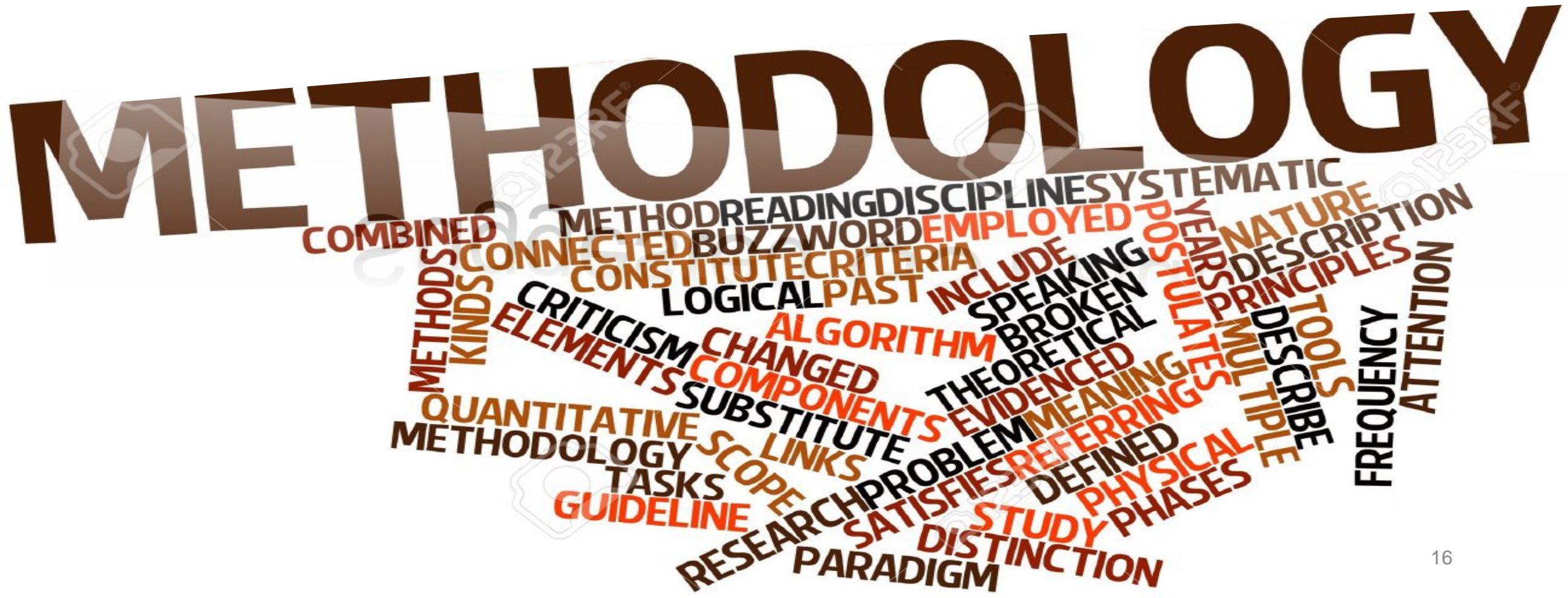
# Whether Auditor need to Submit Report or Certificate?

Certificate	Report
<p>A <b>Certificate</b> is a written confirmation of the accuracy of facts stated there in and does not involve any estimate or the opinion.</p> <p>When a certificate is issued, the CA shall be responsible for factual accuracy</p>	<p>A <b>Report</b>, on the other hand, is a formal statement usually made after an enquiry, examination or review of specified matters under report and includes the reporting auditor's opinion thereon.</p> <p>CA is responsible for ensuring that the report is based on the factual data, true and fair (or in some cases true and correct) to the best of his belief, knowledge and information furnished to him.</p>

***A format for the audit report / certificate is yet to be notified. It is not clear as to whether it will be in the nature of an audit report like the statutory audit report or tax audit report, or a certificate like in case of VAT audits. If it is in the nature of a certificate, the responsibility of the GST auditor would be substantially higher.***



# Suggested GST Audit



# Agenda

- Overall Audit Methodology
- Health Check of Transitional Issues
- Health Check of Output Supplies
- Health Check Input Tax Credit
- Health Check of Job work
- Key Take Away



# Audit Methodology

Structured methodology towards a deep-dive assessment of GST Audit for the client

1a

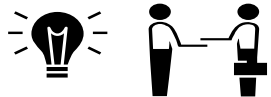


## Dialogue with leadership

Engage with leadership to agree upon:

- Scope of Work
- List of the states company is operating
- Leadership's business expectations
- As-Is Business Scenario
- GST Assumptions
- List of Positions taken under the GST regime

1b



## High level Solution envisioning and handshake

Detailed meeting to define the timelines for the audit specifically focusing on the aspects which have deadline of September 2018

2



## Meetings with management personnel

- Understand the business of the assessee which includes the functions / systems , nature of the business prioritize based on the severity of impact
- Agree upon key risks and challenges the company already have identified basis the advance Ruling issued post the GST Implementation
- Identify the documentation/data/information which includes the sample returns which captures majority of data for analysis

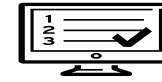
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## 'As Is' state assessment

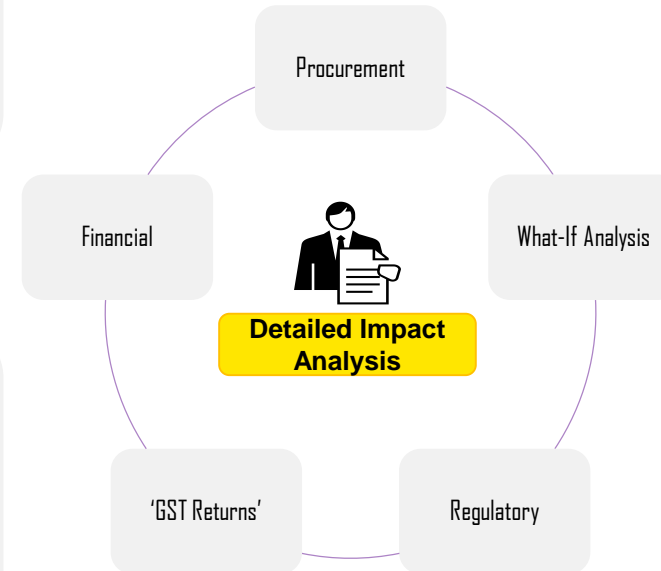
- Review current GST setup viz. tools, process/transaction documentation and reporting methodologies
- Transactional Mapping of current operations with the GST positions company had taken
- Determining the deviation if any from the company positions and discuss with the mgt reason for the same
- Cataloging the risks and challenges as per assessment of current GST setup

4



## Our Analysis

Auditor to recommend\* changes, point out implications and gaps with requisite analysis and incorporate feedback if any



5



## Dialogue with leadership

Discussion with leadership to define the solutions which can help in reducing the burden of loss from the gaps identified

6



## Preparation of GST Audit report





# Health Check of Transitional Issues including Trans-1 & 2

# Verification of ITC transferred in Trans-1

## Verification of ITC under S. 140(1)/(2)

- Whether the ITC transferred is eligible under GST
- Whether the registered person has filed all the returns months prior to the appointed date
- Credit does not related to exempted goods manufactured and cleared
- Credit should be taken in respect of balance credit on capital goods which were supposed to be taken in next year provided they allowed in both laws.

## Verification of ITC under S. 140(3)

- Whether the ITC availed on inputs held in stock or in semi finished or finished goods by the following persons fulfill the **required criteria:-**
- Registered person not liable to be registered under previous law;
- Person engaged in manufacture of exempted goods;
- Person providing works contract service/FSD/SSD etc.

## Verification of ITC under S. 140(5)

- Whether the registered person who has received tax invoice on or after the appointed day but the tax on which has been paid before the appointed date has taken the credit in his books **within 30 days from the appointed date**

## Verification of ITC under S. 140(6)

- Whether registered person paying tax at a fixed rate (composition dealer) is eligible to book ITC of goods lying in stock/semi-finished/finished goods as on appointed date has fulfilled the **desired criteria (refer next page)**

### Required criteria as per section 140(3) of the CGST Act:

- (a) such inputs or goods are used or intended to be used for making taxable supplies under this Act;
- (b) the said registered person is eligible for ITC on such inputs ; not issued earlier than 12 months before the appointed date
- (c) the said registered person is eligible for input tax credit on such inputs
- (d) the said person is in possession of valid documents evidencing payment of duty
- (e) Supplier of service not eligible for any abatement

# Suggested Check Points for auditor in Transitional matter

## **140(1)**

- Verify that the credit has been taken against closing balance of CENVAT credit in ER-1/2/3 or ST-3. Credit can be taken only where the last return was filed and credit taken in Table 5(a) should not be more than closing balance of credit in ER-1/2/3 or ST-3 minus the education / secondary education cess / KKC/ SBC;
- Check that returns under the VAT/ Excise/ Services tax laws have been filed for last 6 months;
- Important aspect which needs to be seen that carry-forward credit of VAT should have been adjusted with pending statutory forms on the date of filing of Trans-1 and refund has to be claimed ( in case of receipt) of statutory forms post the filing of Trans-1;
- Check whether the Krishi Kalyan Cess or Education cess not taken in the Trans-1 Returns
- Check whether the service tax returns have not been revised to claim the additional credit not taken at the time of original return? If such additional claim exists then the same should have been not claimed in the Trans-1 and filed via refund application

## **140(2)**

- Check that in table 6 only credit on capital goods not availed in any return is taken. If second installment of any capital goods credit is taken through return in table 5(a) and again the details are filled in table 6, it would lead to double credit getting taken.

# Suggested Check Points for auditor in Transitional matter

## **140(3)**

- Whether the credit of stocks ( Other than Manufacturer / Supplier of services) had taken the credit on the stocks which were supplied within 6 months from the appointed date with prescribed percentage where duty paying documents are not available?
- In cases where a new taxpayer has availed credit using Credit Transfer Document, check that CTD issued by the manufacturer exists and CTD has been issued in terms of rule 15(2) of CCR, 2017 read with notification no. 21/2017-CE (NT) dated 30.06.2017 (Capital Goods having value more than Rs. 25,000, goods to be identifiable by a distinct number etc.)

## **140(5)**

- Whether the ITC on invoices which are received post the appointed date for which tax been already paid under previous regime is taken within 30 days from the appointed date or not.
- Whether any disputed credit on which litigation exists on the appointed date has been availed?
- Treatment of service tax paid under reverse charge post appointed date to be checked. The credit of the same is to be ideally taken in the service tax return.
- Treatment of increase in the value of credit post revision of service tax return is to be checked – refund of ITC needs to be filed in such cases
- What actions which the company has taken in respect of the stock on which the credit has been taken under Section 140(3)



# Suggested Check Points for auditor in Transitional matter

## Others


- Whether the goods which were send on approval basis are being received within 6 months from the appointed date ? Whether tax was paid if the same were not received or received after 6 months from the appointed dated
- It is important to check whether Credit in respect of stock which was older than 12 months was taken basis the ruling of Delhi High Court has allowed and heard the writ petition and passed an order on 11.12.2017 allowing interim relief
- It is important that the auditor should check the billing in respect of the initial 6 months with the point of taxation to check whether the levy was under GST or under the previous Indirect Tax Regime?
- It is important that the important emphasis should be given to the unbilled revenue which were outstanding as on 30 June 2017. Check the reason for the said Unbilled revenue
- Whether the ITC which was reversed prior to appointed for want of non payment to vendor shall be claimed provided the payment has been made to the vendor within 3 months from the appointed date.



# Health Check of Outward Supplies under GST regime


# Meaning

## Nil Rated supplies




Such supply of Goods and Services Which Attract Nil Rate of tax

## Non Taxable Supplies




Such supply of Goods and Services Which is not chargeable to tax under this act ...

## Exempt supplies



Such supply of Goods and Services Which Attract Nil Rate of tax  
**or**  
Which are not chargeable to tax ...  
**or**  
Which may be Notified to be Exempt U/S 11

## Zero Rated Supplies



Such Supply of Goods or Services mainly :-  
1. Exports  
2. Supplies to SEZ

# Kinds of outward supplies under GST for Health Check

## Taxable Supply

Point of  
Taxation  
Check

Rate Check

Valuation  
Check

Exports  
Check

Composite/  
Mixed  
Supplies

Schedule –I  
Supplies  
Check

Exports  
Refund  
Application  
Check

Supplies to  
SEZ Check

Place of  
Supply  
Check

E way Bill Check

## Non-GST Supply

Supply Definition  
Check

High Seas Sales,  
Drop Shipments,  
Custom Warehouse  
& others Check

## Exempt Supply

Applicability of the  
Exemption Notification  
along with relevant date of  
its effectiveness



A close-up photograph of a hand reaching into a filing cabinet to select a folder. The cabinet has several drawers, each containing multiple folders with colored tabs (blue, white, yellow). The folders are filled with papers, some of which are visible and appear to be medical or financial documents. A red banner is overlaid on the right side of the image, containing the title text.

## Health Check on Taxable Supplies

# Point of Taxation Check

Time of supply means the point in time when goods/services are considered supplied

## Goods

**Time of supply of goods under forward Charge ( Shall be earlier of the following)**

- The date of issue of invoice by the supplier or the last date on which he is required to issue the invoice under Section 31
- The date on which the said supplier receives the payment
- It is important that auditor should check an addition to the price shall be from the original date of supply

**Time of Supply of goods under RCM ( Shall be earlier of the following)**

- the date of the receipt of goods;
- the date of payment as per the books of account or date when payment is debited in bank account whichever is earlier
- the date immediately following thirty days from the date of issue of invoice

## Services

**Time of Supply of Services under forward charge (Shall be earlier of the following)**

- the date of issue of invoice by the supplier if the same is issued within 30 days from date of supply
- the date of receipt of payment
- the date of provision of service if the same is not issued within 30 days
- the date on which the recipient shows the receipt of services in his books of account

**Time of Supply of Services under RCM (Shall be earlier of the following)**

- the date of payment as entered in the books of account of the recipient OR date of debit in bank account, whichever is earlier
- the date immediately following sixty days from the date of issue of invoice
- date of entry in the books of account of the recipient of supply

# Change of Rate – What is the Principle to Check

Date of  
Invoice

Date of Supply

Date of receipt of  
Payment

There are two events that will decide the taxability at old or new rate – Issue of Invoice & Receipt of Payment –

- In case if the service is provided before change in rate – then if both the events i.e. Issue of Invoice & Receipt of Payment occur **after** the change in rate then only **NEW RATE** will apply
- In case if the service is provided after change in rate – then if both the events i.e. Issue of Invoice & Receipt of Payment occur **before** the change in rate then only **OLD RATE** will apply.



# Illustrations

## **Goods and services were supplied after change in rate of Tax**

Sl. No	Date of change in Tax Rate	Date of Supply	Date of Issue of Invoice	Date of Receipt of Payment	Time of Supply - earliest of the dates
1	01-Jan-18	10-Jan-18	24-Dec-17	25-Jan-18	25-Jan-18
2	01-Jan-18	10-Jan-18	20-Dec-17	25-Dec-17	20-Dec-17
3	01-Jan-18	10-Jan-18	15-Dec-17	26-Dec-17	15-Dec-17
4	01-Jan-18	10-Jan-18	20-Jan-18	10-Dec-17	20-Jan-18

## **Goods and services were supplied before change in rate of Tax**

Sl. No	Date of change in Tax Rate	Date of Supply	Date of Issue of Invoice	Date of Receipt of Payment	Time of Supply - earliest of the dates
1	01-Jan-18	25-Jan-18	20-Jan-18	25-Jan-18	20-Jan-18
2	01-Jan-18	25-Jan-18	24-Dec-17	25-Dec-17	24- Dec-17
3	01-Jan-18	25-Jan-18	20-Jan-18	10-Dec-17	10- Dec-17

# Point of Taxation Relevance in some cases

## 1. Unbilled Revenue

Auditor should check the reason for the Unbilled revenue and understand why the same is being recognised and not billed under the GST regime - Company recognise the unbilled revenue as per the provision of AS-9 / IAS 18, however if condition stated need to be satisfied for discharging the GST liability on the unbilled revenue

- Completion of **“auxiliary activities”** post the actual supply of service for the purpose of Issuance of **“Invoice”**

Reference : Circular No. 144/13/ 2011 - ST dated July 18th, 2011

2. **Goods send on Approval basis-** The same should be billed on completion of 6 months or the date of approval whichever is earlier

3. **Payment done by director of the company for import of services by the company**

3. **Related Party Transactions/ Distinct parties Transactions**

3. **Reporting of inward supplies from unregistered persons liable to tax under RCM in terms of section 9(4) CGST Act-** Payment of tax under reverse charge in case of inward supplies from unregistered persons is exempt vide notification non 38/2017 dated 13<sup>th</sup> Oct'2017 till 30<sup>th</sup> September'2019

# Valuation Check

Section 15 of the **CGST Act** and Rule 27 to Rule 35 of CGST Rules, 2017 ( Chapter IV – Determination of Value of Supply), contain-provisions related to valuation of supply of goods or services made in different circumstances and to different persons.

- **Generally** – Transaction Value shall be used ( when transaction is between unrelated parties) including any taxes, fees, charges levied under any law other than GST law, expenses incurred by the recipient on behalf of the supplier, incidental expenses like commission & packing incurred by the supplier, interest or late fees or penalty for delayed payment and direct subsidies (except government subsidies) are required to be added to the price (if not already added) to arrive at the taxable value
- **Discount** – Pre Sales discount are deducted however post sales discount are not allowed. Please note that auditor has to see the impact of the discount which are provided post sales and does not agree with the customer. **Commercial discount without tax adjustment may lead to reversal of ITC in the hands of recipient as payment not made within 180 days**
- **Taxable value when consideration is not solely in money-**
  - i. Open Market Value of such supply;
  - ii. Total money value of the supply i.e. monetary consideration plus money value of the non-monetary consideration
  - iii. Value of supply of like kind and quality.
  - iv. Value of supply based on cost i.e. cost of supply plus 10% mark-up;
  - v. Value of supply determined by using reasonable means consistent with principles & general provisions of GST law.
- **Value of supply between distinct and related persons (excluding Agents)-** if the recipient is eligible for full input tax credit, the invoice value will be deemed to be the open market value

# Valuation Check- Special Check Points

- Transactions between HO and Branch office transactions – Reason for the issuance of the invoice and what was the basis of valuation of the transaction. We have seen that some clients in order to distribute the credit from HO to another states issues the invoice in respect of the support service. Such cases are required to be seen carefully and attracts penalty provisions also
- Transaction in respect of the sale of second hand assets excluding Trucks : According to rule 32 (5) of CGST Rules, 2017 "Where a **taxable supply is provided by a person dealing in buying and selling of second hand goods i.e., used goods** as such or after such minor processing which does not change the nature of the goods and where no input tax credit has been availed on the purchase of such goods, the value of supply shall be the difference between the selling price and the purchase price and where the value of such supply is negative, it shall be ignored. **Please note that it is not applicable for all assesses**
- Transaction in respect of sale of second hand car- **It is pertinent to mention here that the tax on sale/purchase of old/used cars is to be calculated on the value that represents margin of the supplier:-**
  - (i) in case of a registered person who has claimed depreciation under section 32 of the Income-Tax Act, 1961 (43 of 1961) on the said goods, the value that represents the margin of the supplier shall be the difference between the consideration received for supply of such goods and the depreciated value of such goods on the date of supply, and where the margin of such supply is negative, it shall be ignored; and
  - (ii) in any other case, the value that represents the margin of supplier shall be, the difference between the selling price and the purchase price and where such margin is negative, it shall be ignored.

**It is to be noted here, that the above notification shall not apply if the supplier of such goods has availed ITC/Cenvat Credit/ input tax credit of VAT or any other tax paid on such goods.**

# Place of Supply- Checks

Based on the “place of supply” so determined, the respective tax will be levied. IGST is levied where transaction is inter-state, and CGST & SGST are levied where the transaction is intra-state. For understanding Place of Supply for Services the following two concepts are very important namely:

- **Location of the recipient of services :**
- **Location of the supplier of services :**

When both the parties i.e the supplier as well as recipient of service are in India, then the same shall be domestic transactions can be further categorized as below:

- Inter-State (i.e between two different states)
- Intra-State (i.e within the same state)

**General Rule**- Place of supply shall be the location of the registered receipt. In cases, where service is provided to an unregistered person, the place of supply will be the:

- Location of the service recipient (if the address is available on record);
- Otherwise, location of service provider

## **International Transactions**

These are the transactions where either of the service recipient or the provider is outside India. Transactions in which both the recipient as well as provider are outside India are not covered here

# Place of Supply- Special Cases for Checks

- Inter state Wrongly instead of Intra state – In case the company has filed GSTR-3B and paid inadvertently wrong taxes then the same can be adjusted in the subsequent month GSTR-3B and in case of no adjustment then refunded
- India Branch office to Head office - A ruling by the Rajasthan Authority for Advance Rulings (AAR) has held that payment of salaries of employees and other working expenses are not services and not liable to tax.
- Place of supply in case of Bill to and Ship to Model – Under the Bill to and Ship to model, the place of supply shall be the location of the customer on whose behalf goods have been shipped to third person

# Exports Supplies- Check Points

- Whether condition for export of services has been met or not ( Place of supply of service is outside India or not and Foreign remittance has been received within prescribed time limit or not i.e one year from issuance of invoice)
- Whether LUT has been obtained or not for export of goods or services or its renewal within prescribed time or not?

## Correct Refund Filed

- **Basis the retrospective amendment in Rule 96(10) of the CGST rules vide Notification dated 23 January 2018 along with recent Circular No. 45/19/2018-GST dated 30 May 2018, which debars Exporters from claiming the refund via customs procedure, and allows to claim only via refund application.**

Auditor has to ensure that Exporter procuring the goods from the supplier, supplying the goods should not have taken benefit under any of the below schemes, otherwise Exporter cannot file the refund claim for the period 23 October 2017 via customs route.

- Deemed export exemption for supplies to AA holder / EPCG holder/ EOUs (Notification No. 48/2017-Central Tax dated 18 October 2017)
- Reduced rate of GST on supplies to Merchant exporters (Notification No. 40/2017-Central Tax (Rate) and 41/2017-Integrated Tax (Rate) both dated 23 October 2017)
- Import IGST exemption for EOUs (Notification No. 78/2017-Customs dated 13 October 2017)
- Import IGST exemption for AA holder/ EPCG holders

Please note that auditor has to ensure the above whether Exporter have maintained records regarding domestic suppliers to know if any of the supplier has claimed benefits on import procurements and take declaration to this effect. In case of deemed export/ merchant export transactions on procurement side, Exporter would have ready information since the benefit has been directly claimed by supplier on supplies to Exporter. However, in case of benefit on supplier's import procurement, the information has to be collated from respective supplier. It would also be responsibility of AA holder/ EOU to inform Exporter that import IGST exemption has been claimed by them and hence Exporter in such cases would be restricted from claiming Rebate option and can only claim via RFD application route

- Whether GSTR1 is filled properly or not for claiming of refund of IGST for example correct shipping bill no with date, invoice no with date and port code should match otherwise refund of IGST can not be granted



# Exports Supplies- Check Points

- Whether Local EGM or Gateway EGM has been filed properly by shipping line agent or not otherwise refund of IGST is not granted by Custom Authority
- Date of tax invoice should be on or before date of shipping bill.
- Whether IGST liability in GSTR 1 and GSTR3B should be match or not?
- In case of refund of Input tax credit then whether calculation of refundable amount is on the basis of Rules specified in GST Rules 89 of CGST Rules, 2017 or not  $[(\text{Net ITC} * \text{Export turnover}) / \text{Adjusted Total Turnover}]$
- Time limit for refund application as per section 54 of CGST Act, 2017 is 2 years from the relevant date
- In case of export of goods under LUT then need to check whether goods has been exported within 3 month from the date of issuance of invoice or not otherwise interest should be paid on such invoice as per Rule 96A of CGST Rules, 2017.

# What is Composite & Mix Supply

**Meaning of Composite Supplies :-** Two or more supplies + Naturally bundled + One of which is a principal supply

*Whether three separate but connected contracts for supply of materials, Erection & Civil works by a supplier would be considered as divisible contract (i.e. contract for supply of goods & services respectively) or Indivisible Contract (i.e. works contract)??*



*AAR held that the contract entered by the applicant is of “indivisible nature” and squarely falls under the works contract, as all the 3 agreements were awarded in response to a single tender & the general terms and conditions are commonly applicable to all the three agreements*

**Meaning of Mixed Supplies :-** Two or more individual supplies + for a single price + doesn't constitute composite supply

Supply of UPS with Battery, whether to be considered as composite supply, having considered that the UPS cannot work without battery ??



AAR held that a supply can be composite supply when the goods are naturally bundled and the contract is indivisible. However in the present case UPS & battery can be separately supplied, and standalone UPS & battery can be purchased from different vendors, hence it is a mixed supply.

# Principles to Determine Composite and Mix Supply

## Thumb rule

- Natural bundling
- Predominant nature of supply
- Nature of the contract, whether divisible or interconnected
- Intention of the recipient to obtain any part of the supply individually from any other supplier

## Determination of tax liability of composite and mixed supplies

The tax liability on a composite or a mixed supply shall be determined in the following manner:

- (a) A **composite supply** comprising two or more supplies, one of which is a principal supply, **shall be treated as a supply of such principal supply & tax rate of as applicable on principal supply shall be applicable**
- (b) A **mixed supply** comprising two or more supplies shall be treated as a supply of that particular supply which attracts **the highest rate of tax**

# Supplies to SEZ- What Checks points Auditor Should See

- Supplies to or by Special Economic zone unit or Special economic Developer shall be treated as inter-state supplies
- Supplies to Special Economic zone unit or Special economic are zero-rated supplies
- Refund may be claimed u/s 54 for making SEZ supplies either with payment of tax or under LUT/bond without payment of tax
- Application of refund shall be filed in FORM GST RED-01
- Supplies to SEZ can be without payment of tax under Letter of Undertaking(LUT)

**Auditor needs to check whether the SEZ supplies are made with payment of tax or without payment of tax**

**In case the same are made without payment of tax whether LUT is duly filed**

**Date of invoice should not be earlier than the date of filing LUT other wise the department may deny the benefit of LUT**

CBIC circular no 48/22/2018 has clarified that services of short term accommodation, etc provided to SEZ shall be treated as inter-state supply

# Schedule -1 Supplies –Where special attention required !

- Challenges in the reconciliation process which are not directly auditable or extracted from the financial statements
  - ✓ Stock transfers : Some time free stock transfer to related party
  - ✓ free supplies
  - ✓ distribution of free samples / gifts
  - ✓ transactions with related persons
  - ✓ supplies without consideration
  - ✓ goods sent on approval basis, supplies through agents
  - ✓ Services receive from outside India
  - ✓ Disposal of business asset – such as vehicle or laptops given to employees on permanent basis
- Reliability of the audit software is not tested

# Impact of Advance Ruling on “Liquidity Damages (LD)”

**LD** are such monetary compensation meant to mitigate the sufferance caused due to breach of contract committed by either of the parties in a contract.

**As a GST Auditor following point should be kept in mind**

- Whether LD recovered is not adjusted against the purchase made /expense incurred
- Need to ensure that credit note has not been issued against the recovery of LD
- Tax-Invoice has to be issued by the supplier
- Need to evaluate through the contract on the obligation of the GST to be recovered on the recovery of LD

**Maharashtra AAR : Maharashtra State Power Generation Company Ltd**



# CHALLENGES IN E-WAY BILL RECONCILIATION

Currently there is no link between e-way bill and GST portal but reconciliation is imperative to find out any discrepancies in the data reported in the GST returns vis-à-vis e-way bill portal



e-way bills are required to be generated for movement of goods on delivery challans but, such details are not reported in GSTR-1

No requirement to issue e-way bill for supply of services but same is reported in GSTR-1

Reconciliation of the value of supplies considering the credit notes issued later by the supplier

Issuance of e-way bills only applies to the movement of goods over and above a threshold limit, whereas the data declared in GSTR-1 includes all the supplies regardless of any threshold

Varied state-specific requirements, such as different threshold limits & notified products for which e-way bills are required

A close-up photograph of a hand reaching into a filing cabinet to select a folder. The cabinet has several drawers, each containing multiple folders with colored tabs (blue, white, yellow). The folders are filled with papers, some of which are visible and appear to be forms or documents. The background is a textured, light-colored surface.

## Health Check on Non GST Supplies

# Meaning of Non GST Supplies ? Including special Cases

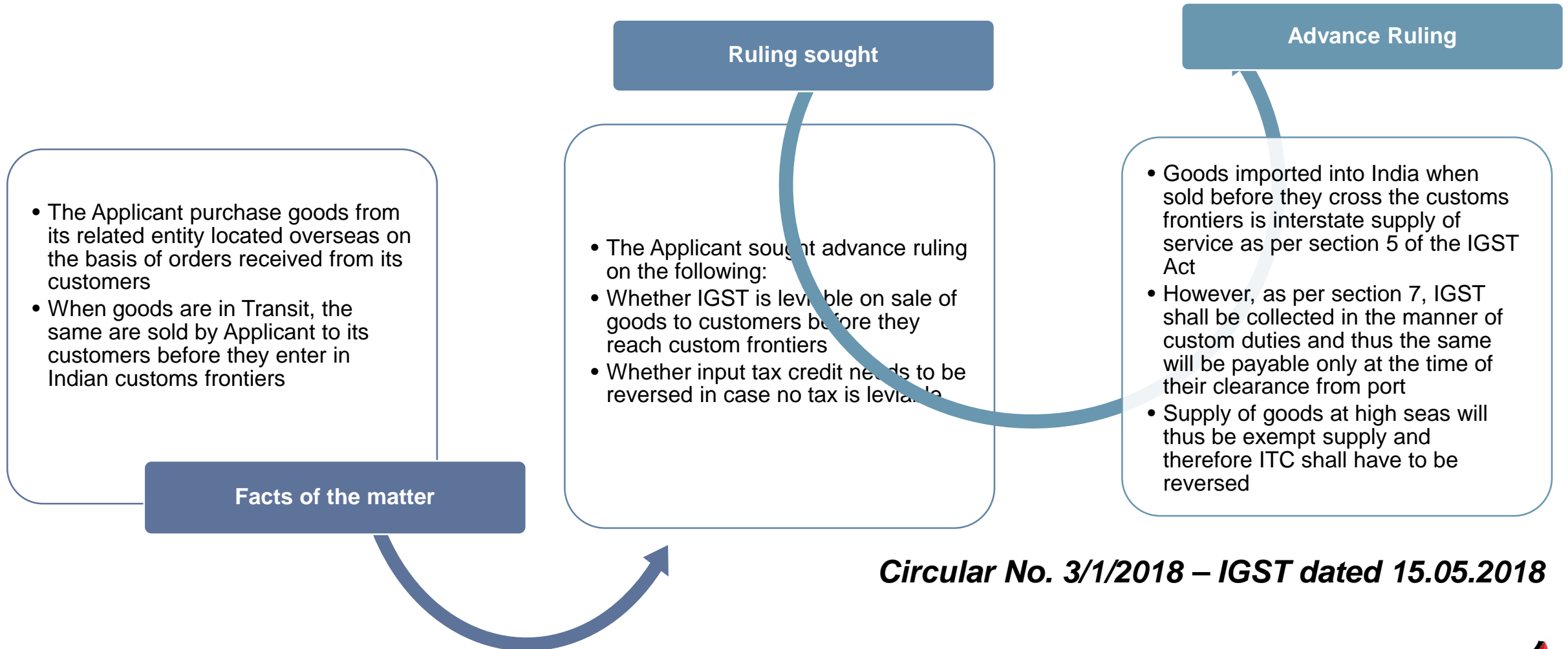
Goods or services on which GST is not leviable are called Non GST supply. Input tax credit of inputs and / or input services used in providing non GST supply is not available i.e. no input tax credit on non GST supplies. Examples of Non-GST supplies are alcohol for human consumption, petroleum products, electricity etc.

**Below are the special scenarios wherein the Advance Ruling has come to be covered under Non GST supplies**

- **Reporting of transactions pertaining to High seas sales being non-GST supplies-** Kerala AAR in the case of M/s Synthetite Industries Ltd held that high seas sale is a non-GST supply & ITC needs to be reversed in terms of section 17(2) of CGST Act
- Reporting of the Drop shipments- When the purchase was done from overseas and the said goods were directly shipped to another country then the same transaction is outside the ambit of GST


Auditor needs to check whether such reporting is done in appropriate column of GST returns and in case of any discrepancy found, then mention the same in audit report.

# Impact of Advance Ruling on “High Sea Sales



**!! Whether the Company has made the reversal of ITC against the HSS Supplies !!**



A close-up photograph of a hand reaching into a filing cabinet to select a folder. The cabinet has several drawers, each with a colored circular handle (blue, white, yellow). The folders are made of light-colored paper and are filled with documents. A red banner is overlaid on the right side of the image, containing the title text.

# Health Check on Input Tax Credit

# Check - Input Tax Credit (ITC) Ledger Review

## Claiming input tax credit

- As per the GST provision, business houses needs to claim their eligible ITC of FY 2017-18 before filing return for Sep'2018 i.e 20 October 2018

## Mismatch in credit claimed & liability declared by vendors

- In order to avoid any loss of credit companies needs to reconcile their inputs claimed with the GSTR-2A and claim the unclaimed inputs till the filing of return for Sep'2018 month following that particular financial year

## Reporting of Credit notes

- debit/credit notes for any supply made in a particular financial year are required to be issued and disclosed no later than in the return for the month of Sep'2018

## Reversal of Input tax Credit

- Reversal of ITC directly attributable to exempt supplies & common inputs/input services for a particular financial year has to be done till the filing of return for Sep'2018 month following that particular financial year

## Reversal due to non- payment of consideration within 180 days

- As per section 16(2) taxpayers needs to reverse the credit if the payment is not made within 180 days



# Check - Input Tax Credit (ITC) Ledger Review

- Company has not availed the ITC on ineligible credit u/s 17 (5) i.e. Gifts etc
- Company has not availed the ITC on work contract service / repair and maintenance to immovable property – Significant impact to hospitality sector
- Review of the underlying documentation and supporting for availment of ITC
- In case of Supply of “taxable supply” as well “exempt supply”, whether the proportionate ITC has been reversed
  - Supply of Alcohol by Hotels
  - High Sea Sales



**Further the method need to computed on the monthly basis and on the year ended the same need to be annualised**

# Check - Input Tax Credit (ITC) Ledger Review

- Why the Input tax distribution registration has not been obtained ?  
*In case HO and Branch driven operations, authority may challenge the ITC claimed on all the common ITC*
- In case ISD has been obtained whether the method of distribution of ITC is adhoc or scientific method ?
- ITC availed in the month of Jan 2018 and reversed in the Feb 2018, whether “**Interest**” has been paid on such amount ?
- ITC has not been utilized for the payment of RCM
- RCM has been duly discharge as per the point of taxation for import of service and the credit has been taken in the same month or subsequent month;
- Whether ITC has been availed based on the receipt of goods / services or mere by receipt of Invoice




# Check - Input Tax Credit (ITC) Ledger Review

- Auditor need to perform the sample check of Invoice

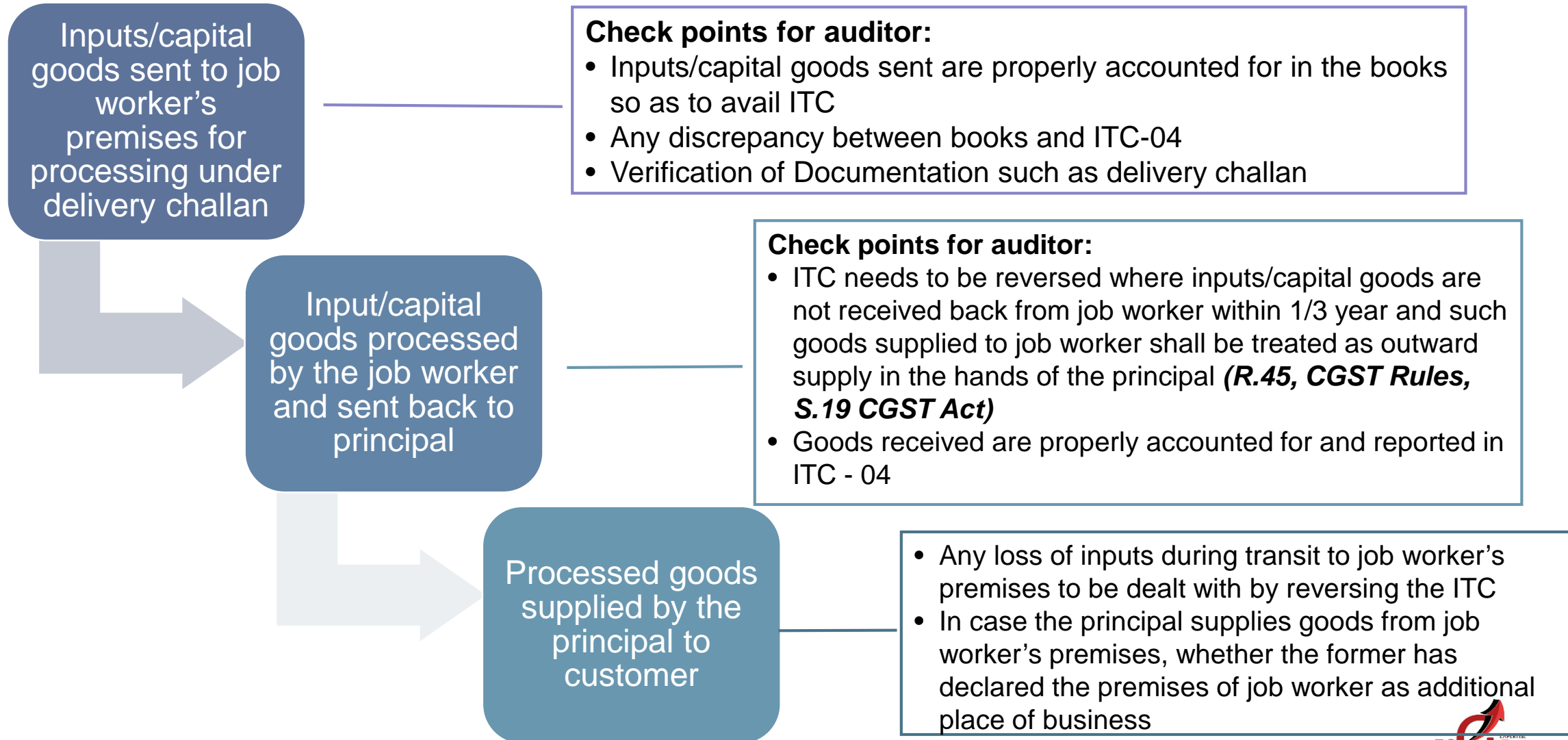
***Observed that Invoice has been issued in favour of Gurgaon Branch and input has been claimed by Delhi Branch***

- Whether ITC has been availed based on the receipt of goods / services or mere by receipt of Invoice

A close-up photograph of a person's hand reaching into a filing cabinet to select a folder. The cabinet has several drawers, each with a colored circular handle (blue, white, yellow). The folders are made of light-colored paper and are filled with documents. A red banner is overlaid on the right side of the image, containing the text 'Health Check on Job worker'.

# Health Check on Job worker

# Good sent to Job Worker- Check Points





A close-up photograph of a hand reaching into a filing cabinet to select a folder. The cabinet has several drawers, each containing multiple folders with colored tabs (blue, white, yellow). The hand is positioned over the second drawer from the top, which contains a folder with a yellow tab. The background is a blurred office setting.

Key take Always



# Key Takeaway

- GST audit has to be performed before 30 September 2018, other there will be ITC loss
- Need to review the ITC register in proper manner
- Professional skeptics to be involved in area where transaction are not captured in the financials statements
- Significant impact of the advance ruling on High Sea Sales, Composite and Mix Supply and Liquidity damages
- Whether payment to the vendors has been made within 180 Days ?
- In case of the Exempt supply , whether there is reversal of the ITC
- Need to evaluate the point of taxation, where in service rendered in Pre GST and Invoicing made in Post GST
- Reconciliation of revenue as per audited account and GST Return filed



# GST

Audit and Health Check

## Thank you



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# Annexure A: Net outward supplies after considering the return of supplies on which output tax is payable

Sl. No.	Particulars	Total
	<b>Revenue from operations</b>	
	<b>(+) Other Income</b>	
	<b>(=) Amount as per financials</b>	
Less	Revenue/Other Income pertaining to other registered/distinct persons	
Less	Revenue items on which output GST is not payable	
	Zero rated without payment of tax - Export and supplies to SEZ	
	Deemed exports	
	Liable to tax under reverse charge mechanism	
	Wholly Exempt Supplies	
	Partly Exempt Supplies (exempt portion)	
	Non-GST supplies	
	Not a supply as per Schedule III or the definition of supply	
	<b>(=) Amount as per financials (in the State)</b>	
Add:	Sale of capital assets	
	Unearned revenue (advances)	
	Section 15	
	Taxes, duties, cess etc levied under other laws charged by supplier	
	Amount incurred by recipient but liable to be paid by supplier	
	Interest, late fee or penalty for delayed payment of consideration	
	Incidental expenses charged by the supplier	
	Net outward supplies after considering the return of supplies on which output tax is payable	
	Schedule I	
	Write off and disposal of business assets without consideration, if GST credit was availed	
	Supply of goods / services by <<GSTIN>> to related persons / distinct persons:	
	(i) To employees (excluding gifts per employee upto Rs.50,000)	
	(ii) To distinct persons having same PAN	
	(iii) To other related persons	
	Goods dispatched by GSTIN to agents to the extent sale is not made / recognized	
Less:	Unbilled revenue (Considering the provisions of Section 13(2) of the CGST Act, 2017)	
	Revenue by way of supplies made through agents where tax paid in PY upon initial dispatch	
	Revenue omitted to be declared in the Annual Return	

Sl. No.	Particulars	Total
	<b>Operational Expenses</b>	
(+)	<b>Other Expenses</b>	
(=)	<b>Inward supplies as per financials</b>	
Less	Expenses pertaining to other registered persons/distinct persons	
Less	Expenses on which input tax credit is not available due to the following:	
	Not a supply as per Schedule III or the definition of supply	
	Inward supplies received from composition suppliers	
	Exempt inward supplies	
	Wholly Exempt Inward Supplies	
	Partly Exempt Inward Supplies (exempt portion)	
	Non-GST Inward supplies	
	Goods / services are not used in the course or furtherance of business	
	Credit ineligible as the goods/services received are used wholly for effecting exempt supplies (Excluding Exports)	
	Credit ineligible u/s 17(5)(a) : On motor vehicles and other conveyances	
	Credit ineligible u/s 17(5)(b) : On food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, On membership of a club, health and fitness center, On rent-a-cab, life insurance and health insurance, On travel benefits extended to employees on vacation.	
	Credit ineligible u/s 17(5)(c) : On works contract services when supplied for construction of an immovable property	
	Credit ineligible u/s 17(5)(d) : On goods / services received for construction of an immovable property on own account	
	Credit ineligible u/s 17(5)(g) : On goods or services or both used for personal consumption;	
	Credit ineligible u/s 17(5)(h) : On goods lost, stolen, destroyed; On goods written off, goods disposed of by way of gift, goods disposed of by way of free samples.	
	Credit ineligible u/s 17(5)(i) : In respect of tax paid in accordance with the provisions of sections 74, 129 and 130	
	Credit not taken as the recipient's GSTIN was not mentioned / mentioned incorrectly	
	Credit reversed u/s 17 (4) for a banking company / financial institution / non banking financial Company	
	Credit not taken as the place of supply is outside the State	
	<b>Amount as per financials (in the State)</b>	
Add:	Purchase of capital assets	
	Prepaid expenses	
	Expenses of previous year on which input tax credit has been taken this year	
	Taxes, duties, cess etc levied under other laws charged by supplier	
	Amount incurred by recipient but liable to be paid by supplier	
	Interest, late fee or penalty for delayed payment of consideration	
	Incidental expenses charged by the supplier	
Less:	Prepaid expenses of previous year	

## Annexure C: Net inward supplies on which input tax credit has been taken

## Annexure B: Output tax payable including interest, fee, penalty and other levies

Particulars	Total
Output tax	
CGST	
Total output tax payable determined under audit	
Total output tax payable under annual returns	
Difference:	
Reasons for difference: to be quantified	
Reasons for difference: to be quantified	
Reasons for difference: to be quantified	
SGST	
IGST	
Compensation cess	

## Annexure D: Tax payable (incl. interest, fee, penalty & other levies) on reverse charge inward supplies

Particulars	Total
CGST	
Total tax payable on reverse charge inward supplies determined under audit	
Total tax payable on reverse charge inward supplies as per annual return	
Difference:	
Reasons for difference: to be quantified	
Reasons for difference: to be quantified	
Reasons for difference: to be quantified	
SGST	
IGST	
Compensation cess	

Annexure E: Net input tax credit claimed on inward supplies considering all the reversals

Particulars	Total
CGST	
Net input tax credit on all inward supplies determined under audit	
Net input tax credit on all inward supplies as per the annual return	
Difference:	
Reasons for difference: to be quantified	
Reasons for difference: to be quantified	
Reasons for difference: to be quantified	
SGST	
IGST	
Compensation cess	

Annexure F: Refund Claimed

Particulars	Total
CGST	
Total tax payable on reverse charge inward supplies determined under audit	
Total tax payable on reverse charge inward supplies as per annual return	
Difference:	
Reasons for difference: to be quantified	
Reasons for difference: to be quantified	
Reasons for difference: to be quantified	
SGST	
IGST	
Compensation cess	



***Annexure G: Net outward supplies on which no output tax is payable***

<b><i>Particulars</i></b>	<b><i>Total</i></b>
Net outward supplies on which no output tax is payable as determined under audit	
Net outward supplies on which no output tax is payable as per annual return	
<b>Difference:</b>	
Reasons for difference: to be quantified	
Reasons for difference: to be quantified	
Reasons for difference: to be quantified	

***Annexure H: Net inward supplies (including reverse charge inward supplies) on which no input tax credit has been taken***

<b><i>Particulars</i></b>	<b><i>Total</i></b>
Net inward supplies on which input tax credit has been taken as determined under audit	
Net inward supplies on which input tax credit has been taken as per annual return	
<b>Difference:</b>	
Reasons for difference: to be quantified	
Reasons for difference: to be quantified	
Reasons for difference: to be quantified	