

EFFECT & IMPLICATION OF GST PROVISIONS ON TAX AUDIT REPORT & DISCUSSION ON GST AUDIT

Presentation by:-

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GST ASPECTS IN TAX AUDIT FOR A/Y 2018-19

- Audit u/s 44AB of Income Tax Act, 1961 (commonly known as 'tax audit') will have to be completed by 30th September
- Central Board of Direct Taxes (CBDT) has issued [Notification No. 33 dated 20.07.2018](#) amending Form 3CD with effect from 20.08.2018
- With introduction of GST in India with effect from 01.07.2017, tax audit for Assessment year 2018-19 poses new challenges

GST ASPECTS IN TAX AUDIT FOR A/Y 2018-19

Some of the major challenges being-

- 3 months (01.04.2017 to 30.06.2017) pre-GST period and balance 9 months (01.07.2017 onwards) post introduction of GST;
- Wrong classifications leading to adoption of wrong GST rate in initial months of introduction of GST;
- Lack of clarity in the GST law, frequent changes in the law, issuance of more than 300+ notifications;
- Failure of the matching concept – whether it would be possible to identify if the supplier has failed to remit taxes to determine eligibility of credits;
- Absence of / incomplete mandatory records;
- Errors in GST returns;
- No option of amendment of GST return and many more;
- Transitional issues (law does address all types of transactions)

GSTIN DETAILS

Clause 4 of Form 3CD is being amended to seek details of GSTIN in cases where the assessee *is liable to pay* GST.

- GSTIN is state based. Tax audit is conducted for a PAN and hence, various GSTIN need to be reported if the assessee has different branches/offices in various states. Also, there is an option of multiple business registration in GST even if the offices/branches are in same state. In case of multiple business verticals, one has to ensure that all registration numbers are disclosed
- Challenges with respect to GSTIN are that during introduction of GST or during migration process, some assesses whose details as per VAT/Service Tax/Central Excise were improper have obtained new GSTIN without mentioning the old registration numbers for which auditor should ensure that the turnover declared in the old registration numbers have been carried forward to new GSTIN

TURNOVER RECONCILIATION

- Turnover as per VAT/Service Tax/Central Excise returns for period from 01.04.2017 to 30.06.2017 and turnover as per GST returns for period from 01.07.2017 to 31.03.2018 needs to be reconciled with books of accounts;
- There may be various reasons for differences in turnover after introduction of GST on account of –
 - Transaction between branches located in different states which are included in Outward Supplies as per GST returns;
 - GST on Advances to be paid at time of receipt (which was amended later) and included as 'Outward Taxable Supplies' in GSTR 3B but may not be adjusted against invoice by 31.03.2018 and hence not included in turnover as per Books;

TURNOVER RECONCILIATION

- Exempted turnover not declared in GST returns
- Non-Filing of GSTR-1
- Wrong turnover declared in GST returns but not rectified
- Turnover as per GST return rectified in returns of subsequent months in FY 2018-19 since the GST act provides for rectification of any errors of a financial year before filing of return for month of September of subsequent financial year
- Credit notes not considered in GST returns
- Mismatch between GSTR 3B and GSTR 1
- Transactions of B2B declared as B2C and later rectified in subsequent months GSTR 1

INPUT TAX CREDIT

- Auditor needs to ensure that the balance in Electronic Credit ledger as on 31.03.2018 matches with ITC ledgers in the books
- Though [GSTR 2A](#) provides a proof of receipt of good or service from supplier, the same may undergo updation till the September month return of suppliers are filed
- Hence, Reconciliation for the same also needs to be prepared or obtained from the client
- Major items of reconciliation may be-
 - Non-Availment of ITC on invoices
 - ITC may not be reflected in GSTR 2A due to non-filing of return by Supplier
 - Wrong accounting of Transition credits
 - Wrong availment of ITC in GST return though the same is not availed in Books
 - Errors in GST returns

NEW CLAUSE 44 OF FORM 3CD (effective from 20.08.2018)

- New clause 44 requires the auditor to give break-up of expenditure into following categories-
 - **Expenditure in respect of entities registered under GST**
 - Relating to goods or services exempt from GST
 - Relating to entities falling under composition scheme
 - Relating to other registered entities
 - **Expenditure in respect of entities NOT registered under GST**
- This information can be used by GST officer to ascertain whether the required disclosures are made in GST returns or required tax payable is paid or not

NEW CLAUSE 44 OF FORM 3CD (effective from 20.08.2018)

Key concerns with respect to the above clause of Form 3CD are as under:

- Whole idea of audit u/s 44AB of the Income Tax Act, 1961 was to ensure that the books are correctly maintained and income is rightly computed as per the provisions of the law.

Seeking the break-up of total expenditure will not have any bearing on the computation of income since the allowability of expense does not depend on whether the expenditure is incurred in respect of entities registered under GST or otherwise. Moreover a needless bias may get created in respect of expenditure from unregistered persons which may lead to making fishing inquiries.

- Information sought under Clause 44 is, in another way, already part of the Annual Return under GST which is to be filed along with the reconciliation statement as per Sec. 35(5) read with Sec. 44(2) of the CGST Act, 2017. This unnecessarily increases the work of auditor.

NEW CLAUSE 44 OF FORM 3CD (effective from 20.08.2018)

Key concerns with respect to the above clause of Form 3CD are as under:

- Tax auditor will not be in a position to certify the same since he may have limited time as well as knowledge of the GST
- Every expenditure may not necessarily lead to a supply under GST. As an example, salary expense is treated as neither supply of goods nor supply of services as per Entry No. 1 of Schedule III to the CGST Act, 2017. Another instance can be of capital goods wherein only depreciation forms part of the expenditure whereas input tax credit is claimed on entire purchase. Hence it is impossible to provide break-up for “total expenditure” into GST and non-GST expenditure without doing the reconciliation
- Accounting system at many small and medium enterprises is not geared for pulling out such information since the said requirement has been announced after the end of the year

NEW CLAUSE 44 OF FORM 3CD (effective from 20.08.2018)

- **Expenditure in respect of entities registered under GST**
- Expenditure incurred towards goods purchased/ services procured in a financial year from GST registered persons i.e. from a person who possess a GSTIN, whether a regular dealer or a composition dealer needs to be reported here. Under this category, there are 3 broad sub-categories. Tables 4 & 5 of GSTR 3B contains the majority of details to be reported in this clause but [GSTR 3B](#) captures only tax amount and not gross expenditure incurred.

NEW CLAUSE 44 OF FORM 3CD (effective from 20.08.2018)

- Expenditure relating to goods or services exempt from GST
- Section 2(47) of CGST Act, 2017- “exempt supply” means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply
- Table 5 of GSTR 3B captures this data but many assesses missed reporting the same in GSTR 3B

NEW CLAUSE 44 OF FORM 3CD (effective from 20.08.2018)

- Expenditure relating to entities falling under composition scheme
- This is a bigger challenge which can be a laborious job of verification of each and every invoice relating to purchases/expenditure.
- Only way to identify such expenditure is the invoices/bill of supply which contain GSTIN of supplier but GST is not collected on invoice. These invoices/bill of supply may pertain to the category of purchases from dealers under composition scheme.
- Table 5 of GSTR 3B captures this data but many assesses missed reporting the same in GSTR 3B.

NEW CLAUSE 44 OF FORM 3CD (effective from 20.08.2018)

- **Expenditure relating to other registered entities**
- In simple words, Total Purchases from Registered persons – Exempt purchases from registered persons – Purchases from dealers under Composition scheme needs to be reported here
- Challenges in reporting under this clause is that this may not (need not) match with actual ITC availed or eligible as per GST return.
- Some major reasons for the same are-
 - non-availment of ITC,
 - Purchased from registered person but recipient's GSTIN not mentioned on Invoice,
 - Section 17(5) supplies i.e. supplies on which ITC is restricted,
 - Supplies from registered person but CGST+SGST of another state is charged based on place of supply rules,
 - Supplier filed returns but missed adding the recipient's GSTIN in his GSTR 1

NEW CLAUSE 44 OF FORM 3CD (effective from 20.08.2018)

- This clause also includes expenditure on which assessee is liable to pay under reverse charge as per provisions of Section 9(3) of CGST Act, 2017 i.e. Payments to GTA who are registered under GST, Sponsorship Services, etc.
- Table 4 of GSTR 3B captures the data reported in this clause.

NEW CLAUSE 44 OF FORM 3CD (effective from 20.08.2018)

- **Expenditure in respect of entities NOT registered under GST**
- Section 9(4) of CGST Act, 2017 mandates the registered person to pay tax under Reverse Charge at rate applicable on goods or services procured/received by him from an unregistered person.
- This provision was effective from 01.04.2017 to 12.10.2017 and later Government suspended the applicability of the same till 30.09.2019.
- The tax paid under reverse charge is eligible to be availed as ITC subject to provisions of Section 17 of CGST Act, 2017
- Many assessee missed to pay tax under RCM under section 9(4) of CGST Act, 2017. Reporting under this clause gives data to GST authorities to verify whether assessee has paid tax under RCM under Section 9(4) of CGST Act, 2017. It is advisable to pay tax under RCM now along with interest and claim the tax paid as ITC in the month in which it is paid.

GST AUDIT

IMPORTANT DEFINITIONS

SECTION 2(13)-MEANING OF AUDIT

- “audit” means the examination of records, returns and other documents maintained or furnished by the registered person under this Act or the rules made thereunder or under any other law for the time being in force to verify the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and to assess his compliance with the provisions of this Act or the rules made thereunder
- Audit requires verification of correctness

IMPORTANT DEFINITIONS

- Section 2(47)- “exempt supply” means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply
- Section (78)- “non-taxable supply” means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act

IMPORTANT DEFINITIONS

Section 2(112)- “turnover in State” or “turnover in Union territory” 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) and exempt supplies made within a State or Union territory by a taxable person, exports of goods or services or both and inter-State supplies of goods or services or both made from the State or Union territory by the said taxable person but excludes central tax, State tax, Union territory tax, integrated tax and cess

SELF ASSESSMENT U/S 59

- Every registered person shall self-assess the taxes payable under this Act and furnish a return for each tax period as specified under section 39.

FURNISHING OF RETURNS-SECTION 39

SALIENT FEATURES

- A return is a statement of specified particulars relating to business activity undertaken by the taxable person during a prescribed period
- There will be common e-return for CGST, SGST,IGST and Additional Tax
- Every registered person is required to file a return for the prescribed tax period
- A return needs to be filed even if there is no business activity (i.e. Nil Return) during the said tax period
- A registered taxable person shall not be allowed to furnish return for tax period if valid return for any previous tax period has not been furnished by him

FURNISHING OF RETURNS-SECTION 39(1)

Filing of Return by a Regular Tax Payer

<u>Particulars</u>	<u>Periodic Return</u>
Applicability	Every registered person other than Input service distributor , A non-resident taxable person , A person paying tax under the provisions of section 10 (composition levy) , A person paying tax under the provisions of section 51 (TDS) , A person paying tax under the provisions of section 52 (TCS)
Periodicity and due date	Monthly and to be filed by 20th of the succeeding month
Particulars to be disclosed	The details of:- inward and outward supplies of goods and/or services, input tax credit availed, tax payable, tax paid and other particulars as may be prescribed

FURNISHING OF RETURNS

- This Section still specifies that three returns have to be filed monthly-
 - Return of outward supplies by 10th of the next month (GSTR-1)
 - Returns of inward supplies by 15th of the next month (GSTR-2) and
 - A Consolidated monthly return by 20th of the next month (GSTR-3)
- This process of filing of three returns has been done away with by the Government due to practical difficulties and currently only two monthly returns are being filed i.e. Return of outward supplies by 10th of next month (GSTR-1) and a Consolidated Return by 20th of next month (GSTR-3B)

Key Recommendations of 28th GST Council Meeting Regarding Returns

- **Quarterly filing of return:** for the small taxpayers having turnover below Rs. 5 Cr but only for two kinds of registered persons –
 - small traders making only B2C supply or
 - making B2B + B2C supply

as an optional facility however payment of tax need to be made monthly

SCRUTINY OF RETURNS U/S 61

- The proper officer may scrutinize the return and related particulars furnished by the registered person to verify the correctness of the return and inform him of the discrepancies noticed, if any in such manner as may be prescribed and seek explanation thereto.
- In case the explanation is found acceptable, the registered person shall be informed accordingly and no further action shall be taken in this regard

SCRUTINY OF RETURNS U/S 61

- In case, satisfactory explanation is not obtained within 30 days of being informed or such further period as permitted by proper officer or after accepting discrepancies, registered person fails to take corrective measures, in his return for the month in which the discrepancy is accepted by him, the proper officer, may, initiate appropriate action including:
 - Conduct of audit at the place of business of registered person in a manner provided in Section 65 of the Act; or
 - Directing such registered person by notice in writing to get his records including books of accounts examined and audited by a Chartered Accountant or Cost Accountant under Section 66 of the Act; or
 - Undertaking procedures of inspection, search and seizure under Section 67 of the Act; or
 - proceeding to determine dues under sections 73 & 74 of the CGST Act (issue of Show cause notice)

SCRUTINY OF RETURNS U/S 61

Who is Proper Office for scrutiny of Returns?

- **Circular No. 3/3/2017 – GST dated 5th July, 2017 specifies ‘Superintendent of Central Tax’ as Proper Officer for function of scrutiny of Returns u/s 61 of the CGST Act, 2017**

SCRUTINY OF RETURNS U/S 61

RULE 99 OF CGST RULES, 2017-SCRUTINY OF RETURNS

- Selected returns can be scrutinized
- By Proper Officer
- In case of any discrepancy, Proper Officer will issue notice in Form GST ASMT-10
- If discrepancy is acceptable to party, he may opt to pay tax and interest or furnish an explanation to the proper officer and intimate to the department in Form GST ASMT11, within a period not exceeding 30 days from the date of issue of notice
- Proper Officer will issue satisfaction in Form GST ASMT-12

AUDIT UNDER GST

SECTION 65- AUDIT BY TAX AUTHORITIES

- To ensure that assessee has paid off their liability, Commissioner or any officer authorized by commissioner may undertake audit of any registered person by passing general or specific order
- The audit shall be completed within a period of three months from the date of commencement of the audit
- Audit Report shall be issued within a period of 30 days from conclusion of audit
- Where audit results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may issue Show cause notice under section 73 or section 74 of CGST Act, 2017

AUDIT UNDER GST

SECTION 66- SPECIAL AUDIT

- Special audit will be directed at any stage of scrutiny, inquiry, investigation or any other proceedings where any officer not below the rank of Assistant Commissioner is of the opinion that the value has not been correctly declared or the credit availed is not within the normal limits
- Any officer not below the rank of Assistant Commissioner with the prior approval of the Commissioner, direct the registered person by a communication in writing to get his records including books of account examined and audited by a chartered accountant or a cost accountant as may be nominated by the Commissioner
- Audit Report shall be submitted to the Assistant Commissioner within a period of 90 days
- The registered person shall be given an opportunity of being heard in respect of any material gathered

AUDIT UNDER GST

SECTION 66- SPECIAL AUDIT

- Expenses of audit, including the remuneration of such chartered accountant or cost accountant, shall be determined and paid by the Commissioner
- Where audit results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may issue a Show cause notice under section 73 or section 74 of the CGST Act, 2017

ACCOUNTS AND RECORDS UNDER GST

SECTION 35 (1) OF THE CGST ACT, 2017

- Every registered person (even persons who have opted for composition scheme) shall keep and maintain, at his principal place of business, as mentioned in the certificate of registration, a true and correct account of—
 - (a) production or manufacture of goods;
 - (b) inward and outward supply of goods or services or both
 - (c) stock of goods
 - (d) input tax credit availed
 - (e) output tax payable and paid; and
 - (f) such other particulars as may be prescribed

ACCOUNTS AND RECORDS UNDER GST

SECTION 35 OF THE CGST ACT, 2017

- Proviso to this section provides that in case of more than one place of business, accounts relating to each place of business shall be kept at such places of business

AUDIT UNDER GST

SECTION 35(5)-MANDATORY AUDIT BY A CA OR A COST ACCOUNTANT

- Where the aggregate turnover of a registered person during a financial year exceeds the prescribed limit of Rs. 2 Crore, it has to mandatorily get its accounts audited by a Chartered Accountant or a Cost Accountant
- Issues
 - Whether aggregate turnover has to be taken registration wise or person wise
 - Whether aggregate turnover will include turnover of April 2017 to June 2017 or not

AUDIT UNDER GST

MEANING OF 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

AUDIT UNDER GST

SECTION 35(5) -MANDATORY AUDIT BY A CA OR A COST ACCOUNTANT

- While submitting the audit report, assessee shall also submit a copy of the audited annual accounts, annual return, the reconciliation statement under section 44(2) of CGST Act 2017 duly certified, in FORM GSTR-9C, electronically through common portal either directly or through a facilitation centre notified by the Commissioner and such other documents in such form and manner as may be prescribed
- As per Section 44(2) Reconciliation statement means, assessee has to reconcile the value of supply declared in the return filed for the financial year with the audited annual financial statement
- Section 44 talks about filling of annual return by assessee on or before 31 December following the financial year for which return is filled, so its implied that audit report u/s 35 has to be submitted along with annual return

Who shall file the annual return

- **Section 44 of the CGST Act, 2017**
- Every registered person, other than –
 - an Input Service Distributor
 - a person paying tax under section 51 or section 52,
 - a casual taxable person and
 - a non-resident taxable person
- **Due date of filing annual return-** on or before 31st December following the end of such financial year

SECTION 35(6) OF THE CGST ACT, 2017

- Subject to the provisions of Section 17(5)(h), where the registered person fails to account for the goods or services or both in accordance with the provisions of Section 35(1),
- It shall be deemed as supply of goods/services or both and
- proper officer may issue a Show cause notice u/s 73 or 74 for tax payable on such supply of goods or services or both

Section 17(5)(h) - Where goods are lost, stolen, destroyed, written off, or disposed of as gifts or free samples, proportionate input tax credit should be reversed

FORMAT OF AUDIT REPORT

- Format of Audit report is yet to be notified
- ICAI has submitted GST audit report format with the Government
- Particulars which are required to be furnished with audit report will be as per Form GSTR- 9D (also submitted by ICAI with Government and is available in public domain for reference)

Finalization of Accounts with GST Perspective

Issues in Outward Supply.

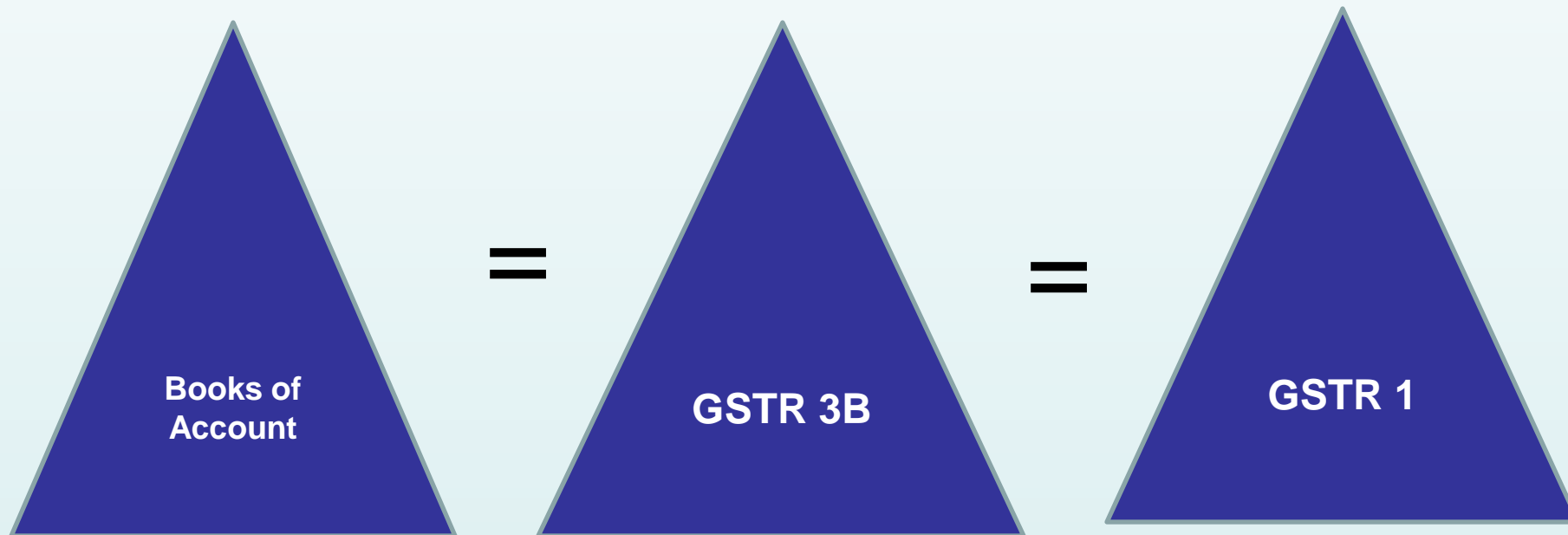
Issues in Inward Supply, ITC & Reconciliation thereof.

Issues in Reverse Charge.

Review ageing analysis of creditors for reversal
Special transactions

Accounting Treatment of Transitional Credit

Issues in Outward Supply



Issues in Outward Supply

Invoice omitted to be reported in returns

Invoice reported twice in return.

Invoice Cancelled afterwards.

Sales Return.

Post Sale Discount.

Misc. Income / Sale or Disposal of Asset

Credit Note/ Debit Note

A credit note or a debit note, for the purpose of the GST Law, can be issued by the registered person who has issued a tax invoice, i.e., the supplier.

Any such document, by whatever name called, when issued by the recipient to the registered supplier, is not a document recognized under the GST Law.

The credit note must not be issued any time after either of the following 2 events

Annual return has been filed for the FY in which the original tax invoice was issued; OR

September of the FY immediately succeeding the FY in which the original tax invoice was issued

Situations under which the registered supplier is entitled to issue a credit note

1. Actual value of supply is lower than that stated in the original tax invoice;
2. Tax charged in the original tax invoice is higher than that applicable on the supply;
3. Goods supplied are returned by the recipient;
4. Goods or services supplied are deficient.

Treatment of Advance Received

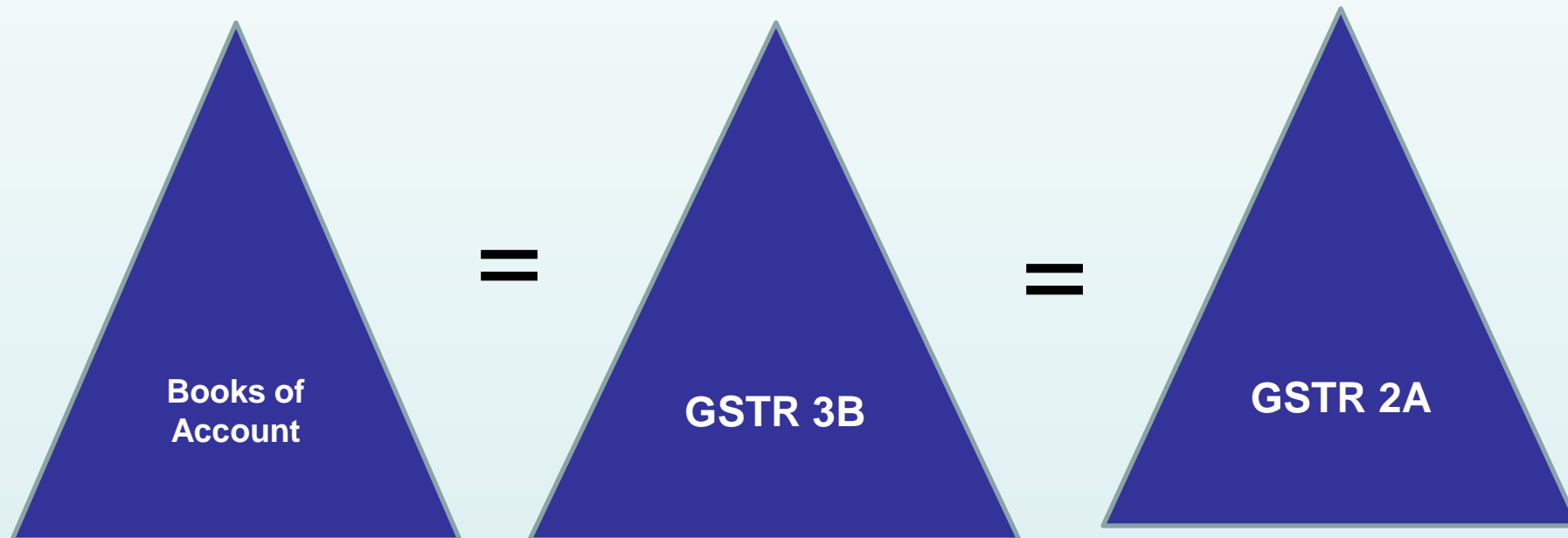
In respect of Goods-

- **No Tax on Advance received from 15th November 2017 onwards. (40/2017, 13th Oct 17 & 66/2017, Dated 15th Nov 17)**

In respect of Services-

- **Tax has to be paid even on advances.**

Issues in Inwards Supply & ITC and reconciliation thereof



Issues in Inwards Supply & ITC and reconciliation thereof

Balance in Electronic Credit Ledger, Electronic Cash Ledger Should match with balance in Books of Accounts.

If Balance does not match then one has to prepare reconciliation statement

Reversal of Blocked Credit 17(5)

Issues in Inwards Supply & ITC and reconciliation thereof

- Registered person shall not be entitled to take input tax credit
- in respect of any invoice or debit note
- for supply of goods or services or both
- after the due date of furnishing of the return under section 39 for the month of September
- following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return,
- whichever is earlier.

Issues in Reverse Charge - 9(3)

For Services

- **Notification no. 13/2017-Central Tax (Rate) dated 28th June 2017**
- **Notification no. 10/2017-Integrated Tax (Rate) dated 28th June 2017**

For Goods

- **Notification no. 04/2017-Central Tax (Rate) dated 28th June 2017**
- **Notification no. 04/2017-Integrated Tax (Rate) dated 28th June 2017**

Issues in Reverse Charge - 9(4)

Notification no. 8/2017-Central Tax dated 28th June 2017 provides that intra state supplies received by an unregistered person from registered taxpayers will be exempted subject to the amount of Rs. 5000 per day w.e.f. 01.07.2017.

Complete amount of IGST arising on receipt of inter-state supplies should be payable on reverse charge basis. This provision had its validity only upto 12th October 2017.

Issues in Reverse Charge - 9(4)

On 13th October 2017, the Government released Notification no. 38/2017-Central Tax (Rate) and 32/2017-Integrated Tax (Rate).

The limit of Rs. 5,000 has been withdrawn from 13th October 2017. However, this does not alter the position till 12th October 2017

Review ageing analysis of creditors for reversal Special transactions

Payment not made for Value of Supplies Within 180 days – ITC Shall be reversed – Second Proviso to 16(2) & Rule 37 of CGST Rules 2017

Input not received back within one Year from the date of sending it to job worker, then the principal who has availed input tax credit on such input shall reverse such credit and pay Interest thereon. – Sec 19(3) of CGST Act 2017

Review ageing analysis of creditors for reversal Special transactions

Capital Goods not received back within Three Year from the date of sending it to job Worker, then the principal who has availed input tax credit on such input shall reverse such credit and pay Interest thereon. - Sec 19(6) of CGST Act 2017

Accounting Treatment of Transitional Credit

Carry Forwards ITR from VAT Return.

Carry Forwards Cenvat from Service Tax / Central Excise Return.

Credit of Excise Component Based on Duty Paying Document.

Deemed Credit.

THANK YOU !

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