

TAX INFO

Dated 07/06/2022

Latest update on GST Law: Information regarding **SOP on Scrutiny of Returns vide Instruction No. 02/2022-GST dated 22nd March, 2022.**

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Scrutiny of Returns:

Scrutiny Schedule

- Once the list of GSTINs, whose returns have been selected for scrutiny, is communicated to the field formations, the proper officer, with the approval of the divisional Assistant / Deputy Commissioner, shall finalize a scrutiny schedule.
- While preparing the scrutiny schedule, the scrutiny of the GSTINs, which appear to be riskier, may be prioritized.
- The proper officer shall conduct scrutiny of returns pertaining to minimum of 3 GSTINs per month.
- Scrutiny of returns of one GSTIN shall mean scrutiny of all returns pertaining to a financial year for which the said GSTIN has been identified for scrutiny.

Process of scrutiny by the Proper Officer

- The Proper Officer shall scrutinize the returns and related particulars furnished by the registered person to verify the correctness of the returns.
- Information available with the proper officer on the system in the form of various returns and statements furnished by the registered person and the data/details made available through various sources like GSTN, E-Way Bill Portal, etc. may be relied upon for this purpose.
- An indicative list of parameters is to be verified but the said list is only indicative, and not exhaustive.
- The proper officer is expected to rely upon the information available with him or with the department.
- As far as possible, scrutiny of returns should have minimal interface between the proper officer and the registered person and, there should normally not be any need for seeking documents/ records from the taxpayers before issuance of FORM GST ASMT-10.
- The proper officer shall issue a notice to the registered person in FORM GST ASMT-10 informing him of the discrepancies noticed and seeking his explanation thereto. Such discrepancies must be specific in nature and not vague or general.
- While issuing such notice, the Proper Officer may, as far as possible, quantify the amount of tax, interest and any other amount payable in relation to such discrepancies.
- There may be cases where the registered person may already have made additional payment of tax, cess, etc., after filing of the returns for the relevant tax period, through FORM GST DRC-03. The payments thus made through FORM GST DRC-03 may also be taken into consideration while communicating discrepancies to the taxpayer in FORM GST ASMT-10.
- The registered person may accept the discrepancy mentioned in the notice issued in FORM GST ASMT-10, and pay the tax, interest and any other amount arising from such discrepancy through FORM GST DRC-03 and inform the same or may furnish an explanation for the discrepancy in FORM GST ASMT-11 to the proper officer within the prescribed time period.
- Where the explanation furnished by the registered person or the information submitted in respect of acceptance of discrepancy and payment of dues is found to be acceptable by the Proper Officer, he shall conclude the proceedings by informing the registered person in FORM GST ASMT-12.
- In case no satisfactory explanation is furnished by the registered person in FORM GST ASMT-11 within a period of thirty days of being informed by the proper officer or such further period as may be permitted by him or where the registered person, after accepting the discrepancies, fails to pay the tax, interest and any other amount arising from such discrepancies, the proper officer, may proceed to determine the tax and other dues under section 73 or section 74.
- If the proper officer is of the opinion that the matter needs to be pursued further through audit or investigation, then he may refer the matter to the jurisdictional Principal Commissioner / Commissioner through the divisional Assistant / Deputy Commissioner, for the decision whether the matter needs to be referred to Audit Commissionerate or Anti-evasion Wing of the Commissionerate, as the case may be.

INDICATIVE LIST OF PARAMETERS FOR SCRUTINY

1. Tax liability on account of “Outward taxable supplies” as declared in FORM GSTR-3B may be verified with corresponding tax liability in respect of outward taxable supplies declared in FORM GSTR-1.

Where the tax liability in respect of supplies declared in the FORM GSTR-1 exceeds the liability declared in table 3.1(a) and table 3.1(b) of FORM GSTR-3B, it may indicate short payment of tax.

2. Tax liability on account of “Inward supplies (liable to reverse charge)” as declared in Table 3.1(d) of FORM GSTR-3B may be verified with the ITC availed in Table 4(A)(2) and Table 4(A)(3) of FORM GSTR-3B.

Availment of ITC in excess of the liability discharged on account of reverse charge supplies may indicate either short payment of tax liability on account of RCM supplies or excess availment of input tax credit in respect of RCM supplies.

3. Tax liability on account of “Inward supplies (liable to reverse charge)” as declared in Table 3.1(d) of FORM GSTR-3B may be verified with the ITC in respect of inward supplies attracting reverse charge as available in FORM GSTR-2A.

In respect of inward supplies attracting reverse charge received from a registered person, the details of corresponding invoices and debit/credit notes are communicated in FORM GSTR-2A. However, the details of such inward supplies from unregistered persons are not communicated in FORM GSTR-2A, as only registered persons furnish FORM GSTR-1. Moreover, details of ITC on account of import of services also are not communicated in FORM GSTR-2A. As such, the reverse charge supplies declared in table 3.1(d) of FORM GSTR-3B cannot be less than the inward supplies attracting reverse charge as available in FORM GSTR-2A.

Where the RCM supplies declared in table 3.1(d) of FORM GSTR-3B are less than the inward supplies attracting reverse charge as per details available in FORM GSTR-2A, it may indicate short payment of tax liability on account of RCM supplies.

4. Tax liability on account of “Inward supplies (liable to reverse charge)” as declared in Table 3.1(d) of FORM GSTR-3B may be verified with the Tax/Cess paid in cash as per Table 6.1 of FORM GSTR-3B.

In respect of inward supplies liable to reverse charge, tax/cess is to be paid in cash. Besides such RCM payments in cash, there may also be other payments in cash by the registered person. In any case, tax liability off-set in cash should not be less than the liability arising on account of reverse charge as per table 3.1(d) of FORM GSTR-3B. Where the tax liability off-set in cash is less than the liability arising on account of reverse charge, it may indicate short payment of tax.

5. ITC availed in respect of “Inward supplies from ISD” in Table 4(A)(4) of FORM GSTR-3B may be verified with FORM GSTR-2A.

6. ITC availed in respect of “All other ITC” in Table 4(A)(5) of FORM GSTR-3B may be verified with FORM GSTR-2A.

7. It may be verified that the taxable value declared on account of “Outward taxable supplies (other than zero rated, nil rated and exempted)” in Table 3.1(a) of FORM GSTR-3B is not less than the net amount liable for TCS and TDS credit as per Column 6 of Table 9 of FORM GSTR-2A.

Section 51 of the CGST Act mandates deduction of tax at source in respect of supplies made to TDS deductors. Similarly, section 52 of the CGST Act requires electronic commerce operators to collect tax at source in respect of supplies made through them. The details of such TDS and TCS are furnished by the corresponding deductors and operators in their FORM GSTR-7 and FORM GSTR-8 respectively and communicated to the registered person in table 9 of FORM GSTR-2A. Besides such supplies, the registered person may have other supplies also. However, the taxable value declared on account of “Outward taxable supplies (other than zero rated, nil rated and exempted)” in Table 3.1(a) of FORM GSTR-3B cannot be less than the net amount liable for TCS and TDS credit as per Table 9 of FORM GSTR-2A. A discrepancy on the aforementioned count may indicate short payment of tax.

8. Liability on account of outward supplies in Table 3.1(a) and 3.1(b) of FORM GSTR-3B should be verified with the Tax liability as declared in e-way bills.

Rule 138 of the CGST Rules mandates generation of e-way bill before commencement of movement of goods of consignment value exceeding fifty thousand rupees. Besides such supplies, the registered person may also have such other supplies which do not require generation of e-way bills such as supply of services. Therefore, e-way bills capture a part of supplies made by the registered person. However, in table 3.1 of FORM GSTR-3B, the registered person is required to declare details of all outward supplies. Accordingly, liability declared in table 3.1 (a) and (b) of FORM GSTR-3B should not be less than tax liability as declared in the e-way bills.

9. Claim of ITC in respect of supplies from taxpayers whose registrations have been cancelled retrospectively.

In case of retrospective cancellation of registration of a supplier, the recipient is not entitled to claim ITC in respect of invoices or debit notes issued after the effective date of cancellation of the registration. Effective date of cancellation of registrations of the suppliers, if any, is made available in FORM GSTR-2A. Accordingly, it may be verified whether the registered person has availed ITC in respect of such invoices or debit notes issued by the suppliers after the effective date of cancellation of their registrations.

10. Ineligible ITC availed in respect of invoices / debit notes issued by the suppliers who have not filed their GSTR-3B returns for the relevant tax period.

FORM GSTR-2A of the registered person contains the details of “GSTR-3B filing status” of the supplier in respect of each invoice / debit note received by the registered person. Where the said status is “No”, it indicates the supplier has furnished invoice details in his FORM GSTR-1, but has not furnished the return in FORM GSTR-3B for the corresponding tax period. The availment of ITC in respect of such invoices / debit notes may be checked.

11. Whether GSTR-3B of a tax period is filed after the last date of availment of ITC in respect of any invoice / debit note as per section 16(4). In such cases, no ITC shall be availed in the return.

Section 16(4) of CGST Act provides for availment of ITC only till the due date of furnishing of FORM GSTR-3B for the month of September following the end of FY to which such ITC pertains or furnishing of relevant Annual Return, whichever is earlier. Accordingly, if any return in FORM GSTR-3B is furnished after such time by the registered person under scrutiny, any ITC availed therein is inadmissible.

12. ITC availed in respect of “Import of goods” in Table 4(A)(1) of FORM GSTR-3B may be verified with corresponding details FORM GSTR-2A.

Wherever required, the details of such imports may also be cross-verified from ICEGATE portal.

13. Whether the registered person has made reversals of ITC in accordance with provisions of rule 42 and rule 43 of the CGST Rules.

Rule 42 of the CGST Rules provides for manner of determination of input tax credit in respect of inputs or input services and reversal thereof. Rule 43 provides for manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases. The registered person avails ITC in table 4(A) of FORM GSTR-3B and reverses in Table 4(B). It may be verified whether requisite reversals have actually been made by the said registered person.

14. Whether the registered person has paid interest liability in terms of section 50.

As per section 50 of the CGST Act a registered person is required to pay interest on delayed payment of tax. It may be verified whether interest payable as per the provisions of section 50 of the CGST Act has actually been paid by the registered person.

15. Whether the registered person has paid late fee in terms of section 47 in respect of returns/statements.

As per section 47 of the CGST Act a registered person is required to pay late fee for delayed filing of returns / statements under the Act. It may be verified whether late fee payable as per the provisions of section 47 of the CGST Act has actually been paid by the registered person.

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