

REPLY ON THE QUERIES ASKED BY THE MEMBERS OF ICAI

Q.1. I have submitted application for cancellation of GST registration but haven't received the cancellation certificate. Do I need to still file the nil return every month? Do i need to submit the hard copy of cancellation request at any front office?

A.1. As per Rule 22(3) (Cancellation of registration) of CGST Rules, 2017, Proper officer shall issue an order in FORM GST REG-19 within a period of 30 days from the date of application made by recipient and cancel the registration with effect from the date as determined by him.

Our opinion: If within 30 days cancellation is not provided, you are advised to submit hard copy of the cancellation letter to the Jurisdictional Officer along with ARN number of the FORM filled on the Common Portal. There is no need to file NIL Return after submission of application of cancellation. However, since GST Portal is not working properly, it might be possible that it will show Late Fees of Rs.20/- each day.

Q.2. If aggregate turnover (PAN basis) of a registered person exceed 2 crore but in some state turnover is below 2 crore, whether that state would be subject to audit provisions?

A.2. Our Opinion: Yes, as per S. 35(5) read with Rule 80, every registered person whose aggregate turnover exceeds Rs.2 crore shall get his accounts audited. As per S.2(6) aggregate turnover will be calculated on PAN India basis. For Audit Provisions, aggregate turnover limit shall be on PAN India basis, But Audit will be done on GSTIN Basis.

Q.3. How GST Audit will be done? state wise or PAN Basis?

A.3. Our Opinion: As per S. 35(5) read with Rule 80, every registered person whose aggregate turnover exceeds Rs.2 crore shall get his accounts audited. As per S.2(6) aggregate turnover will be calculated on PAN India basis. For audit provisions, aggregate turnover limit shall be calculated on PAN India wise, but Audit will be done on GSTIN (State) wise.

Q.4. Are there any disclosure requirements with regards to inward supply from URD Person. Each Person wise or something like inward supply from an URD > Rs. 20 lakhs?

A.4. Audit Formats are not yet notified by CBEC. However, during Tax Audit under Income Tax, while filing FORM 3CD, information related to expenditure (inward supplies) related to entities not registered under GST is required to be shown. Also, the formats recommended by ICAI, this information is required.

▪ **Break-up of expenditure** as per the table below:

Total amt of exp incurred during the year	Expense in respect of entities registered under GST				Expenditure relating to entities not registered under GST
	Relating to goods or services exempt under GST	Relating to entities falling under composition scheme	Relating to other registered entities	Total payment to registered entities	

Q.5. Appointment for Statutory Audit of bank made by Zonal office in Karnataka and bank branch audit done various other states whether it would be suffice if IGST is paid by using GSTN of Karnataka State or pay CGST& SGST in the State where the audit is carried out?

A.5. Tax to be paid depends upon 2 factors-

First is Location of Supplier, Second is Place of supply

when location of supplier and place of supply are in same State, CGST and SGST will be applicable, if location of supplier and place of supply are in different State IGST will be applicable.

Q.6. What are the Checklist for GST Audit?

A.6. First and Foremost, check following points-

- General profile and brief nature for basic info
- Check registration details
- Check HSN and SAC Codes
- List of accounts and records maintained [S.35]

SALES CHECKING

- Relevant HSN And SAC Codes with GST Rate (NN-1/2017, 2/2017, 11/2017, 12/2017)
- Transaction value on which tax is paid (S.15 read with R.27 to 35)
- Tax Invoice/ Credit note/ debit note Format (S.31 read with R. 46 to 55)
- Reconcile monthly Turnover with GSTR-1 and GSTR-3B
- Tax on advances received in case of services (S.13)
- Check GSTR-1, HSN wise Summary, Stock details, Invoice Series
- Types of supplies: taxable, non-taxable, exempt, nil, zero-rated supply

PURCHASE CHECKING

- Eligibility of Input Tax Credit

- Bifurcation of Blocked credits as per S.17(5) and credit reversed as per Rule 42 and 43
- Inward supply on which RCM is to be paid
- Proviso to S.16(2): if payment not made within 180 days of issuance of invoice, ITC to be reversed
- Input tax credit in case of Fixed Assets
- ISD Credit
- Credit of goods sent on Job-work (1/3 year check)

OVERALL

- Reconciliation of E-Ledgers with books
- Related Party Transactions
- Stock Transfers
- Supply made without consideration (Schedule-I)
- Payment of Taxes and Refund Claimed
- list of invoices on which credit not reflecting in the online form GSTR2A

Q.7. How Refund Applications are to be audited?

A.7. GST Audit Formats are not yet notified. However, as per Formats recommended by ICAI, refund applications are subject to GST audit by CA or CMA.

Q.8. If a composition dealer sell exempt as well taxable goods then GST to be paid on both supplies (taxable+exempt) or on taxable supplies only.

A.8. Tax shall be paid by Composition dealer at the rates specified in the Table-

S.	Category of registered	Rate of tax
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No.	persons	
1	Manufacturers	1% (0.5%CGST, 0.5%SGST) of the turnover in State or UT [NN-1/2018-Central Tax, dated 1-Jan-2018]
2	Restaurant Services	5% (2.5%CGST, 2.5%SGST) of the turnover in State or UT
3	Any other eligible supplier	1% (0.5%CGST, 0.5%SGST) of the turnover of taxable supplies of goods in State or UT [NN-1/2018-Central Tax, dated 1-Jan-2018]

Therefore, Manufacturer is required to pay 1% tax on taxable as well as exempt supply, however, Trader is required to pay 1% only on taxable supplies.

Q.9. I want to know the notification regarding tax rate reducing to zero in case of handicraft goods.

A.9. The Central Government vide NN-08/ 2017-Integrated Tax, dated 14-Sep-2017 as amended vide NN-09/ 2017-Integrated Tax, dated 14-Sep-2017 exempted persons making inter-State taxable supplies of handicraft goods, having aggregate turnover upto 20 lacs, from obtaining registration.

The Central Government vide NN-32/ 2017-Central Tax, dated 14-Sep-2017 exempted casual taxable persons making taxable supplies of handicraft goods having aggregate turnover upto ` 20 lacs from obtaining registration. This notification was amended vide NN-38/ 2017, dated 13-Oct-2017.

Further, Concessional rates on handicraft goods are notified under NN-21/2018-Central Tax (Rate), dt. 26-07-2018.

Q.10. Is export subject to GST? If not, any declaration or undertaking is to be given?

A.10. As per S.16, “Zero rated supply” means any of the following supplies of goods or services or both, namely—

- (a) **export of goods or services or both; or**
 - (b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.
- A registered person making zero rated supply shall be eligible to claim refund under either of the following options, namely-
 - (a) he may supply under bond or Letter of Undertaking, without payment of IGST and claim refund of unutilized input tax credit; or
 - (b) he may supply on payment of IGST and claim refund of such tax paid on goods or services or both supplied.

Our opinion: Registered person making zero-rated supply has 2 options, either make exports under LUT (Format specified under FORM GST RFD-11) and claim refund of ITC or make payment of IGST and claim refund of output tax paid.

Q.11. 1 of my clients provided CCTV camera on rent to Nagar Nigam, in his bill he charged the rental amount with 18% GST in Nov-17, Nagar nigam paid the bill in Mar-18 but did not paid GST, we have already paid the GST amount to Govt. and its a considerable amount, please guide what to do.

A.11. As per proviso to S.16(2), if recipient fails to pay to the supplier the amount towards value of supply along with tax payable within 180 days from the date of issue of invoice by the supplier, an amount equal to the ITC claimed by recipient will be added to his output tax liability.

However, since tax invoice has already been issued by you, the GST charged is liable to be paid. Please also note that this is not a case of deficiency in quality of services or the value billed is higher than that agreed to be billed. As such, credit note cannot be issued for amounts not paid by the Nagar Nigam.

On another note, please carefully consider if Nagar Nigam is of opinion that the services supplied are covered by sl.no.3 of 12/2017-CTR which allows exemption to 'pure services' provided to Nagar Nigam. Reference may be had to sch XI and XII of Constitution of India which details the functions performed by Nagar Nigam. If this is the reason for non-payment of the GST portion of your invoice, then you will be entitled to issue a credit note in respect of the tax amount only and settle outstanding tax dues in your returns.

Q.12. Canteen Recovery and Cab Recovery: In case of Canteen recovery - Employers recover say Rs.20 per plate and his input is Rs.50 per plate + GST. Kindly suggest on GST of Rs.20 and valuation aspect and whether we can avail ITC on entire Rs.50? Kindly suggest on Cab Recovery aspect as well.

A.12. GST shall be applicable at open market value of each plate and not on concessional rate.

Q.13. Can the statutory auditor of a company be engaged as GST Auditor?

A.13. Yes, as such there is no restriction. No any disqualification attracted given as per Companies Act, 2013. No professional misconduct as per CA Act, 1949.

Q.14. What are the opportunities for CA Professionals in GST Audit?

A.14. Under the Central excise and service tax laws, there is no requirement for audit of accounts and furnishing reconciliation statement by a CA. GST Audit is full of opportunities for CA Professionals as GST Audit is compulsory for all registered taxpayers whose aggregate turnover exceeds Rs.2 crore on PAN India Basis. Also, audit will be conducted State Wise i.e. GSTIN wise. Under old regime, there is no such requirement for annual audit. Only 2 categories were prevalent in old regime.

Q.15. Remedy available to the supplier? GST paid by supplier on supplies made by him but no payment received from customer against such supply. Crux of the transaction is GST paid by the supplier from his pocket but not recovered from customer?

A.15. As per proviso to S.16(2), if recipient fails to pay to the supplier the amount towards value of supply along_ with tax payable within 180 days from the date of issue of invoice by the supplier, an amount equal to the ITC claimed by recipient will be added to his output tax liability. Remedy available to recover dues by appropriate civil action may be evaluated by consulting legal experts.

Q.16. Dear Sir/Madam, Please let me know when I can get the final GST audit report based upon which audit can be done.

A.16. GST Audit Formats are not yet notified by the Govt. Various recommendations are received by the Govt from various bodies like ICAI. GST Audit Formats will get notified anytime in coming GST Council Meetings.

Q.17. In case Input tax credit claimed in Form TRANS-1 is in excess as found during verification by the Department, how to reverse the same? Can we reverse that in GSTR-3B ?

A.17. Yes, you can reverse the same in FORM GSTR-3B and write letter to Jurisdictional Officer regarding the same a last date for filing or revising FORM TRAN-1 already expired. There is no option left except to reverse such credit in FORM GSTR-3B.

Q.18. I want to know the effective date of RCM under 9 (3) is not applicable. as the effective date is silent in notification. it is deemed to effective from the 1.7.17 or from date of notification 13.10.17. Govt twitter suggest it is applicable from date of notification. Kindly suggest

A.18. First and foremost, RCM under S.9(3) is still applicable which talks about notified supplies of goods or services or both on which RCM is applicable. Further, RCM under S.9(4) is exempted till 30-Sep-18 through various notifications.

Notification came on 13-Oct-18 which exempted entire RCM on purchases made from unregistered person [NN-38/2017-Central tax (Rate)]. Effective date was not mentioned in notification itself, therefore exemption shall be applicable from the date of notification i.e. 13-Oct-17.

Q.19. Our own refund of IGST paid on export of services is pending in spite of refund orders has been issued in February 2018 for 90% and in June 2018 for balance 10%. We have been sandwiched between state and central departments who are just passing the bucks upon each other.

A.19. Coordinate with the Jurisdictional Nodal Officers who are transferring data from Central to State Authorities or vice versa. Also, take advantage of Refund Fortnight already held thrice by the Govt. where GST related issues get resolved quickly.