

# **Handbook on Annual Return under GST**

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**The Institute of Chartered Accountants of India**  
*(Set up by an Act of Parliament)*  
**New Delhi**



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on  
Annual Return under GST**



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# Foreword

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The introduction of Goods & Service Tax (GST) in India is one of the biggest indirect tax reforms since Independence. The reform that took more than a decade of mutual co-operation, continuous discussion and intense debate between Central and State Governments about implementation methodology, was finally implemented with effect from 1<sup>st</sup> July 2017, subsuming almost all indirect taxes at the Central and State levels. As the journey of GST Implementation progressed in India, the authorities have been quick to address the various challenges faced by the Industry and public concerns by issuing a series of notifications, clarifications, press releases and FAQs, to resolve a wide range of concerns.

The GST alongwith its challenges has brought in various benefits also like creation of National market by bringing down fiscal barriers amongst the States and has mitigated the cascading effect of taxes by allowing seamless credit of Input Tax across goods & services. The Institute of Chartered Accountants of India (ICAI) through its GST & Indirect Taxes Committee has been playing a vital role in implementation of GST in India by providing suggestions to the Government at each stage of development of GST. Further, the Institute has been playing proactive role and is a catalyst in dissemination of knowledge and awareness through technical publications, newsletters, E-learning and organizing various programmes, Certificate courses, webcasts etc. for all stakeholders.

I am happy to note that the GST & Indirect Taxes Committee of ICAI has now taken an initiative to issue a series of Handbooks covering various procedural aspects of GST and in that series is bringing out **Handbook on Annual Return under GST** with an objective to provide a basic understanding of the topic. The handbook explains the concepts / procedures relating to Annual Return in an easy to understand lucid language and it aimed at updating the knowledge base of members in a simple and concise manner.

I congratulate CA. Rajendra Kumar P, Chairman, CA. Sushil Kumar Goyal, Vice Chairman and other members of GST & Indirect Taxes Committee for coming out with this Handbook and for taking active steps in providing regular guidance to the members and other stakeholders at large.

I am sure that the members will find this publication very useful in discharging the statutory functions and responsibilities in an efficient and effective manner.

**CA. Atul Kumar Gupta**  
President, ICAI

Date: 10.05.2020

Place: New Delhi



## Preface

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Goods and Services Tax (GST) was introduced in India from 1<sup>st</sup> July, 2017. It is one of the major tax reforms since independence in the area of indirect taxation. It was introduced with the objective to mitigate the cascading effect of taxes by allowing seamless credit across goods and services, facilitate free flow of goods and services across India and boosting tax revenue from better compliance and widening the tax base. A remarkable feature of GST implementation is that all the States in India came together with the Centre to form a unique federal body called GST Council, which is entrusted with the objective of recommending policies and procedural matter in the formation and implementation of GST legislation. The spirit of co-operative federalism took deep roots there by ensuring that large federal countries like India implement the GST Law.

In order to facilitate in understanding various compliance under GST, GST & Indirect Taxes Committee of ICAI has taken an initiative to prepare Handbook on procedural aspects like registration, refund, return, Invoice etc. One of the result of such initiative is **Handbook on Annual Return under GST**. An attempt has been made to cover all aspects related to Annual Return at one place and is intended to give general guidance to all stakeholders and also help them in resolving issue that they may face during the course of their compliance aspect in GST. This Handbook on Annual Return under GST is comprehensive containing analysis of the entire provisions under the law including notifications, circulars or orders upto 31<sup>st</sup> March, 2020 issued by the Government from time to time along with few FAQ's, MCQ's, Flowcharts, Diagrams and Illustrations etc. to make the reading and understanding easier.

We stand by the Government in our role as “Partner in GST Knowledge Dissemination” and have always been supporting Government with our intellectual resources, expertise and efforts to make GST error-free.

We sincerely thank to CA. Atul Kumar Gupta, President and CA. Nihar Niranjana Jambusaria, Vice-President, ICAI for their encouragement to the initiatives of the GST & Indirect Taxes Committee. We express our gratitude for the untiring effort of CA. Shaikh Abdul Samad Ahmad who has authored this handbook and CA. Shankara Narayanan V for reviewing the same. We place on record the services and unstinted support provided by the Secretariat of the Committee.

We trust this Handbook will be of practical use to all the members of the Institute and other stakeholders. We also welcome suggestions at [gst@icai.in](mailto:gst@icai.in) in and request to visit our website <http://www.idtc.icai.org> and provide valuable inputs in our journey to make GST truly a good and simple tax.

**CA. Rajendra Kumar P**

Chairman

GST & Indirect Taxes Committee

**CA. Sushil Kumar Goyal**

Vice- Chairman

GST & Indirect Taxes Committee

Date: 10.05.2020

Place: New Delhi

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# Annual Return under GST

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## Introduction

Goods and services tax (hereinafter referred to as GST), a consumption-based value-added tax is the tax levied on the purchase of goods, services or works. Unlike the erstwhile tax regime, where the tax was collected by the State where the supplier is registered, at present taxes are passed on to the State which consumes it. This was done with the noble motive of making India a single market which was possible only by simplifying the following procedures in INDIRECT TAXES:

- (a) Abolish the requirement of forms for availing the Tax/Duty benefits by allowing the receiver to avail ITC.
- (b) Levying taxes at all points in the supply chain, with credit for taxes paid on goods, services or works acquired for use in making the further supply.
- (c) Free flow of goods by removing the check post system and increasing the efficiency of the logistics industry.
- (d) Restricting the exemptions otherwise permitting the ITC to the receiver and allowing recipient to apply for the refund,
- (e) Moving towards progressive tax law by introducing multiple taxes for the same goods but different values.

For Example:

Chapter Heading	Description	Rate (%)	Effective from
61	Articles of apparel and clothing accessories, knitted or crocheted, of sale value not exceeding ₹ 1000 per piece	5	28-06-17
61	Articles of apparel and clothing accessories, knitted or crocheted, of sale value exceeding ₹ 1000 per piece	12	28-06-17

- (f) Automation of refund process.
- (g) Standardizing the requirement in the document issued by the supplier.
- (h) Standardizing requirement of the records to be maintained in every registered principal place of business.
- (i) Simplifying the process of payment of taxes and filing of monthly returns.

- (j) Permitting rectifying of the error, omission, and commissions in the monthly returns and permission to make the short payment voluntarily arising due to the above-referred reasons. This is because section 73 of the CGST Act, 2017 provides a unique opportunity of self – correction to the registered person, i.e. if a registered person has not paid, short paid or has erroneously obtained/been granted a refund or has wrongly availed or utilized input tax credit, then before the service of a notice by any tax authority, the registered person may pay the amount of tax with interest.

**(Press Release by CBIC Dated 03.07.2019)**

One has to note that GST, as heralded, is one of the most noteworthy indirect tax reforms in India and like in past this law also followed the self-assessment sub-routines, Where the registered person will have to compute his tax payout monthly, declare the same by filing a simplified monthly return and pay it online. To ensure the correctness and veracity of the reported information in the monthly returns filed during the year an opportunity was given to the registered person, to collate the data, assure its correctness and files an annual return. This stage is considered to be the final and the particulars filed by him at this stage will be taken up for further processing by the department for assessments, audit, investigation, etc.

All entities having GST registration, except for a few specified categories of persons, are required to file GST annual return for every financial year irrespective of their turnover during the return filing period. Hence, even a dormant business that has obtained GST registration must file GST return.

### Primary Source for Annual Return

Sec 35 (1) of the CGST Act, 2017 read with rule 56 of the Central Goods and Services Tax Rules, 2017 ("**the CGST Rules, 2017**"). The relevant portion of the above provisions are as follows:

**Sec. 35 - Accounts and other records .**

*(1) Every registered person 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:*

*Provided that where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business:*

*Provided further that the registered person may keep and maintain such accounts and other particulars in electronic form in such manner as may be prescribed.*

**Rule 56 - Maintenance of accounts by registered persons**

(1) Every registered person shall keep and maintain, in addition to the particulars mentioned in sub-section (1) of section 35, a true and correct account of the goods or services imported or exported or of supplies attracting payment of tax on reverse charge along with the relevant documents, including invoices, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers and refund vouchers.

(2) Every registered person, other than a person paying tax under section 10, shall maintain the accounts of stock in respect of goods received and supplied by him, and such accounts shall contain particulars of the opening balance, receipt, supply, goods lost, stolen, destroyed, written off or disposed of by way of gift or free sample and the balance of stock including raw materials, finished goods, scrap and wastage thereof.

(3) Every registered person shall keep and maintain a separate account of advances received, paid and adjustments made thereto.

(4) Every registered person, other than a person paying tax under section 10, shall keep and maintain an account, containing the details of tax payable (including tax payable in accordance with the provisions of sub-section (3) and sub-section (4) of section 9), tax collected and paid, input tax, input tax credit claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period.

(5) Every registered person shall keep the particulars of—

(a) names and complete addresses of suppliers from whom he has received the goods or services chargeable to tax under the Act;

(b) names and complete addresses of the persons to whom he has supplied goods or services, where required under the provisions of this Chapter;

(c) the complete address of the premises where goods are stored by him, including goods stored during transit along with the particulars of the stock stored therein.

(6) If any taxable goods are found to be stored at any place(s) other than those declared under sub-rule (5) without the cover of any valid documents, the proper officer shall determine the amount of tax payable on such goods as if such goods have been supplied by the registered person.

(7) Every registered person shall keep the books of account at the principal place of business and books of account relating to additional place of business mentioned in his certificate of registration and such books of account shall include any electronic form of data stored on any electronic device.

As stated above, annual return is the last chance for the registered person to rectify the particulars filed in their monthly return, since section 73 of the CGST Act, 2017 provides a

unique opportunity of self – correction to the registered person. For this, it is important to note that both FORM GSTR-1 and FORM GSTR-3B serve different purposes.

While FORM GSTR-1 is an account of details of outward supplies, FORM GSTR-3B is where the summaries of all transactions are declared and payments are made. Ideally, the information in FORM GSTR-1, Form GSTR-3B, and accounts and records prescribed in section 35 of the CGST Act, 2017 should be synchronous and the values should match. If the same do not match, there can be broadly two scenarios - either tax was not paid to the Government or, tax was paid in excess.

In the first case, the same shall be declared in the annual return and tax should be paid and in the latter, all information may be declared in the annual return and refund (if eligible) may be applied through FORM GST RFD-01. Further, no input tax credit can be reversed or availed through the annual return. If registered persons find themselves liable for reversing any input tax credit, they may do the same through FORM GST DRC-03 separately.

Hence, one should appreciate the importance of the records to be maintained in GST as per section 35 read with rule 56 and which will aid him in filing the annual return. Besides above, these records are proof of the happening of the transactions and establishes a connection with the documents issued by the registered person.

### Outward Register

Well, we all know that profit and loss are drawn only for transactions in monetary terms. However, under GST the tax is payable on transactions without consideration also. In Central Excise Law, the duty liability had to be discharged as soon as the excisable goods were cleared from the factory gate. Hence, in the Central excise regime, importance was given to the outward register and out- gate pass which served as proof that the goods had been cleared and the duty had to be discharged. The manufacturer registered in Excise Law was examining the correctness of the outward register for discharging their duty liability. Besides the above, it even helped in compliance with the law in the following areas:

- (a) Determine the document issued – Tax Invoice, Bill of Supply, Debit Note, Credit Note, etc.,
- (b) Determine the type of supply – say B2B, B2C, Exports with/without payment, SEZ supply with/without payment, under RCM, Deemed Supply, etc.,
- (c) Nature of Supply – from the place of supply determined as per section 10 or 12 of the IGST Act, 2017.
- (d) Bundling of activity as regular, composite or mixed supply.
- (e) Determining the rate adopted from the HSN of the supply.
- (f) Time of supply as prescribed in the sec. 12 and 13 of the CGST Act, 2017.

## Export Register

It is important to know when does the transaction qualify as exports. Is it proper to leverage a transaction as export just because the registered person had raised Foreign currency invoice?

No, the transaction will qualify as export only when it satisfies the ingredient of the term exports prescribed in the law.

## Export of Goods

The term “export of goods” has been defined under sub-section (5) of the section 2 of the IGST Act, 2017; which is reproduced below:

*“export of goods” with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India;*

From the above, it is clear the goods intended for export should be taken out of India to a place outside India. Just by raising an export invoice the transaction does not qualify as export.

### Example:

M/s. Lokesh & Lokesh of Mumbai receives an order, to supply 100 nos. of ball bearing at the rate of \$250 each to M/s. Koni India Pvt. Ltd. which is working at Bombay High, from M/s. Kone International, Germani.

Now the order has been received from a foreign company that will pay in foreign convertible currency, hence the invoice is to be raised in convertible currency. However, the important point to note here is that the goods are only going to Bombay High which is part of India and hence the place of supply is Maharashtra.

The transaction is in convertible currency but the delivery is terminating in the taxable territory. Hence, it should not be termed as Export and will not be filed under entry 6A of Form GSTR-1. However, there will be a scenario, where the goods are cleared without payment of taxes for export and the shipment of such goods does not happen or happens at the later point. In the given scenario, the supplier has to abide by the rule 96A of the CGST Rules, 2017.

As per the said rule, the goods should be exported i.e. shipped out of India to a place outside India within 3 months. If it is not done, then within 15 days after the expiry of three months from the date of issue of the invoice for export the supplier has to pay the taxes along with interest voluntarily.

The documentary proof that the goods had left the country is the bill of lading which is made available by the master of the ship. However, when FORM GSTR-1 is filed, this information is not provided; hence the exporter, in order to comply with rule 96A, should maintain the register to satisfy that the difference between the date of invoice and the date of lading is not more than three months.

## Export of Services

The term “export of services” has been defined under sub-section (6) of the section of the IGST Act, 2017; which is reproduced below:

*“export of services” means the supply of any service when,—*

- (i) the supplier of service is located in India;*
- (ii) the recipient of service is located outside India;*
- (iii) the place of supply of service is outside India;*
- (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India; and*
- (v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8;*

Here the most important aspect to leverage the transaction as export is receipt of foreign exchange. Like a supplier of the goods, the service provider should also satisfy all the aforesaid ingredients. If anyone does not satisfy, then the transaction will be treated as B2C and should be taxed.

Likewise, when the service is provided under the cover of Letter of Undertaking without payment of IGST, then the supplier has to ensure that he satisfies the condition of receipt of the convertible foreign exchange within one year. Otherwise, within 15 days after the expiry of one year, from the date of issue of the invoice for export, the supplier has to pay the tax along with interest voluntarily. Hence, to satisfy this condition, the supplier has to maintain a register and keep track of issue of invoice and receipt of convertible exchange and, in case of any deviation, act voluntarily and avoid any penalty.

## Advance Register

One major departure from erstwhile law when compared with the GST provision is that the tax has to be paid on receipt of advances for supply of Goods or Services or both. Earlier, such provision existed only with respect to service tax; however, in case of Central Excise, VAT or CST, the payout on advance receipt was not required.

CBIC *vide* Notification No. 40/2017-C.T. dated 13.10.2017 had suspended the provision in respect of payment of tax on advances in respect of supply of goods to the registered person having turnover to the tune of ₹ 1.50 crores. However, this benefit was also given to those registered persons whose turnover exceeded the above referred to turnover *vide* Notification No. 66/2017-C.T. dated 15.11.2017.

No notification granting exemption from payment of taxes on receipt of advances was issued. Hence, the supplier of the services has to adhere to the time of supply prescribed in the CGST

Act, 2017; where it has been provided taxes have to be paid on receipt of advances connected to supply of services.

As per clause (d) of the sub-section (3) of section 31, a registered person shall, on receipt of advance payment for any supply of goods or services or both, issue a receipt voucher. Besides the above, clause (e) provides that subsequently if no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue a refund voucher.

In relation to the above, sub-rule (3) of rule 56 of the CGST Rules, 2017 categorically prescribed that every registered person shall keep and maintain a separate account of advances received, paid and adjustments made thereto.

## **Import Register**

Import of service for a consideration whether or not in the course or furtherance of business is included as Supply as per section 7 of the CGST Act, 2017. Further, as per sub-section (4) of section 7 of IGST Act, 2017 supply of services imported into the territory of India shall be treated as a supply of service in the course of inter-state trade or commerce and the same is subject to tax under section 5 (1) of the IGST Act, 2017.

Point to note at this juncture is that the assessable value should be considered as per section 15 of the CGST Act, 2017.

Further, Goods imported into India will be subject to the Customs Act, 1962 and IGST will be paid as per section 3 of the Customs Tariff Act, 1975.

## **Reverse Charge Register**

Like outward register, reverse charge registered also helps the registered person to comply with the provision of the Act. It helps them in the following manner:

- (a) Determine the document to consider for payment of taxes – Tax Invoice issued by the registered person or Self-Generated Invoice.
- (b) Nature of Supply – from the place of supply, determined as per section 10, 12 or 13 of the IGST Act, 2017, applicable for the supplier / recipient.
- (c) Determining the rate adopted from the HSN of the supply.
- (d) Time of supply as prescribed in the sec. 12 and 13 of the CGST Act, 2017.
  - For Goods: 30 days from the date of the invoice.
  - For Services: 60 days from the date of the invoice.
- (e) Determine the availability of Input Tax Credit.
- (f) Payment vouchers are to be issued only upon payment to the supplier while the invoices from an unregistered Person are to be issued upon receipt of inward supply.



Therefore, receipt of supplies for which the payment is yet to be made would entail only the issue of invoices from the unregistered Person and not the payment voucher. Also, payment in advance to the supplier would only result in issuing of payment vouchers and not invoice from unregistered Persons.

- (g) Payment vouchers are to be issued in cases of all payments to suppliers if the supply is under reverse charge. Invoice from an unregistered Person is liable only if the supplier is unregistered. If the supplier is registered and his outward supply is under reverse charge, then the recipient is not required to issue an invoice but only the payment voucher at the time of payment.

### Inward Register

As per section 35 of the CGST Act, 2017 every registered person at his principal place of business has to maintain the inward register. This is because they have to satisfy the following for availing the ITC:

- (a) The date of receipt of such goods/services: As per section, 16 (2) of the CGST Act, 2016, the registered person is entitled to the credit only when the same is received. GSN marked by the gate-keeper in case of goods and date of accounting in books of account for services.
- (b) Classification of ITC as regular – B2B suppliers invoice (if the invoice is defective no ITC), Import (Self Invoice for Service and Bill of Entry for Goods), RCM (B2B invoice from the supplier when he is registered, otherwise self invoice) and ISD.
- (c) Re-Classification into Input, Input Services, and Capital Goods. In excise regime: separate register was maintained for this purpose. say RG – 23 A for Inputs, RG – 23 C for Capital Goods and Service Tax Register for Input services was maintained.
- (d) Reversal of ITC for –
- Failing to pay the supplier within 180 days as per rule 37.
  - An exempted portion as per rule 42 and 43.
  - Ineligible as per section 17 (5).
  - Reversal as required under section 18.

### Stock Register

As per sub-rule (2) of rule 56 of the CGST Rules, 2017 every registered person, shall maintain the accounts of stock in respect of goods received and supplied by him.

Such accounts shall contain particulars of the opening balance, receipt, supply, goods lost, stolen, destroyed, written off or disposed of by way of gift or free sample and the balance of stock including raw materials, finished goods, scrap and wastage thereof.

Hence, this register will help to identify the 17(5) reversal in the annual return which got missed in the monthly return. Besides above, one can also trace deemed supply under section 143 (goods sent on job work not returned) and goods sent on approval.

## **Introduction to Annual Return**

As per **section 44(1) of the CGST Act, 2017 read with rule 80 (1) of the CGST Rules, 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, shall furnish an annual return for every financial year electronically in Form GSTR-9 through the common portal either directly or through a Facilitation Centre notified by the Commissioner. The said Form should be filed on or before the thirty-first day of December following the end of such financial year. However, the said due date has extended several times for filing the annual return for the financial years 2017–18 and 2018–19.

The important point to be noted:

- (a) Nil Annual Return- A person registered under GST but having no transactions during the year are also required to file a Nil Annual Return. A person whose registration has been canceled during the year is also required to file the Annual returns unless the final return has been filed and cancellation completed before 31<sup>st</sup> March of the relevant financial year.
- (b) A Registered person who has opted in or opted out of composition is required to file both GSTR-9 & GSTR-9A for the relevant period.
- (c) GSTR-9 does not allow for any revision after filing.
- (d) It is mandatory to file all monthly / quarterly statement, viz., FORM GSTR-1 and monthly return FORM GSTR-3B for filing this return.
- (e) The exceptions to the filing of the Annual return applies to the following categories of registered persons:
  - Input Service Distributor
  - Tax deductor under section 51
  - Tax collector under section 52
  - Casual Taxable Person
  - Non-Resident Taxable Person.
- (f) The declaration of the information in the Annual returns has multiple implications. Any incorrect information can attract tax demands, interest and penalties on the same, leave alone the long-term litigations that follow years later.
- (g) Liability identified during filing Annual Return can be deposited with Government using FORM DRC-03.

### Consequences of failure to submit the annual return

**(a) Notice to defaulters** - Section 46 of the CGST Act provides where a registered person fails to furnish a return under section 39 or section 44 or section 45, a notice shall be issued requiring him to furnish such return within fifteen days in such form and manner as may be prescribed.

**(b) Late Fee for delayed filing** - Section 47(2) of the CGST Act provides for levy of a late fee of ₹ 100/- per day for delay in furnishing annual return in Form GSTR-9, subject to a maximum amount of quarter percent (0.25%) of the turnover in the State or Union Territory. Similar provisions for levy of late fee exist under the State / Union Territory GST Act, 2017.

On a combined reading of Section 47(2) and Section 44 (1) of the CGST Act, 2017 and State / Union Territory GST Act, 2017, a late fee of ₹ 200/- per day (Rs. 100 under CGST law + ₹ 100/- under State / Union Territory GST law) could be levied which would be capped to a maximum amount of half percent (0.25% under the CGST Law + 0.25% under the SGST / UTGST Law) of turnover in the State or Union Territory.

**(c) General Penalty for Contravention of Provisions** - As per section 125, any person, who contravenes any of the provisions of this Act or any rules made thereunder for which no penalty is separately provided for in this Act, shall be liable to a penalty which may extend to twenty-five thousand rupees. An equal amount of penalty under the SGST/UTGST/IGST Act would also be applicable. To sum up, a penalty of up to ₹ 50,000/- could be levied.

It is important to note that to impose a penalty under section 125 up to ₹ 25,000, the ingredients such as willful default, etc., must be established by a process of adjudication allowing a reasonable opportunity to the taxable person and not imposed as a matter of routine.

### Analysis of GSTR-9

GSTR-9 is the relevant form prescribed in terms of Section 44 of the CGST Act. It consists of six parts and nineteen tables as listed below:

Part	Items
I	Basic Details
II	Details of Outward and inward supplies made during the financial year
III	Details of ITC for the financial year
IV	Details of tax paid as declared in returns filed during the financial year
V	Particulars of the transactions for the previous FY declared in returns of April to September of current FY or up to date of filing of annual return of previous FY whichever is earlier.
VI	Other Information

The GSTN portal provides the option to download system computed summary of Form GSTR-9, GSTR-1 and GSTR-3B. As the downloaded summary is a consolidation of monthly returns, the consolidated figures of the taxable value, liabilities etc. as per the monthly returns are displayed. However, the auto-populated data fields are EDITABLE, except fews field in Table 6A & Table 8A of Part III of FORM GSTR-9.

The benefit of editing system computed FORM GSTR-9 allows the registered person to enter the actual value of supplies, tax paid, etc., as per books of accounts. This enables the registered person to correct the value and the liability for the reporting financial year. The registered person can pay any additional liability arising out of this FORM GSTR-9, through FORM GST DRC-03 by cash ledger only.

It is important to note here that GSTN is providing data from FORM GSTR-1 for reference purposes only which may be used while filing this form. This form would be filled primarily based on the financial year, in which taxes were paid and ITC availed in 3B.

### **PART-I : Entry No. 1 to 3B**

<b>Pt. 1</b>	<b>Basic Details</b>	<b>GSTR-9</b>	<b>GSTR-9C</b>
1	Financial Year		
2	GSTIN	<Auto>	
3A	Legal Name	<Auto>	<Auto>
3B	Trade Name (if any)	<Auto>	<Auto>

**Financial Year** – The expression financial year has not been defined under the GST laws. However, in terms of the General Clauses Act, “financial year” shall mean the year commencing on the 1<sup>st</sup> day of April and closing on the 31<sup>st</sup> day of March. It is an auto-populated field.

**GSTIN** – “Goods and Services Tax Payer Identification Number” of the registered person or the Registered Person. Each registered person, on his successful registration, would be assigned a State-wise PAN-based 15-digit GSTIN. It is an auto-populated field.

**Legal Name and Trade Name** – Legal name is one that appears on the document which gives birth to an entity. In the case of a natural human being, it is his birth certificate; in the case of a company registered under the Companies Act, 2013, it is the Certificate of Incorporation and partnership firm partnership deed. However, there is a difference between the legal name and trade name.

Mostly, it is the same but in a few cases like proprietary concern, the legal name will be that of the natural person say, Ramesh and the trade name will be, say, Classic Foods, which is different. Here, he is recognized by his trade, and for supply from his stock in trade or Fixed Assets of the trade will be subject to tax in the event of supply. However, if he sells his car which is in his name it will not be subject to tax; since it is not a business asset (personal effects).

The legal name and trade name should be verified by examining the certificate of registration issued by the tax department in FORM GST REG-06.

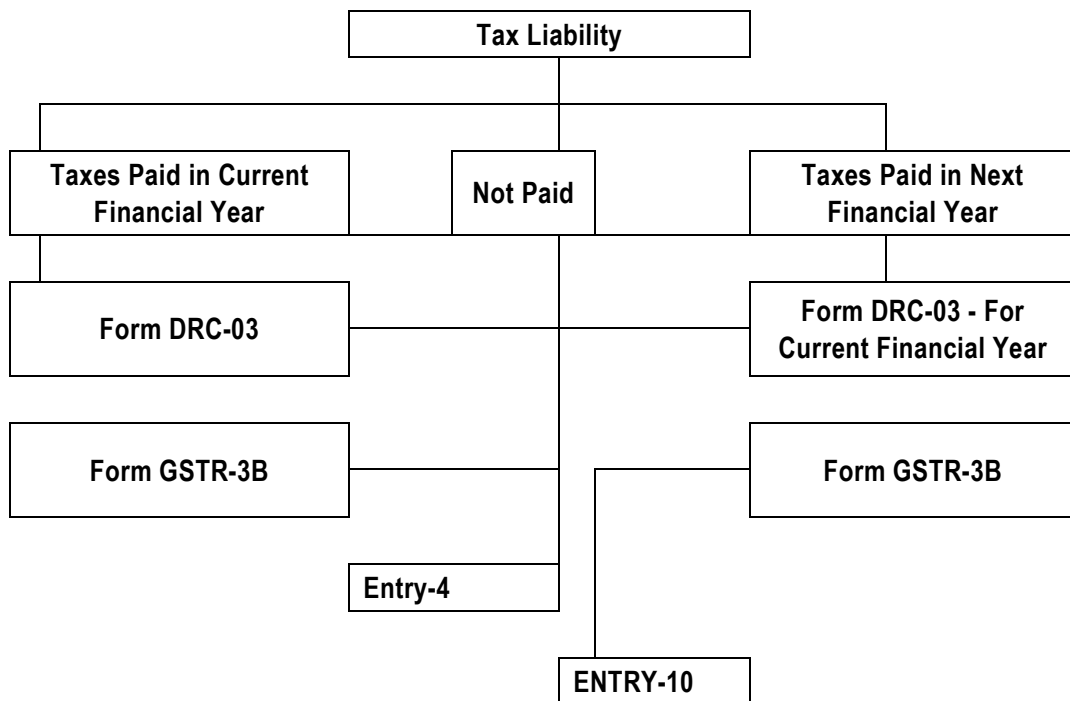
## PART-II: Entry No. 4 (Computing Gross Pay-Out)

Pt II Details of Outward and inward supplies made during the financial year						
(Amount in ₹ In all tables)						
	Name of Supplies	Taxable Value	Central Tax	State Tax/ UT Tax	Integrated Tax	Cess
	1	2	3	4	5	6
<b>4</b>	<b>Details of advances, inward and outward supplies made during the financial year on which tax is payable</b>					
A	Supplies made to un-registered persons (B2C)					
B	Supplies made to registered persons (B2B)					
C	Zero rated supply (Export) on payment of tax (except supplies to SEZs)					
D	Supply to SEZs on payment of tax					
E	Deemed Exports					
F	Advances on which tax has been paid but invoice has not been issued (not covered under (A) to (E) above)					
G	Inward supplies on which tax is to be paid on reverse charge basis					
H	Sub-total (A to G above)					

Part II of FORM GSTR-9 seeks to capture details of Outward Supply and Inward Supply made during the reporting financial year. As per the instruction and the format of FORM GSTR-9 the information needs to be gathered from the Outward Supply Register, Reverse Charge Register and Advance Register

Transactions relating where supply is involved but invoice is not issued (i.e. accounting for unbilled revenue) will not appear in FORM GSTR-9 but as an outcome of reconciliation.

However, now the question arises what will happen to that transaction where the invoice is issued but the taxes have not been paid/paid in the next Financial year's FORM GSTR-3B. In such a scenario, the registered person has to follow the flow chart given below:



**Point to be considered while preparing this table:**

- (a) The outward supplies register should be used as a basis for validating the amounts disclosed in the GST returns.
- (b) Only those supplies on which tax is payable should be reported. Any supplies which are NIL-rated, exempted, non-GST (including no supply) should not be reported in this entry.
- (c) Any outward supplies on which tax is payable on a reverse charge basis by the recipient would not form part of this entry.
- (d) Debit notes and credit notes which are concerning these supplies should be captured only if the suitable effect of GST is provided in them. In other words, **any commercial/accounting credit note** which do not contain the charge of GST should not be adjusted for the calculation of taxable value and tax amounts.
- (e) Any supply of capital assets is to be carefully verified from the perspective of reporting as it is a Balance Sheet item and valuation needs to be derived separately as per section 18(6) of the CGST Act. The transaction value of such sale may not be directly

## Handbook on Annual Return under GST

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available because of loss/profit on the sale of such assets being disclosed separately in Profit and Loss Account.

### **B2C Transaction –**

- should be shown net of credit notes or debit notes and any amendments carried out during the current Financial Year.
- should include supply made through E-Commerce Operator.
- not reduced below what has already been declared in FORM GSTR-1 as through this return you can not reduce your outward supply

### **B2B Transaction –**

- should not be net of credit notes or debit notes and any amendments.
- should include supply made through E-Commerce Operator.
- Any stock transfer made between two units would have to be disclosed if made between two Registered Persons even though the same does not form part of the consolidated financial statements.

### **Export With Payment of IGST –**

- The transaction should be validated from the data in the export register. The definition of export of goods and export of services are very different from each other. In the case of export of goods, repatriation of foreign exchange is not a criterion until 23.03.2020 for determining whether it is export or not. However, CBIC *vide* Notification No. 16/2020 – C.T. dated 23.03.2020 had provided for Recovery of refund of unutilised ITC or IGST paid on export of goods where export proceeds had not been realised.
- However, in the case of export of services, repatriation of foreign exchange besides other remarkably unusual criteria is a point of difference.
- Since FORM GSTR-9 is a return, it requires accuracy in the values reported and also their classification. As such, the Registered Person is expected to be mindful of the classification of the categories of the supplies. In FORM GSTR-9C the Auditor would also agree with the values and categories of supplies. They can be reported as exports under Table 6A of FORM GSTR-1 only if they satisfy the said definition.
- For the export of goods on payment of tax, one can validate the status of all the shipping bills and the invoices on the ICEGATE portal. Whether the goods have been exported can be known through this. The status of the automated refund claim and the reasons for not obtaining the same can also be known through this.
- For the export of services, invoices need to be validated through reconciliation with the Bank Realization certificate (BRC) or Foreign Inward remittance certificate (FIRC) from the bank. Upon reconciling the value of export of services with the BRC or FIRC against it, one can find out whether the services have been exported or not.

- The refund claim for the export of services on payment of tax should be checked and it should be determined whether the same is delayed due to any specific deficiency on the part of the taxable person. This would also contribute to invalidating the value and taxes in respect of the export of services.
- Only those supplies on which tax is payable should be reported. Any exports which are made without payment of tax under LUT or Bond would not be reported here.

**SEZ with payment of IGST –**

- The transaction should be validated from the export register.
- The transaction consisting of supplies to SEZ being a Developer of the SEZ or a Unit in the SEZ would include supplies to SEZ whether by an SEZ to another SEZ or by a DTA unit to SEZ.
- The supplier should have proof of admittance from the SEZ officer in respect of goods and proof of receipt of services in case of services. The Auditor should verify these documents to confirm whether the goods have been received in SEZ.

**Deemed Exports –**

- Section 147 and Notification No. 48/2017-C.T. dated 18.10.2017, prescribes the following supplies to be regarded as deemed exports:
  - (a) Supply of goods against advance authorization
  - (b) Supply of capital goods against EPCG authorization
  - (c) Supply of goods to EOU
  - (d) Supply of gold by bank/PSU specified in Notification No. 50/2017-Customs dated 30.06.2017.
- In case such refund is sought by the supplier of deemed export supplies, the documentary evidence as specified in Notification No. 49/2017-C.T. dated 18.10.2017 are also required to be furnished which includes an undertaking by the recipient of deemed export supplies that he shall not claim the refund in respect of such supplies and that no input tax credit on such supplies has been availed of by him. The undertaking from the recipient should be submitted manually by the supplier along with his application for a refund claim.
- In case the refund is filed by the recipient of deemed export supplies, an undertaking by the supplier of deemed export supplies that he shall not claim the refund in respect of such supplies is also required to be furnished manually.

**Advance against which invoices have not been raised –**

- The transactions should be validated from the advance receipt register.
- One should check that no invoices against such supplies have been issued during the financial year.

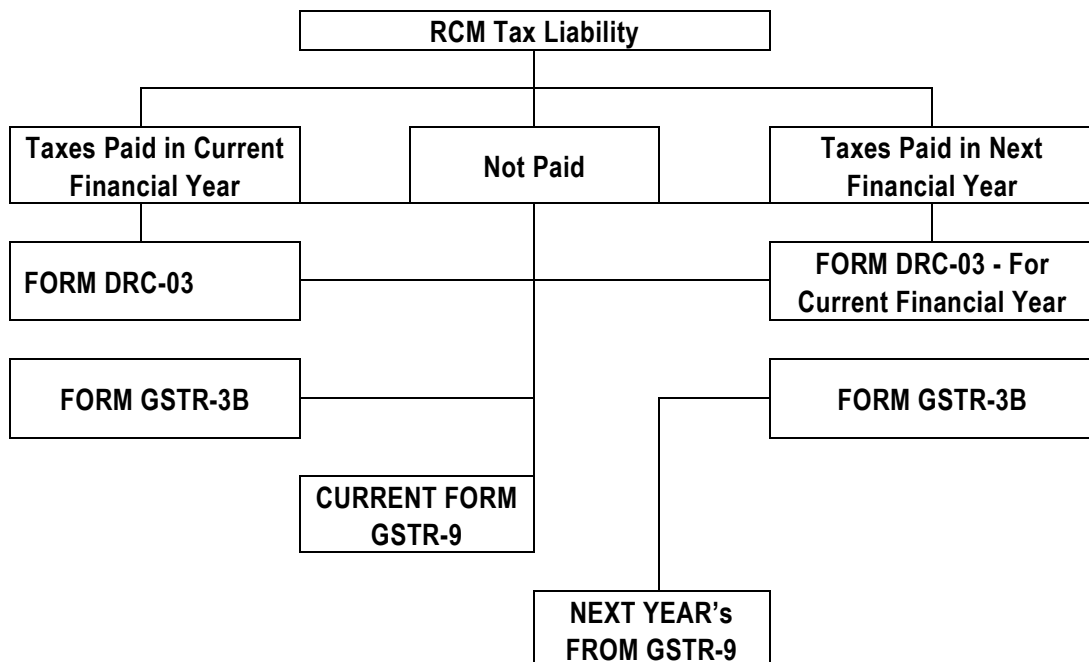


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- Notification No. 40/2017 – C.T. dated 13.10.2017 - exempted payment of tax on advances received towards the supply of goods, in case of taxable persons whose aggregate turnover is or is likely to be less than ₹ 1.50 cr. Advances towards the supply of services remains liable to pay tax on advances. Suppliers of goods above this threshold limit too were liable to pay tax on advances.
- Notification No. 66/2017 – C.T. dated 15.11.2017 – exempted payment of tax on advances received towards the supply of goods. As such, advances should have been subject to tax payment in all cases up to Nov 15 2017 and in respect of advances relating to the supply of services without the benefit of this exemption.

### Reverse Charge –

- Validate the transaction from the RCM Register.
- One has to understand the flow chart below to determine, whether the payout is to be recorded now or later.
- The registered person is eligible to take ITC only when he makes the payment of the taxes and is in possession of the Tax Invoice.



**Part-II: Entry No. 4 (Computing Net Pay-Out)**

	Name of Supplies	Taxable Value	Central Tax	State Tax/ UT Tax	Integrated Tax	Cess
	1	2	3	4	5	6
<b>4</b>	<b>Details of advances, inward and outward supplies made during the financial year on which tax is payable</b>					
I	Credit Notes issued in respect of transactions specified in (B) to (E) above (-)					
J	Debit Notes issued in respect of transactions specified in (B) to (E) above (+)					
K	Supplies / tax declared through Amendments (+)					
L	Supplies / tax reduced through Amendments (-)					
M	Sub-total (I to L above)					
N	Supplies and advances on which tax is to be paid (H + M) above					

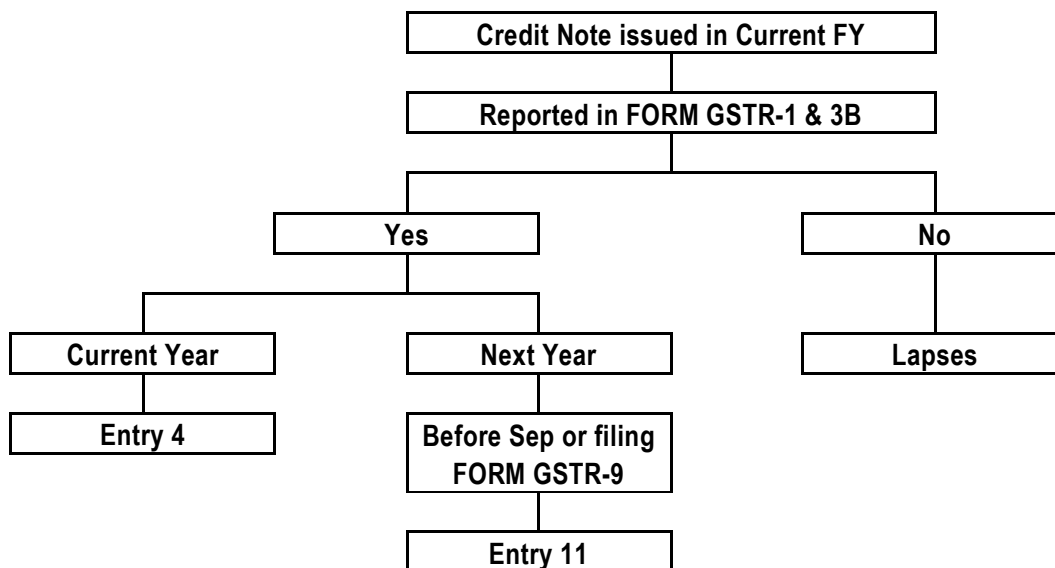
CBIC *vide* Notification 56/2019- C.T. dated 14.11.2019 categorically stated that for FY 2017-18 & 2018-19, **registered persons have an option** to report the details of debit Notes, credit Notes, and amendments made w.r.t. B2B supplies, Zero Rated Supplies, and Deemed Exports by netting off against such supplies.

**Point to be considered while preparing this table:****For Credit Note**

- Section 34(1) of the CGST Act allows a person to issue a credit note to the recipient where the tax invoice has been issued for the supply of goods or services or both in the following cases:
  - Where the taxable value or tax charged is found to exceed the taxable value or tax payable.
  - Where the goods supplied are returned by the recipient
  - Where the goods or services or both supplied are found to be deficient

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- The supplier should ask the receiver to issue him an accounting debit note as proof that he had reversed the ITC and the supplier is eligible for a reduction in outward tax liability.
- Any refund of advance amount in respect of the above supplies against which refund voucher has been issued and reported as part of Table 9B of FORM GSTR-1 are also to be reported here.
- Only credit notes issued in respect of those supplies on which tax is payable should be reported. Any supplies which are NIL rated, exempted, non-GST, etc. should not be reported
- Credit notes which are about these supplies should be captured only if the suitable effect of GST is provided in them. Any commercial/accounting credit notes which do not contain the charge of GST should not be adjusted for the calculation of taxable value and tax amounts.
- One has to understand the flow chart below to determine when to avail the above benefit of a reduction in outward tax liability.



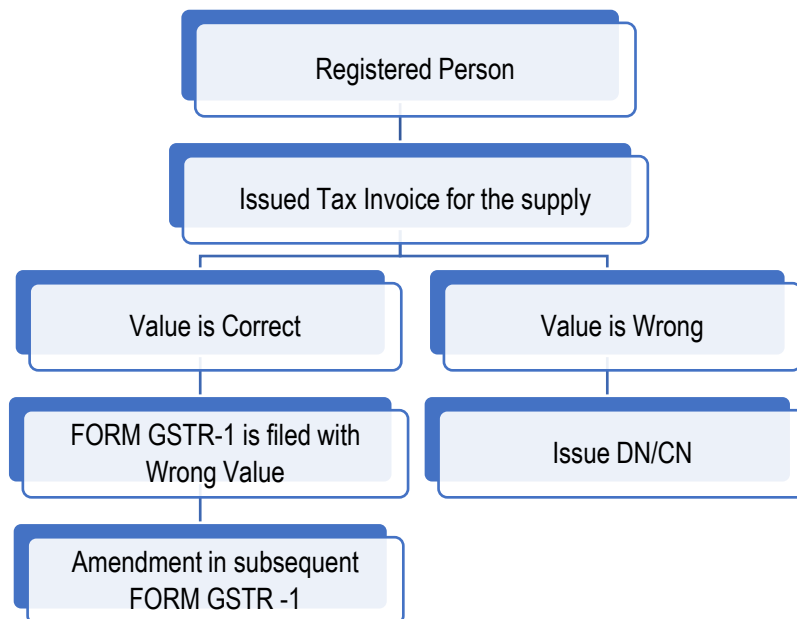
### For Debit Note

- Section 34(2) of the CGST Act allows a person to issue a debit note to the recipient wherein the taxable value or tax charged in that invoice is found to be less than the taxable value or tax payable in the tax invoice issued earlier.
- A person issuing the debit note has to declare such details in the return for the month during which the debit note is issued. In the annual return, that person is required to disclose only those debit notes which pertain to the relevant financial year and have also been issued by him up to March of the relevant financial year.

- Any debit note issued in the previous financial year and reported in FORM GSTR-3B after March of the relevant financial year would be reported in Entry 10 of the annual return. However, as mentioned supra debit note dated post 1<sup>st</sup> April 2018 would not be considered in FY 17-18 annual return.
- The time of supply for the Debit note will be counted from the date of the original invoice date. Hence, in case of delay payment of taxes has to be made good with payment of interest. This has been confirmed in the Central Excise regime by the Apex Court in **Steel Authority of India Ltd Vs. Commissioner of Central Excise, Raipur** [(2019) 106 taxmann.com 217 (SC)].

#### For Amendments

- As per section 39(9) of the CGST Act, if any Registered Person detects any omission or incorrect particulars, he can rectify these in the return to be furnished for the month during which they are detected. Further, Circular No. 26/26/2017 - GST dated 29.12.2017 prescribes the procedure for a person to correct any error or omission made in his FORM GSTR-3B and FORM GSTR-1.
- All the amendments are static. When any amendments to the entry in FORM GSTR-1 does not affect the value and taxes payment, then they are not to be reported under this clause. In other words, the amendment, which results into payout needs to be reported here.
- It is important to note the following difference as to when Credit Note or Debit Note should be issued and when the transaction is amended.



## PART– II: Entry No. 5 (No Payout Transaction)

	Name of Supplies	Taxable Value	Central Tax	State Tax/ UT Tax	Integrated Tax	Cess
	1	2	3	4	5	6
<b>5</b>	<b>Details of outward supplies on which tax is not payable as declared in returns filed during the financial year</b>					
A	Zero rated supply (Export) without payment of tax					
B	Supply to SEZs without payment of tax					
C	Supplies on which tax is to be paid by the recipient on reverse charge basis					
D	Exempted					
E	Nil Rated					
F	Non-GST supply					
G	Sub-total (A to F above)					

Table 5 has been divided into various segments from Rows 5A to 5N and the Government intends to capture the details of all those outward supplies on which tax is not payable by the registered person on fulfillment of essential conditions of the law.

CBIC *vide* Notification 56/2019- C.T. dated 14.11.2019 categorically stated that for FY 2017-18 & 2018-19, **registered persons have an option** to club the data for Exempted, Nil Rated and Non-Gst Supply (incl. No Supply) in an Exempted row.

### Points to be considered while preparing this table:

#### For Exports/SEZ Transaction without Payment of Taxes

- The term 'zero-rated supply' defined under section 2(23) of the IGST Act is to be read with section 16 of IGST Act, which says zero-rated supplies are to be the following supplies of goods or services, namely:
  - exports of goods or services or both; or
  - supply of goods or services or both to an SEZ developer or SEZ unit.
- A Registered Person making zero-rated supply has the following two options:
  - he may supply goods or services or both under the bond or LUT subject to such conditions, safeguards, and procedure as may be prescribed without payment of integrated tax and claim a refund of the input tax credit; or

- he may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim a refund of such tax paid on goods or services or both supplied.
- Notification No. 37/ 2017 – C.T. dated 04.10.2017 extended the facility of LUT to all exporters under rule 96A of CGST Rules except those who have been prosecuted for any offense under the CGST Act or the IGST tax Act or any of the existing laws and the amount of tax evaded in such cases exceeds ₹ 250 lakhs.
- Besides, above Circular No. 08/08/2017 - GST dated 04.10.2017 has clarified that the LUT shall be valid for the whole financial year in which it is tendered. However, in case goods are not exported within the time specified in sub-rule (1) of rule 96A of the CGST Rules and the Registered Person fails to pay the amount mentioned in the said sub-rule, i.e. the Registered Person fails to pay the tax due along with interest within 15 days after expiry of three months or such further period as may be allowed by the Commissioner, from the date of issue of the invoice where the goods are not exported out of India, the facility of export under LUT would be deemed to have been withdrawn. Similarly, the period in case of services is fifteen days after the expiry of one year or such further period as may be allowed by the Commissioner from the date of issue of the invoice for export, if the payment of such services is not received by the exporter in convertible foreign exchange. If the amount mentioned in the said sub-rule is paid subsequently, the facility of export under LUT shall be restored.
- As a result, exports, between the period when the facility to export under LUT is withdrawn and till the time the same is restored, shall be either on payment of the applicable integrated tax or under bond with a bank guarantee.
- In addition to the above, CBIC *vide* Circular No. 37/11/2018 - GST dated 15.03.2018 has clarified that the substantive benefits of zero-rating may not be denied where it has been established that exports in terms of the relevant provisions have been made. The delay in furnishing LUT in such cases may be condoned and facilities for export under LUT may be allowed on ex post facto basis, considering the facts and circumstances of each case. Accordingly, such supplies shall also be reported in Table 5A of FORM GSTR-9.
- Circular No. 48/22/2018 - GST dated 14.06.2018 has clarified that supplies to an SEZ developer or an SEZ unit shall be zero-rated and the supplier shall be eligible for a refund of the unutilized input tax credit of integrated tax paid, as the case may be, only if such supplies have been received by the SEZ developer or SEZ unit for authorized operations. An endorsement to this effect shall have to be issued by the specified officer of the Zone as proof that the supply was meant for authorized operation.

**For taxes to be paid under RCM :**

- Sub-section (3) of section 9 of the CGST Act, 2017 provides that the Government may specify the categories of supply of goods or services or both on which the tax be paid

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on reverse charge basis by the recipient of such goods or services and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying tax for the supply of goods or services or both.

- In other words, a person who is making the supply of goods or services on which tax is to be paid by the recipient shall not collect tax from him. In this regard, the Government has issued Notification No. 04/2017 – C.T.(Rate) dated 28.06.2017 and 13/2017 – C.T.(Rate) dated 28.06.2017 as amended from time to time, to notify the goods and services on which tax is to be paid by recipients on reverse charge basis. If the supply of registered person falls within the scope of these notifications, then he has to declare such supplies in this Table.

### For exempted/Nil rated/Non-GST :

- Further, as per section 17(3) of the CGST Act, 2017, the value of exempt supply includes supplies on which a recipient is liable to pay tax on a reverse charge basis. Although the supplies on which a recipient is liable to pay tax on reverse charge basis is to be shown separately under this head and not as exempt supply, the turnover declared in this particular Table should be considered for reversal under section 17(2) of the CGST Act read with Rules 42 and 43 of the CGST Rules.
- Section 2(47) of the CGST Act,2017 defines the exempt supply as supply of goods or services or both which attract nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the IGST Act, and includes the non-taxable supply.
- This definition entails that exempt supply is a wide term and includes nil rated supply and non- taxable supply. There is no clear distinction between exempted and nil- rated supply in law because the lawmakers have not defined nil- rated supply. Hence to remove this anomaly, an option has been given to the registered person to classify everything under the head exempted.
- Notification No 01/2017–C.T. (Rate) dated 28.06.2017 contains 6 Schedules with different rates of taxes, and there is no Schedule levying tax Nil Rate on goods. However, in case of service, only three services related to the lease of land and agriculture etc. are notified at 'nil' rate of tax in Notification No. 11/2017 – C.T.(Rate) dated 28.06.2017. The entries are reproduced below: -

Heading	Description of service
9972	Services by the Central Government, State Government, Union territory or local authority to governmental authority or government entity, by way of lease of land.
9972	Supply of land or undivided share of land by way of lease or sub-lease where such supply is a part of composite supply of construction of

	flats, etc. specified in the entry in column (3), against serial number 3, at items (i), 3[(ia), (ib), (ic), (id), (ie) and (if)] : Provided that nothing contained in this entry shall apply to an amount charged for such lease and sub-lease in excess of one third of the total amount charged for the said composite supply. Total amount shall have the same meaning for the purpose of this proviso as given in paragraph 2 of this notification.
9986	Support services to agriculture, forestry, fishing, animal husbandry.

- Non-GST supply is not defined anywhere in the GST law. However, non-taxable supply is defined under Section 2(78) of the CGST Act which means the supply of goods or services or both which is not leviable to tax under the CGST Act or the IGST Act. It can be concluded that no- GST supplies are used interchangeably with non-taxable supplies.
- Although these supplies are reported as non-taxable supplies, the value of such supplies shall also be considered for the reversal of input tax credit in terms of Section 17(2) read with Rules 42 and 43 of the CGST Rules. An explanation has been inserted in Section 17(3) of the CSGT Act vide the CGST (Amendment) Act, 2018, effective from 1.02.19, to the effect that the “*value of exempt supply*” shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule.

**PART-II: Entry No. 5 (No Pay-Out Transaction)**

	Name of Supplies	Taxable Value	Central Tax	State Tax/ UT Tax	Integrated Tax	Cess
	1	2	3	4	5	6
<b>5</b>	<b>Details of outward supplies on which tax is not payable as declared in returns filed during the financial year</b>					
H	Credit Notes issued in respect of transactions specified in A to F above (-)					
I	Debit Notes issued in respect of transactions specified in A to F above (+)					
J	Supplies declared through Amendments (+)					
K	Supplies reduced through Amendments (-)					



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L	Sub-Total (H to K above)					
M	Turnover on which tax is not to be paid (G + L above)					
N	Total Turnover (including advances) (4N + 5M - 4G above)					

CBIC vide Notification 56/2019 - C.T. dated 14.11.2019 categorically stated that for FY 2017-18 & 2018-19, **registered persons have an option** to report the details of debit Notes, credit Notes and amendments made w.r.t. exports, supplies to SEZ, supplies on which tax is to be paid by the recipient on RCM, exempted, nil-rated, and non-GST supply by netting off against such supplies.

### Part-III: Entry No. 6 (Gross ITC Taken)

	Name of Supplies	Taxable Value	Central Tax	State Tax/UT Tax	Integrated Tax	Cess
	1	2	3	4	5	6
<b>6</b>	<b>Details of ITC availed as declared in returns filed during the financial year</b>					
A	Total amount of input tax credit availed through FORM GSTR-3B (sum total of Table 4A of FORM GSTR-3B)					
B	Inward supplies (other than imports and inward supplies liable to reverse charge but includes services received from SEZs)	Inputs				
		Capital Goods				
		Input Services				
C	Inward supplies received from unregistered persons liable to reverse charge (other than B above) on which tax is paid & ITC availed	Inputs				
		Capital Goods				
		Input Services				

D	Inward supplies received from registered persons liable to reverse charge (other than B above) on which tax is paid and ITC availed	Inputs					
		Capital Goods					
		Input Services					
E	Import of goods (including supplies from SEZs)	Inputs					
		Capital Goods					
F	Import of services (excluding inward supplies from SEZs)						
G	Input Tax credit received from ISD						
H	Amount of ITC reclaimed (other than B above) under the provisions of the Act						
I	Sub-total (B to H above)						
J	Difference (I - A above)						

As per section 16 of the CGST Act, 2017, every registered person is entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business. The input tax credit is money held in the Credit Ledger. However, this credit is eligible only on fulfillment of the conditions prescribed in the law; which are as follows:

- (a) The inward supplies of goods and/or services are in the course or furtherance of business;
- (b) The inward supplies of the goods and / or services are other than those specified under Section 17(5);
- (c) The recipient has received tax invoice on eligible inward supplies;
- (d) The recipient has received the goods and / or services;
- (e) The supplier of goods and / or services has paid tax on such outward supplies and declared the outward supplies in the relevant returns;

Besides the above some time ITC is made available in special circumstances. The circumstances may change in the business, whereby under the law, the input tax credit that was not available as discussed above may need to be allowed in the changed circumstances. Section 18 envisions five such circumstances and carefully releases credit, though there may be many others like the transitional credit. Such circumstances would be as follows:

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- The input tax credit of GST paid on goods held in stock on the day immediately preceding the date of registration;
- Composition dealers opting out of the composition scheme can claim the credit on the stock held on the effective date when the composition scheme becomes inapplicable.
- The goods or inputs held in stock on the day immediately preceding the date when the exemption is withdrawn on the supply of goods and / or services;
- Change in the constitution of the entity due to sale, merger, demerger, amalgamation, lease or transfer of business, the transferee can claim the credit of unutilised balance of the input tax credit of the transferor.
- Transitional Credit as per the provisions of the GST law on the introduction of GST.

Though the tax paid on various inward supplies are available on fulfilling the above conditions, that would not be full and final for utilization as further restrictions are put in place. Thereby, this credit can be called “Input Tax Credit Available”.

### **Point to be considered while preparing this table:**

#### **For ITC availed based on Tax Invoices Appearing in Form GSTR-2A**

- The values can be taken from the input tax register maintained by the Registered Person for an input tax credit. It may be noted that the total ITC availed is to be classified as ITC on inputs, capital goods, and input services. However, CBIC *vide* Notification 56/2019 - C.T. dated 14.11.2019 provided an option to report all input tax credit under the “inputs”. This relaxation is applicable only for first TWO YEARS (i.e. FY 2017–18 & FY 2018–19). It is important to note that taxpayers is required to maintain its breakup as per Section 35 of CGST Act, 2017, only option to report in combined form in annual return is being provided
- The ITC availed under this head should be compared with the Entry appearing in FORM GSTR-2A. If the registered person satisfies all the conditions prescreened under section 16 (2) of the CGST Act, 2017, he can avail the ITC based on the Hard Copy of the PROPER TAX INVOICE.
- It is relevant to note that if the Registered Person has disclosed gross total ITC [including ineligible ITC under section 17(5)] in Table 4A of FORM GSTR-3B and reduced the ineligible ITC in Table 4B (2) of FORM GSTR-3B, then he should disclose the gross total ITC [including ineligible ITC under section 17(5)] in Table 6B of FORM GSTR-9. The ineligible ITC under section 17(5) would be disclosed in Table 7E of FORM GSTR-9.
- Where Registered Person has disclosed only the net ITC in Table 4A FORM GSTR-3B, he must disclose the same in Table 6A of FORM GSTR-9.

#### **For ITC availed on RCM payment:**

- It is relevant to note that an option has been provided to report details of both tables 6C

and 6D i.e. ITC availed on inward supplies liable to reverse charge under section 9(3) as well as 9(4) of CGST Act, 2017 to declared under Table 6D only.

- The pay-out for the registered person should be following the tax-payout declared in the FORM GSTR-1 of the supplier.

**For import of goods and services:**

- For the import of goods, the taxable person should report the aggregate value of input tax credit availed on all imports (for inputs and capital goods) from outside India or SEZ units. Such data can be sourced from the bill of entry or other similar document prescribed under the Customs Act, Customs Tariff Act or rules made thereunder for the assessment of integrated tax on imports. Only the IGST paid on the import of goods can be availed as ITC. BCD and Social Welfare Surcharge cannot be availed as ITC. Further, ensure that the GSTIN is updated in the ICEGATE and the GSTIN appears on the Bill of Entry. It is relevant to note that the input tax credit paid on the import of goods would not appear in FORM GSTR-2A. Therefore, adequate care has to be taken to ascertain the input tax credit of GST paid on the import of goods and to declare that against Sl. No. 6E.
- For the import of Services, the taxable Person should report the aggregate value of input tax credit availed on all import services received from outside India. Data for this clause can be corroborated with the details in disclosed Notes to Accounts of Financial Statements. However, it is relevant to note that liability to pay GST on import of services arises only if conditions specified in Section 2(11) of the IGST Act are satisfied. The rate of exchange for determining the value of taxable service should be the rate of exchange determined as per the generally accepted accounting principles as on the date of time of supply as per Section 13 of the CGST Act.

**For input services distributor's challan:**

- The registered person should have the tax invoice issued by ISD under rule 54 (1) of the CGST Rules, 2017. It is also relevant to note that the ineligible portion of ITC distributed should not be availed as ITC.

**For availing ITC against reversal under rule 37:**

- If an ITC is reversed on account of non-payment to a vendor within one hundred and eighty days, when payment is made, the Registered Person is eligible to reclaim the credit at perpetual. Such credits are to be reported in Table 6H.

**For difference from value in return and now:**

- Ideally, the difference in Table 6J should be nil. This is for the reason that the amount disclosed in 6A is auto-populated. Further, the amount disclosed in Table 6B to 6H is merely the classification of ITC availed in FORM GSTR-3B. If the amount is not zero and a tax liability arises, then it has to be discharged through FORM GST DRC-03 if not rectified in the next financial year'.

### Part-III: Entry No. 6 (Gross ITC Taken)

6	Details of ITC availed as declared in returns filed during the financial year					
K	Transition Credit through TRAN-I (including revisions if any)					
L	Transition Credit through TRAN-II					
M	Any other ITC availed but not specified above					
N	Sub-total (K to M above)					
O	Total ITC availed (I + N above)					

#### For Tran-I Credit

The registered person should report the amount of credit received in the electronic credit ledger through FORM GST TRAN-1. Where the registered person has revised FORM GST TRAN-1, the credit claimed in the revised FORM GST TRAN-1 should be disclosed in this Table.

In respect of registered persons who were not able to file the transition returns due to IT-related glitches, the Government *vide* Order No. 01/2020 - GST dated 07.02.2020 has specifically allowed such registered persons to file the returns by 31.03.2020. In respect of such persons, no data would be disclosed in Sl. No. 6K of FORM GSTR-9.

#### For Tran-II Credit

The registered person should disclose the quantum of ITC received in the electronic credit ledger through FORM GST TRAN-2. This is because the credit through FORM GST TRAN-2 would have been credited to electronic credit ledger in the month in which FORM GST TRAN-2 was filed.

#### Any other ITC availed but not specified above (Entry No. 6M) –

This entry covers the credit availed under section 18(1)(a) to 18(1)(d) of the CGST Act, 2017, which is reproduced below:

- (1) *Subject to such conditions and restrictions as may be prescribed-*
  - (a) *a person who has **applied for registration under this Act within thirty days from the date on which he becomes liable to registration** and has been granted such registration shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day*

*immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act;*

- (b) *a person who takes **registration under sub-section (3) of section 25** shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of grant of registration;*
- (c) *where any registered person **ceases to pay tax under section 10**, he shall be entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the day immediately preceding the date from which he becomes liable to pay tax under section 9:*

*Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed;*

- (d) *where an **exempt supply** of goods or services or both by a registered person **becomes a taxable supply**, such person shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock relating to such exempt supply and on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable:*

*Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed.*

Besides the above, the registered person who had availed credit under section 18(3) read with rule 41 (1) of the CGST Rules, 2017 on account of the sale, merger, demerger, amalgamation, lease or transfer of a business is also to be disclosed here.

### **Part–III: Entry No. 7 (Reversals & Ineligible ITC)**

	Description	Central Tax	State Tax/UT Tax	Integrated Tax	Cess
	1	3	4	5	6
<b>7</b>	<b>Details of ITC Reversed and Ineligible ITC as declared in return filed during the financial year</b>				
A	As per Rule 37				
B	As per Rule 39				
C	As per Rule 42				
D	As per Rule 43				
E	As per section 17(5)				

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F	Reversal of TRAN-I credit				
G	Reversal of TRAN-II credit				
H	Other reversals (pl. specify)				
I	Total ITC Reversed (Sum of A to H above)				
J	Net ITC Available for Utilization (6O - 7I)				

Section 16 contains the conditions under which the ITC becomes available to a person. On the other hand, Section 17 of the Act deals with the restricted and ineligible input tax credit. Therefore, the recipient claiming the input tax credit would be required to reverse the input tax credit claimed in situations envisaged under Section 17. Besides, as per the second proviso to Section 16(2) that if the Registered Person fails to pay to the supplier of goods or services or both except in case tax is payable on a reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his **output tax liability**, along with interest thereon, in the prescribed manner.

The test of disallowance shall be framed based on business facts and circumstances to ascertain restricted input tax credit –

- the inputs and/or input services are put to use for a purpose other than business (Section 17(1)).
- the inputs and/or input services are put to use for exempt supplies (Section 17(2)).
- the inputs and/or input services are those prescribed under the Negative list of inward supplies (Section 17(5)).

Besides the above, it must be noted here that ITC which is restricted can be reclaimed if the excess reversal was made earlier or when the conditions for reclaiming the input tax credit are satisfied. However, it must be noted that ineligible credit cannot be availed once it is declared as ineligible.

CBIC *vide* Notification 56/2019- C.T. dated 14.11.2019 categorically stated that for FY 2017-18 & 2018-19, **registered persons have an option** to club the data of reversal from 7. A to 7. E to be reported in 7.H.

### Point to be considered while preparing this table:

- (a) A general comment applicable throughout table 7 is that where credit is included in 6B+6H, the same may be excluded in 7, and where credit is not so included, the same shall not to be excluded in 7 to avoid double reversal.

- (b) Where ineligible credits are found to be availed in FORM GSTR-3B and are now accepted to be reversed, the registered person may identify whether such ineligible credit has already been utilized or remains unutilized. Where it has been utilized, the same is to be paid in cash through FORM GST DRC 03.
- (c) Only if ITC is availed would reversal be required. E.g. a Registered Person may not have claimed ineligible ITC as reported in FORM GSTR-3B then the same would not be required to be reversed in this calculation. The same is required to be reversed only if it is included as All Other ITC in FORM GSTR-3B.
- (d) At the time of validation if it is found that input tax credit left to be reversed in FORM GSTR-3B filed for the financial year 2017-18 and reported in FORM GSTR-3B filed for the Financial Year 2018-19, would be reported in Table-12 of FORM GSTR-9.

**Rule 37 Reversal (Entry No. 7a) –**

Rule 37 of the CGST Rules, 2017 prescribes that credit reversal **in proportion to the unpaid amount** in FORM GSTR-2 for the month immediately following the period of one hundred and eighty days from the date of issue of the invoice. This does not apply to the following transactions:

- Supplies made without consideration as specified in Schedule I.
- Value of supplies on account of any amount added following the provisions of clause (b) of sub-section (2) of section 15.

The registered person shall be liable to pay interest at the rate notified under sub-section (1) of Section 50 for the period starting from the date of availing credit on such supplies till the date when the amount is added to the output tax liability.

The time limit specified in sub-section (4) of section 16 (i.e. No ITC permitted after the due date of furnishing the return under section 39 for the month of September following the end of financial year to which such Input document pertains) is not applicable to a claim for re-availing of any credit reversed earlier.

It is important to make a clear distinction in books of accounts within the current asset accounts between 'credit available' and 'credit deferred'. It is important to note that the taxable person is entitled to re-claim (except interest, if any paid) the input tax credit after effecting the payment to the supplier. It is relevant to note that the time limit specified under Section 16(4) is not applicable for re-claiming the credit reversed under Rule 37.

**Rule 39 Reversal (Entry No. 7b) –**

Rule 39 deals with the procedure for the distribution of input tax credit (ITC) by Input Service Distributor (hereinafter referred to as ISD). ISD is required to distribute ITC in the manner prescribed in sub-rule 39 (1). The ISD shall, as per rules 39(1) (d), separately distribute the amount of ineligible input tax credit as per section 17(5) of the CGST Act (ineligible under the



provisions of sub-section (5) of Section 17 or otherwise). A credit note to the ISD, that the input tax credit is required to be reduced and shall be apportioned to each recipient in the same ratio in which the input tax credit contained in the original invoice was distributed in terms of clause (d).

Amounts to be shown under 7B would be based on the following

- the Input Service Distributor credit note, issued by Input Service Distributor, as prescribed in sub-rule (1) of Rule 54, to reduce the credit issued by the ISD already for any reason.
- Ineligible ITC issued by the Input Service Distributor distributed through separate ISD invoice.

### **Rule 42 and 43 Reversal (Entry No. 7C and D) –**

Rule 42 of the CGST Rules, 2017 describes the manner of determination of input tax credit in respect of inputs or input services and reversal thereof. The same provision for capital goods is covered in Rule 43.

A registered person is eligible to avail input tax credit as per Section 16(1) after complying with requirements prescribed in section 16(2). Once ITC is taken based on the above provisions, the same is to be tested further on the following grounds:

- ITC is intended for business or other than business as per section 17(1).
- ITC is intended for taxable supply or exempt supply as per section 17(2).
- ITC is common and used in taxable as well as exempt supply as per section 17(2).

Accordingly, only valid credit would be available, and ITC used for non-business purposes or effecting exempt supply to reverse.

The reversal required would have been done every month and then again at the end of the year. Now, at the time of filing FORM GSTR-9, if any error is discovered in the amounts of such reversal or ITC is not reversed in any returns, then FORM GST DRC-03 is required to be filed for the said reversal.

A most common error that may be made by a registered person is the wrong classification of supply into taxable and exempt supply. The scope of exempt supply is wider enough to cover non-taxable supply along with exempt supply on which the supplier is not liable to pay tax. Other income lying in Profit and Loss Account may contain some exempt income and accordingly, ITC reversal calculation is required at every tax period.

### **Section 17 (5) Reversal (Entry No. 7E) –**

The ITC taken on goods or services that are blocked or which are becoming ineligible on the happening of an event should be identified and reversed as per Sec 17(5) of the CGST Act, 2017.

The registered person needs to review the list of credits not availed by him due to the restriction in Section 17. This review would be to ensure that the restriction has been rightly categorized by the registered person and look for an opportunity to consider the role of deemed supply, composite or mixed supply to enable credit.

E.g.: In case of a cost-plus company which raises invoice on the parent company including cost incurred on rent-a-cab services received by the company, a view can be taken that such services are being used for providing the composite supply of services by the Company and therefore tax paid on such inward supply is eligible for credit as per section 17(5).

A similar view can be taken for Health and Life insurance services as well. However, costs incurred in providing an outward supply does not imply that those costs form a composite supply. Due care must be exercised while taking such tax positions.

There are various restrictions in Section 17 which makes it necessary to establish the nexus between input and output. Once the nexus is identified, the registered person needs to verify the impact of the same on the ITC reversal made under section 17(5).

E.g.: Reversal of ITC under section 17(5)(h) needs to be reviewed to check if the reversal on account of the issue of free supply was required or not, as the only disposal of the free sample gets covered under section 17(5)(h) and not all cases where goods are transferred/issued to a person free of cost. If any inputs are supplied free of cost to a customer to entice further sales, it would fall within the definition of supply and hence would be liable to pay GST on the same after availing credit.

In the above example, if it is identified at the time of scrutiny/audit by the GST authorities that GST has not been paid on supply, the registered person would be required to pay tax on the same, but ITC reversed earlier cannot be claimed at that time due to restriction in section 16(4).

#### **Tran Reversal (Entry No. 7F and 7G) –**

Transfer of taxes paid under the earlier tax regime would flow into the GST regime through this self-declaration. And there may be reasons to reverse some or all of this credit due to inaccuracies in understanding the extent of transition credit permitted. The revision was permitted through FORM GSTR-3B filed and now, the credit so reversed is to be reported in this entry.

During the implementation of the GST regime, the Government had provided a mechanism to claim transitional credit on a self-declaration basis in form FORM GST TRAN-1 and/or FORM GST TRAN-2. Such transitional credit claimed may find a variance due to arithmetical errors, unclear laws or errors of omission and commission by the registered person. The possibility of errors in such credit taken was high since the transitional credit was taken based on various statutory filings such as VAT returns, Service tax, Excise Return, etc.

The credit which taken in excess/or taken wrongly can be reversed in FORM GSTR-3B and FORM GSTR-9 by using an appropriate Table. FORM GST TRAN-1 or FORM GST TRAN-2 credit taken more than what is eligible will be reported in this Table.

**Other Reversal (Entry No. 7H) –**

It is possible that there are situations where the credit availed which has to be reversed does not fall under table 7A to 7G. In such situations, the registered person has to reverse the said credit and it will be reflected here. Besides the above, Notification 56/2019- C.T. dated 14.11.2019 categorically stated that for FY 2017-18 & 2018-19, **registered persons have an option** to club the data of reversal from 7. A to 7. E to be reported in 7.H.

Situation 1 - Where any registered person who has availed input tax credit and paying tax under normal levy, opts to pay under composition levy, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods, reduced by such percentage points as may be prescribed, on the day immediately preceding the date of exercising of such option and the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.

Situation 2 - Where any registered person who has availed input tax credit where the goods or services or both supplied by him become wholly exempt, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods, reduced by such percentage points as may be prescribed, on the day immediately preceding the date of such exemption and the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.

In both situations, the registered person should have filed FORM GST ITC 03, within the time prescribed.

**Part–III: Entry No. 8 (Comparison with Form GSTR-2A)**

8 Other ITC related Information					
A	ITC as per GSTR-2A (Table 3 & 5 thereof)	<Auto>	<Auto>	<Auto>	<Auto>
B	ITC as per sum total of 6(B) and 6(H) above	<Auto>			
C	For FY 2017-18 ITC on inward supplies (other than imports and inward supplies liable to reserve charge but includes services received from SEZs) received during 2017-18 but availed during April 2018 to March 2019.				

	For FY 2018-19, ITC on inward supplies (other than imports and inward supplies liable to reverse charge but includes services received from SEZs) received during 2018-19 but availed during April 2019 to September 2019.				
D	Difference [A-(B+C)]				
E	ITC available but not availed (out of D)				
F	ITC available but ineligible (out of D)				
G	IGST paid on import of goods (including supplies from SEZ)				
H	IGST credit availed on import of goods (as per 6(E) above)	0			
I	Difference (G-H)				
J	ITC available but not availed on import of goods (Equal to I)				
K	Total ITC to be lapsed in current financial year (E + F + J)	<Auto>	<Auto>	<Auto>	<Auto>

Entry 8 of FORM GSTR-9 contains two sections. The first section relates to the comparison of credit availed on forward charge by the registered person with the credit available as per inward supply uploaded by the suppliers in GSTR-1, duly reflected in FORM GSTR-2A (Clause A to F of Sl. No.8). The second section relates to the comparison of IGST paid on the import of goods with IGST availed on import of goods (Clause G to J of Sl. No. 8). The differences in both the cases (Clause K of Sl. No. 8) is sought 'to have lapsed'.

Entry No. 6 of the Annual Return deals with 'Details of ITC availed, as declared in return during the financial year'. Both Entry 6 and 8 deal with ITC. However, the difference in Entry No. 6 and 8 is that

- Entry No. 6 commences with ITC availed by the registered person in FORM GSTR-3B and bifurcates the credit availed under various heads like credit availed under the forward charge, reverse charge - under Sections 9(3) and 9(4), import of goods and import of service.

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- In contrast, Entry No. 8 commences with ITC as per FORM GSTR-2A i.e. inward supplies of the registered person, as declared by his suppliers. Table 8 primarily seeks to determine:
  - ITC availed on forward charge which has lapsed (Clause E).
  - ITC availed on forward charge which is not eligible (Clause F).
  - ITC not eligible for the import of goods (Clause J).
  - Total ITC which has lapsed (Aggregate of 8E + 8F + 8J).
  - It is also opportune to mention here that ITC relating to:
    - import of services
    - reverse charge
    - ISDare not subject to reconciliation.

Besides above, Notification 56/2019- C.T. dated 14.11.2019 categorically stated that for FY 2017-18 & 2018-19, registered persons have an option to upload the details for the entries in Table 8A to 8D (Reconciliation of GSTR-2A with GSTR-3B) \*duly signed, in PDF format in Form GSTR-9C\* (without the CA certification)

### **Point to be considered while preparing this table:**

#### **For ITC as per 2A (Entry 8A)**

- (a) Clause A of is an auto-populated detail & non-editable. The value of supplies along with relevant nature and amount of tax shall be auto-populated from Tables 3 and 5 of Form GSTR-2A.
- (b) Table 3 of GSTR-2A relates to 'inward supplies received from a registered person other than the supplies attracting reverse charge'. Table 5 of FORM GSTR-2A relates to 'Debit/ Credit notes received during the current tax period'. Thus, what is auto-populated from FORM GSTR-2A into this clause is only the data relating to credit availed on inward supplies, where GST is paid to suppliers and amendments made thereto in the form of debit/credit notes.
- (c) Verification of FORM GSTR-2A may bring forth the following discrepancies:
  - Purchases that do not pertain to the registered person.
  - Purchases for which credit is ineligible, on which ITC has not been availed, however, this forms part of FORM GSTR-2A when the supplier uploads the same in FORM GSTR-1.

- Twin-reporting –
  - There could be cases where a single transaction could have two inward supplies in FORM GSTR-2A. For example, the amount paid for the purchase of air ticket by the registered person would entail two inward supplies; one from the airline for the ticket and second from the travel agent charging a commission. Both the credits would be available though the transaction is a single one (subject to conditions for availing of credit).
  - One of the conditions for availing credit is that payment ought to be made to the supplier. However, payment would be made by the registered persons only to the travel agent and not the airline. The condition of making the payment would have been satisfied although payment is not made directly to the airline carrier in the instant case. Refer to Explanation (ii) to Section 16(2) (b) of the CGST Act, 2017, made by the Central Goods and Service Tax (Amendment) Act, 2018.
- Inward supplies where FORM GSTR-1 has not yet been filed would be conspicuous by its absence.

**For ITC taken in Entry 6 (Entry 8B)**

The aggregate of input tax credit uploaded in Clause B and H of Entry No. 6 gets auto-populated in this clause. Clause B captures input tax credit on Inward Supplies (other than imports and inward supplies on which tax is to be paid on reverse charge but includes services received from SEZ). Clause H of Entry No. 6, on the other hand, relates to the aggregate value of input tax credit availed, reversed and reclaimed under the provisions of the GST.

One needs to keep in mind that Clause H will also have the ITC reversed in previous years for non-payment to suppliers. In such a situation comparing it with the current year's entries in Form GSTR-2A is not correct.

**For ITC deferred to next year (Entry 8C)**

ITC on inward supplies (other than imports and inward supplies liable to reverse charge but includes services received from SEZs) received during CURRENT FINANCIAL YEAR but availed NEXT YEAR WITHIN THE PRESCRIBED TIME i.e. April to September.

This clause is inserted to take care of the provisions of section 16(4) of the CGST Act, 2017, to ascertain, match and reconcile the credit availed in the subsequent financial year, where the credit availed relates to the previous financial year. The approach should be to restate 8C such that 8D is 'nil' after excluding ineligible credits under 17(2) and 17(5) and excluding unrecognized credits.

The values forming part of this clause must also form part of T13 (Pt. V of FORM GSTR-9) – 'ITC availed for the previous financial year' since Pt. V of FORM GSTR-9 provides for "Details of previous Financial year's transactions reported in the next Financial year.

### For ITC not reconciled (Entry 8D)

There may be circumstances where the credit availed in Form GSTR-3B was greater than credit available in form GSTR-2A. In such cases, the value in row 8D shall be negative.

Ideally, the value in this clause ought to be positive, since all inward supplies as reported in GSTR-2A may not be an eligible input tax credit. In the majority of circumstances, FORM GSTR-2A would also contain blocked credit under Section 17(5) and non-business credits under section 17(1), in addition to credit. There could be credits used exclusively/partially for exempt supplies, which will have to be dealt as per Section 17(2), (3) of CGST Act, 2017 r/w Rule 42 and Rule 43 of the CGST Rules, 2017. Hence this clause ought to generally declare a positive value.

However, in case this clause derives a negative value, it could point to the fact that ITC has been availed by the recipient, but the supplier has failed to upload the invoices in his FORM GSTR-1, leading to the absence of corresponding credits and values in FORM GSTR-2A of the registered person.

Negative values in this clause, in exceptional circumstances, could indicate errors or omissions/ commissions in the form of availing credit twice and availing excess credits due to typographical errors.

Suffice to say that if the differential value in this clause is positive, then the value in this clause is normal. However, if the differential value in this clause is Zero or negative, it points to abnormal values. If the differential value in this clause is Zero, it indicates that credit has been availed on inward supply and that there are no blocked credits and non-business credits. If the differential value in this clause is negative, it generally tends to point to the following fact :

- that suppliers have not uploaded their information in FORM GSTR-1
- errors of commission/duplication on the part of a registered person while taking credit.

Hence, it is stressed that working sheets must be prepared based on inward register to determine and find out the exact cause of difference for initiation of remedial action either on the part of the registered person or on the part of suppliers of the registered person.

The registered person ought to consider possible ramifications where this clause discloses a negative figure. Of course no such step would be taken without affording the registered person an opportunity to explain. Hence, it is advisable to maintain an adequate explanation for the difference appearing in 8D.

However, It is important to note that CBIC through twitter / Press release, on 18.10.2018 clarified that furnishing of outward details in FORM GSTR-1 by the corresponding supplier(s) & facility to view the same in FORM GSTR-2A by the recipient is in nature of registered person facilitation & does not impact the ability of a registered person to avail ITC on self-assessment basis.

**For ITC lapsed (Entry 8E and 8F)**

Difference value in Clause D of Entry No. 8 when positive, may contain eligible credits that have not been availed by the registered person. The most likely reason could be the failure to take credit within the timelines specified under section 16(4) of the CGST Act, 2017.

Input tax credit which is neither reflected in GSTR-2A nor claimed in FORM GSTR-3B but taken in books of accounts would not be eligible credit at all and hence the same is not to be entered in this clause. Here, the difference between inward supplies uploaded by the supplier and inward supplies claimed by the registered person is sought to be verified.

The input tax credit may not have been availed due to various reasons. Some of them may be as follows:

- There could be cases where goods have been delivered to the GSTIN from whom the order was received but payment was made from another GSTIN under the same PAN. As per the definition of the recipient under section 2(93) of the CGST Act, 2017, the person liable to pay consideration ought to be treated as a recipient. This input tax credit cannot be distributed under the input service distributor mechanism since the said credit is related to goods and not services. The recipient shall have to forego such input tax credit in case he has not shown the same as outward supply from the branch which had made payment to the branch which received the goods within the time specified under section 16(4).
- Input tax credit on the goods of a registered person for which sister concern/associate enterprise has been wrongly entered as the recipient by the supplier, and where amendment is not carried out by the supplier in FORM GSTR-1 before the annual return is filed by the registered person.
- Where the registered person's business has been transferred but the input tax credit is not transferred to the transferee under section 18(3) of the CGST Act, 2017 by filing Form ITC-02

This clause has been inserted in the annual return to report that portion of input tax credit availed on the forward charge which is ineligible to be taken as credit due to provisions of section 17 of the CGST Act, 2017 read with Rule 42 and 43 of CGST Rules, 2017. Ineligible input tax credit is divided into two parts:

1. Input tax credit ineligible as per Section 17(5) of CGST Act, 2017

There could be cases where the registered person has uploaded only the eligible credit in FORM GSTR-3B and completely omitted to enter the ineligible credit in Table 4(D) of GSTR-3B. In such cases, the information would have to be procured from books of accounts and entered here even though the said values are not entered in FORM GSTR-3B since FORM GSTR-2A would include all inward supplies including the ineligible credit.



### 2. Other ineligible input tax credits:

- Input tax credit not intended to be used in the course or furtherance of business under section 16(1) of the CGST Act, 2017.
- Input tax credit relating to non-business purposes u/s 17(1) of CGST Act, 2017.
- Input tax credit exclusively related to exempt supplies u/s 17(2) of CGST Act, 2017
- Input tax credit related to exempt supplies u/s 17(3) of CGST Act, 2017.
- Input tax credit which has been capitalized and hence ineligible u/s 16(3) of CGST Act, 2017.
- Input tax credit availed in contravention of conditions under section 16(2) of CGST Act, 2017

### For ITC on Import of Goods (Entry 8G)

The data to be validated from import register with the help of the Bill of entry and tax paid challan can be referred to for this amount. IGST is levied on the import of goods. The levy is under section 3 (7) of the Customs Tariff Act, 1975. As per proviso to Section 5 (1) of the IGST Act, 2017, levy of IGST is levied when customs duty is leviable as per the Customs Tariff Act, 1975. Thus, the import of goods is liable for IGST.

Supplies of goods or services or both to or by an SEZ unit or SEZ developer is treated as an inter-State supply as per Section 7(5) of IGST Act, 2017. Hence, supplies from the SEZ unit/ developer to DTA would be liable to IGST. Further as per Section 30 of SEZ Act, 2005 any goods removed from SEZ to DTA '**shall be chargeable to customs duty**', as leviable on such goods when imported.

Attention is also drawn to Rule 47 (1) and (4) and (5) of SEZ Rules, 2006 which state that valuation and assessment of goods cleared to DTA shall be following the Customs Act, 1962. Hence supplies by SEZ to DTA would be exigible to IGST, as leviable when goods are imported into India. Hence this clause contains not only IGST paid on the import of goods but also on inward supplies from SEZ.

Rule 48 of SEZ Rules, 2006 mandates that DTA buyers ought to file Bill of Entry for home consumption when goods are supplied from SEZ to DTA. Hence the procedure for importing goods and procurement of goods from SEZ is similar. What is important to note from the aforesaid discussion is that the details of goods procured from SEZ would be available with the customs department in ICEGATE. Thus, the GSTN can cross-reference particulars of goods procured from SEZ with ICEGATE (similar to the procedure adopted for the import of goods into India.). Therefore, the taxpayer must validate the information (i.e. customs duty paid on the import of goods/ procurement of SEZ), to be entered under this row with customs duty paid by the taxpayer as per ICEGATE. Differences if any must be investigated. The IGST

paid on the import of both capital goods and inputs must be compiled here and the aggregate value thereof must be entered in this row.

**For ITC taken Import of Goods (Entry 8H)**

IGST credit on the import of goods including supplies from SEZ as reflected in 6E of FORM GSTR-9 is auto-populated into this entry. Errors made while filling in data in FORM GSTR-3B could create problems for the taxpayer in Table 8.

The IGST paid on the import of goods in March 2018 could have been availed on April 2018 (i.e. IGST paid on the import of goods in the previous financial year may be availed in the subsequent financial year). In such cases, there would be a difference since IGST paid on March 18 would come in 8G of FORM GSTR-9 for FY 17-18 whereas IGST availed on April 18 would come in 8H of FORM GSTR-9 of FY 18-19 (since 8H auto-populates data from 6E and since 6E data is to be sourced from data entered in FORM GSTR-3B for the FY for which FORM GSTR-9 is being prepared).

The differential figure in 8I would be positive for the FY 17-18 and thus not a cause of concern whereas other things remaining constant, the differential figure in Entry No. 8I would be a negative value for 2018-19. The reason for the same would have to be substantiated before the department since negative values may attract letters/notices from the department seeking the reason for the same.

**Difference between IGST paid and ITC taken on Import of Goods (Entry 8I)**

The difference in Table 8I may either be a positive figure or a negative figure. The reason for the negative can be the mistakes committed in the preparation of the Form GSTR-3B. Apart from the genuine reason of IGST having been paid in the previous financial year but claimed in the subsequent financial year (for which the Bill of Entry wise data must be procured), the differential figure when positive may broadly consist of the following:

- IGST paid as per Table 8G, which is eligible but not availed as per Table 8H.
- IGST paid as per Table 8G, which is ineligible and hence not availed as per Table 8H.

**For ITC Lapsed on Import of Goods (Entry 8J)**

Though Entry No. 8J reads as 'ITC available but not availed on import of goods', in effect, it is related to an input tax credit available on the import of goods which has lapsed since the amount entered in 8J has lapsed as per 8K.

Goods imported into India and supplies made by SEZ to DTA, under a cover of the bill of entry are liable to IGST as per proviso to Section 5(1) of IGST Act r/w Section 7(5) of IGST Act r/w Section 3(7) of Customs Tariff Act. However, not all goods imported are like inputs or capital goods and hence eligible as credit. Credit may not be available on the import of the following goods:

- Goods imported which are not intended to be used in the course of business as per section 16(1).

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- Goods imported which are used entirely for non-business purposes as per section 17(1).
- Goods imported which are used exclusively for exempt supplies as per section 17(2) and 17(3).
- Goods imported which are blocked as credit u/s 17(5).
- Goods imported which consist of telecommunication towers.

IGST paid on imported goods, available but not availed and credit is ineligible should be entered here, though the entry heading reads as 'ITC available but not availed on import of goods' since IGST value entered under this heading would lapse as per 8K of FORM GSTR-9.

### Part-IV: Entry No. 9 (Pay-Out Particulars)

Pt.IV. Details of tax paid as declared in the returns filed during the Financial Year							
9	Description	Tax Payable	Paid through cash	Paid through ITC			
				Central Tax	State Tax / UT Tax	Integrated Tax	Cess
	1	2	3	4	5	6	7
	Integrated Tax						
	Central Tax						
	State/UT Tax						
	Cess						
	Interest						
	Late fee						
	Penalty						
	Other						

After capturing details relating to outward supplies in Part II and details of Input tax credit availed and reversed in Part III of GSTR-9, Part IV requires the person filing an Annual Return to report the details of tax, interest, late fee, penalty and other amounts payable and paid thereon on a cumulative basis for the financial year.

The purpose of entry number 9 in Part IV is to get the consolidated value of tax liability self -

assessed including tax payable on additional liability which has not been reported yet and tax paid, discharged in the monthly returns i.e Form 3B by the Registered Person for the period for which the Annual Return is being filed.

The given details along with differential tax details declared in Sl. No. 14 in Part V of the Form shall assume the total tax liability for the financial year which is calculated, declared and discharged by the Registered Person up to the date of filing the Annual Return and balance has to be paid in cash through FORM GST DRC-03. The given details shall be useful while filing the reconciliation statement in FORM GSTR-9C for the Registered Person for calculating the actual tax liability for the financial year.

#### **For Tax Payable and Tax Paid**

Details of tax paid i.e. payment through cash and payment through ITC is auto-populated in GSTR-9 table 9 and it is non- editable field.

As regards 'tax payable', the same must be in alignment with taxable turnover in Sl.No.4, particularly 4M of GSTR-9. Accordingly, where taxable turnover reported in FORM GSTR-1 and FORM GSTR-3B are in agreement with each other, there would be no 'new' tax liability identified for the first time in GSTR-9. However, where they are not in agreement, which is often the case, taxable turnover reported in FORM GSTR-1 and that on which tax is discharged through FORM GSTR-3B may not be in agreement. It is for this reason that Entry No. 9 captures 'tax payable' based on FORM GSTR-9 (4N) but 'tax paid' based on FORM GSTR-3B.

Now, a quick reference to instructions against Sl. No. 9Q (of GSTR-9C) will reveal that 'tax payable' must flow from clause 9 along with taxes admitted against 10 and 11 of FORM GSTR-9. Tax payable, therefore, could not be based on the actual FORM GSTR-3B so as not to continue the error in FORM GSTR-9C but put to rest by Registered Person admitting short-payment and by Auditor verifying the same in the reconciliation. From this, it is clear that 'tax payable' is a conclusion that is being reached in this Annual Return and must be correctly admitted by the Registered Person and 'tax paid' cannot be anything more than that already discharged from time to time vide FORM GSTR-3B and if not discharged yet through FORM GST DRC-03 in cash must be paid.

#### **For Interest Payable and Paid**

For reporting the amount of interest under the given column, interest admitted and paid must be reported here. The details of interest paid under Section 50 can be captured from Table 5.1 of FORM GSTR-3B filed for the financial year, if paid. Further, the details of interest paid, to be reported in Part IV of FORM GSTR-9 can also be cross verified with Credit and Debit relating to interest in Electronic tax Liability Register.

#### **For Late Fees Payable and Paid**

For reporting Late Fees duly paid during the financial year for late filing of any of the GST Returns on which Late Fee was levied and paid by the Registered Person, Table 6.1 of FORM GSTR-3B shall be used.

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Further, the details of Late Fee to be reported in Part IV of FORM GSTR-9 can also be cross-verified with Credit and Debit relating to a late fee in Electronic tax Liability Register.

### For Penalty and Other Dues Payable and Paid

In FORM GSTR-3B, there is no Table specified for payment of any Penalty or Other Dues. However, under the law there can be instances where a person filing an Annual Return might have paid penalty due to various instances such as for causing movement of goods in violation of provisions of Rule 138 or, due to any order passed by the proper officer etc. Since only details relating to liabilities disclosed in monthly returns are to be reported in FORM GSTR-9, no details of penalty or Other Dues should be reported here.

## Part-V: Current Year's Transaction Reported in Next Financial Year

Pt.V	For FY 2017-18 particulars of the transactions for the previous FY declared in returns of April 2018 till March 2019. For FY 2018-19, particulars of the transactions for the FY 2018-19 declared in returns between April 2019 to September 2019.					
	Name of Supplies	Taxable Value	Central Tax	State Tax/UT Tax	Integrated Tax	Cess
	1	2	3	4	5	6
10	Supplies / tax declared through Amendments (+) (net of debit notes)					
11	Supplies / tax reduced through Amendments (-) (net of credit notes)					
12	Reversal of ITC availed during previous financial year					
13	ITC availed for the previous financial year					
14	Differential tax paid on account of declaration in 10 & 11 above					
	<b>Description</b>	<b>Payable</b>		<b>Paid</b>		
	1	2		3		
	Integrated Tax					
	Central Tax					

	State/UT Tax		
	Cess		
	Interest		

Entry 10 and 11 already discussed above in Entry No. 4.

Entry 12 and 13 - CBIC *vide* Notification 56/2019- C.T. dated 14.11.2019 categorically stated that for FY 2017-18 & 2018-19, **registered persons have an option** not to report this information.

**For Reversal of ITC availed but Reversed in Next FY**

The input credit taken may have to be reversed post the completion of the financial year due to various reasons ((recognized in the financial year ensuing year on the following reasons)):

- Reversal of Transitional credit: During the implementation of the GST regime, the Government had provided for claiming of credits available in various forms in the Form TRAN-I and TRAN-II on a self-declaration basis. The transitional credit claimed may find a variance due to errors of omission and commission by a Registered Person. The same can be adjusted in this section. The possibility of errors in such credit taken was high since the transitional credit was taken based on various statutory filings like the VAT returns, Service tax, Excise Registers. The credit was also taken by unregistered taxpayers of the erstwhile regimes for their stocks (tax- suffered stock) to the extent of tax paid by them without adequate awareness of the laws.
- Credit wrongly claimed on items covered under section 17(5)
- Non-reversal under Rule 42/43

The errors and omission which require a reversal are to be rectified in the FORM GSTR-3B within the time limitation for the filing of returns, as non-revision may result in the denial of ITC, penalty, and additional liability in the form of interest.

**For Availing ITC in Next FY**

Section 16(4) provides that credits relating to a particular financial year need to be claimed within the due date of filing the returns for September of the subsequent financial year or the date of filing the annual return whichever is earlier.

**Payout of the Current Financial Year declared and paid in next FY.**

After capturing details of additions or amendments to any of the supplies of the reporting financial year but which have been furnished in the next financial year, in Entry No. 10 and 11, Table 14 aims to capture the details of differential tax liability, either increase or decrease, as the case may be, arising out of such reporting by the person filing the Annual Return.

Entry14 also shows whether the relevant additional tax arising has been paid or not. The

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details of Interest in respect of any additional tax payable and paid in Table 14 are also required to be disclosed here.

### For Tax Payable

Under Table 9 of Part IV are the details of tax payable for details of supplies which person filing the Annual Return has reported through the details of tax as derived in 4N; similarly, for details of tax payable to be reported in 14, the net amount of tax reported in 10 and 11 should be considered.

### For Tax Paid

In case, the amount of tax disclosed in 10 and 11 is positive or, it causes an increase in liability of tax and such tax has also been paid in FORM GSTR-3B filed during the next FY, then by finding out the exact details through a reconciliation sheet, the amount of tax paid should be mentioned.

### For Interest Payable and Paid

For reporting the amount of interest under the given column, the person filing an Annual Return needs to calculate the interest applicable under section 50 of the CGST Act. The said interest needs to be calculated by identifying the exact months in which the additional tax liability should have been paid up to the month in which it is paid.

## Part–VI: Other Information – (Entry No. 15)

Pt. VI	Other Information							
	Details	Central Tax	State Tax / UT Tax	Integrated Tax	Cess	Interest	Penalty	Late Fee/ Others
	1	2	3	4	5			
15	Particulars of Demands and Refunds							
A	Total Refund claimed							
B	Total Refund sanctioned							
C	Total Refund Rejected							
D	Total							

	Refund Pending							
E	Total demand of taxes							
F	Total taxes paid in respect of E above							
G	Total demands pending out of E above							

CBIC *vide* Notification 56/2019- C.T. dated 14.11.2019 categorically stated that for FY 2017-18 & 2018-19, **registered persons have an option** not to report this information.

**For Total Refund Claimed**

The aggregate value of refund of taxes claimed (CGST, SGST/UTGST, IGST and Cess to be disclosed separately) under the GST Law has to be reported under this head which includes refund claims which have been sanctioned, rejected or pending for processing, comprising of the refund in any of the following scenarios:

- Refund of taxes paid in excess
- Refund of balance in the cash ledger after payment of taxes
- Refund of an unutilised input tax credit in case of zero-rated supplies of goods/ services without payment of taxes.
- Refund of taxes paid in case of zero-rated supplies of goods/services with payment of taxes.
- Refund of taxes paid on account of deemed exports (where a refund is claimed by the supplier).
- Refund of taxes paid on account of deemed exports (where a refund is claimed by the recipient).
- Refund of taxes paid on account of the supply of goods/ services made to an SEZ unit/developer.
- Refund of unutilised input tax credit on account of inverted duty structure.
- Refund of pre-deposit.
- Refund of taxes paid where the transactions are considered as intra-state supplies, but which are subsequently considered as inter-State supplies.



- Provisional refunds received

Non-GST refund claims (i.e. refund claimed under erstwhile law) should not be reported here.

In case of refund of Integrated tax paid on export of goods out of India as per Rule 96 (1) shipping bill shall be deemed to be application for a refund only when Export Manifest (EGM) covering the shipping bill number and date, a valid FORM GSTR-3B is furnished. Hence refund claimed amount is to be reported considering the compliance of Rule 96 (1) of Central Goods and Services Tax Rules, 2017.

### **For Total Refund Sanctioned**

The aggregate value of the refund of taxes (CGST, SGST/UTGST, IGST and Cess to be disclosed separately) sanctioned up to end of financial year, out of the total refund applied for the relevant financial year as reflected in the sanction orders has to be reported under this head. Refund granted and adjusted against any outstanding demand of taxes in Form GST RFD 07 should be disclosed here before the adjustment of demand for taxes. Further, even the provisional refund (of 90%) sanctioned must be reported here. This is because Rule 91(2) provides for sanctioning of the provisional refund by passing the order in FORM GST RFD-04.

### **For Total Refund Rejected**

The aggregate value of the refund of taxes (CGST, SGST/UTGST, IGST and Cess to be disclosed separately) rejected out of the total refund claimed for the relevant financial year has to be reported under this head. Cases where deficiency memo has been issued upon filing of refund application but order whether sanctioned or rejected has not been issued, should not be reported.

### **For Total Refund Pending**

The aggregate value of the refund of taxes (CGST, SGST/UTGST, IGST and Cess to be disclosed separately) pending out of the total refund claimed for the relevant financial year has to be reported under this head. In other words, the aggregate value of all refund applications for which acknowledgment has been received has to be reported under this head excluding the provisional refunds received.

In case of a refund of Integrated tax paid on export of goods out of India as per Rule 96(1) shipping bill shall be deemed to be application for a refund only when Export Manifest (EGM) covering the shipping bill number and date, a valid GSTR-3B is furnished. Hence refund amounts that comply with Rule 96(1) of CGST Rules, 2017 should appear here.

### **For Total Demand of Taxes**

The aggregate value of the demand of taxes (CGST, SGST/UTGST, IGST and Cess to be disclosed separately) along with interest and penalty for which an order confirming the demand has been issued by the adjudicating authority has to be reported under this head.

In the scenario where the order has been passed in FORM GST RFD-07 by way of adjustment of the amount of refund against the outstanding demand under the GST, the demand of tax before adjustment against refund of tax would form part of the reporting under this head if the demand has not been included earlier.

**For Total Taxes Paid Out of the Aforesaid Demand of Taxes**

The aggregate value of demands of taxes (CGST, SGST/UTGST, IGST and Cess to be disclosed separately) paid along with interest, penalty and late fee out of the value of confirmed demand as declared in SI No.15E above has to be reported under this head.

In the scenario where the order has been passed in FORM GST RFD-07 by way of adjustment of the amount of refund against the outstanding demand under the GST, the amount of such refund adjusted would form part of the reporting under this head.

**For Total Demands Pending Out of the Aforesaid Demand of Taxes**

The aggregate value of demand of taxes (CGST, SGST/UTGST, IGST and Cess to be disclosed separately) along with interest, penalty and late fee pending recovery out of the total demand of taxes, interest, penalty, and late fee declared in SI No.15E above has to be reported under this head.

**Part–VI: Other Information – (Entry No. 16)**

16	Information on supplies received from composition taxpayers, demand supply under section 143 and goods sent on approval basis					
	Details	Taxable Value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
	1	2	3	4	5	6
A	Supplies received from Composition taxpayers					
B	Deemed supply under Section 143					
C	Goods sent on approval basis but not returned					

CBIC vide Notification 56/2019- C.T. dated 14.11.2019 categorically stated that for FY 2017-18 & 2018-19, **registered persons have an option** not to report this information.

### **For Inward Supply From Composition Taxpayers**

The registered person, not being a composite tax person, is required to provide value of inward supplies received from the composition taxpayers in this Entry.

Composite taxpayers cannot issue tax invoice; they must issue a Bill of supply as mentioned in section 31(3)(c) of the CGST Act. Details of inward supplies received from the composition taxpayer can be extracted from the INWARD REGISTER if the same are recorded separately.

Only inward supply received from the composition scheme is to be reported here. Any inward supplies which are NIL-rated, exempted, non-GST etc. should not be a part of this.

### **For Deemed Supply Under Section 143**

Aggregate value of all deemed supplies from the principal to the job-worker in terms of sub-section (3) and sub-section (4) of Section 143 of the CGST Act shall be declared here.

Section 143 (3) and (4) of the CGST Act deals with payment of tax on the deemed supply when inputs or capital goods are not returned by the recipient (job-worker) within prescribed time period to the registered principal which are sent on or after 01.07.2017. Section 143(3) of the CGST Act provides that if inputs sent for job work are not received by the principal within 1 year of it being sent, then the same would be deemed as supply in the hands of the Principal on the day on which the inputs were sent by the principal.

Section 143(4) of the CGST Act provides that if capital goods (other than moulds and dies, jigs and fixtures, or tools) sent for job work are not received by the principal within 3 year of their being sent, then the same would be deemed as supply in the hands of the Principal on the day on which the capital goods were sent by the principal.

Every registered person has to maintain Goods Sent on Job Work Register which will be the source for filing the FORM GST ITC-04. They have to examine this register for the difference in period from the date of goods sent and received from the job worker.

### **For Goods Sent on Approval Basis but Not Returned**

Aggregate value of all deemed supplies for goods which were sent on approval basis but were not returned to the principal supplier within 6 months from being sent shall be declared here.

The CGST Act provides that if goods sent on approval are not returned by the recipient to the supplier within 6 months from the date of sending, the same shall be treated as supply in the hands of the supplier.

The register maintained by the supplier in respect of goods sent on approval basis wherein the details of date of receipt and date of return can be verified.

Since no actual sales happened when goods were sent to the recipient on sale on approval basis, this transaction would not be reported in any Return till the permissible time limit expires; such goods are sent on delivery challan only. Therefore, there would be no track to capture such a transaction.

One can also verify closing stock in the books of account in which goods sent on approval basis can be scrutinized and analysed to identify goods sent 6 months back but not returned or accepted by the recipient which then would be treated as supply to be covered in this Table. Tax invoice is required to be raised and tax needs to be paid.

**Part-VI: Other Information – (Entry No. 17, 18 & 19)**

17 HSN Wise Summary of outward supplies								
HSN Code	UQC	Total Quantity	Taxable Value	Rate of Tax	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
1	2	3	4	5	6	7	8	9
18 HSN Wise Summary of Inward supplies								
HSN Code	UQC	Total Quantity	Taxable Value	Rate of Tax	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
1	2	3	4	5	6	7	8	9
19 Late fee payable and paid								
	Description				Payable	Paid		
	1				2	3		
A	Central Tax							
B	State Tax							

CBIC vide Notification 56/2019- C.T. dated 14.11.2019 categorically stated that for FY 2017-18 & 2018-19, **registered persons have an option** not to report the information in entry no. 17 nad 18.

India has adopted the Harmonized System of Nomenclature (HSN) for goods and Services. A summary of inward and outward supplies effected/made against a particular HSN code is to be reported in this Table; since Rule 46 (g) of the CGST Rules provides that the HSN code is to be mentioned on the face of the tax invoice in terms of the Notification No. 12/2017 – C.T.

(Rated) dated 28.06.2017. However, while it is optional to mention HSN code for taxpayers having annual turnover up to ₹ 1.50 crores, it would be mandatory to report HSN code at two-digit level for taxpayers having annual turnover in the preceding year above ₹ 1.50 crore but up to ₹ 5.00 crore and at four digit level for taxpayers having annual turnover above ₹ 5.00 crore.

The Central Government and the State Governments have issued notifications specifying the rate of tax based on the classification / description of goods with reference to the chapter heading, sub-heading and tariff item. It is also notified that the 'tariff item', 'sub-heading', 'heading' and 'chapter' as referred to therein shall have the same meaning as tariff item, sub-heading, heading and chapter as specified in the First Schedule of the Customs Tariff Act, 1975. The methodology adopted for the purpose of classification of goods under the Customs Tariff Act is commonly known as Harmonized System of Nomenclature (HSN, or also known as Harmonised Commodity Description and Coding System – abbreviated version according to WCO is HS). It is a multipurpose International Product Nomenclature developed by the World Customs Organisation (WCO). WCO has 181 members and India is a member of WCO since 1971. India had adopted the system of HSN in 1986.

It is specified that the rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 including the section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of the notification issued under the GST Laws.

It is apparent from the above explanations and references thereto that the principles of classification and rules of interpretation for classification of goods under the Customs Tariff Act shall be adopted for GST Laws for the purpose of classification of goods.

*The Customs Tariff Act:* The First Schedule to The Customs Tariff Act specifies the 'General Rules for the Interpretation of the First Schedule' that should be adopted for the purpose of classification of goods and determination of rate of tax. The said rules refer to the sections, section notes, chapters, chapter notes, headings and sub-headings. It also specifies the 'General Explanatory Notes' which should be referred for the purpose of classification of goods. HSN has 21 sections, 99 Chapters, 1244 Headings and 5244 sub headings (please note that Chapter 99 is kept blank for common use – which has been used to classify services).

### **HSN Wise Break Up for Outward Supplies**

The data to be validated from the outward supply register for the following particulars.

- **HSN Code**

HSN based classification ought to be corroborated with allied documents such as E-way bills, delivery challans, notifications and clarifications including explanatory notes to the scheme of classification of services. It is possible that the tax rates may have been

changed during the financial year in respect of goods supplied. In such cases this column should be so filled that it reflects or captures such rate changes.

- **Unit Quantity Code**

Unit Quantity Code is the code of measurement of a particular commodity i.e. Kilograms, Meters, Litres, Numbers etc. Different goods could be measured through different UQC's based on the nature of goods. In respect of services, for example, it could be man hours, man-days etc.

- **Total Quantity**

Total quantity of Outward Supplies made during the financial year is to be filled in this column. It may be worth noting that every Registered Person would have to maintain complete quantitative records of the goods traded (or manufactured and traded) or services provided during the financial year.

- **Taxable Value**

The expression "taxable value" is not defined under the Act; it must be understood to be the value of taxable supply on which tax becomes payable. In the instructions provided to FORM GSTR-2 in Sl. No. 5 of Table 5, it is stated that "*taxable value*" means assessable value for custom purposes on which IGST is computed.

- **Rate of Tax**

The rate of GST applicable must be reported in this column keeping in mind that there could have been changes in the applicable tax rates on a particular item / HSN code during the period July 2017 to March 2018. When there is a change, there will be separate details for each rate of tax in respect of the same supply.

- **Payout**

Column 6 to column 9, essentially, capture the Taxes payable based on the nature of outward supplies i.e intra-State or inter-State supplies. Caution must be exercised to ensure that such HSN based taxable supplies reflected in this table match with turnover reflected elsewhere in the Annual Return.

### **HSN Wise Break Up for Inward Supplies**

The analysis given above with respect to HSN summary of outward supplies would be applicable even for the understanding of HSN summary of inward supplies.

### **Late Fee for Belated Filing of Annual Return**

Annual Return has a due date prescribed for its filing. However, there is no embargo on filing this return belatedly. Due date prescribed in section 44(2) of the CGST Act is necessary to make this return enforceable. Without a due date, this return would become directory and not mandatory given that taxes due are paid through monthly return in FORM GSTR-3, or monthly statement in FORM GSTR-3B.

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Annual Return is also not a document wherein new information can be furnished. Instead, FORM GSTR-9 only curates the information already furnished through the return in FORM GSTR-1 or statement in FORM GSTR-3B and presents it in a suitable manner for consideration by the tax administration.

As such, belated filing of Annual Return is permitted but invites continuing consequence of late fee. The late fee prescribed for 'return' under section 44 applies to belated filing of FORM GSTR-9 and 9A at the rate of ₹ 100 per day subject to a maximum of 0.25% of turnover in State or UT.

Please note that late fee under the CGST Act would be in addition to the late fee under the mirror provision under the SGST Act / UTGST Act. Therefore, the late fee would be ₹ 100 + ₹ 100 per day subject to a maximum of 0.25% + 0.25% of turnover in State.

### Understanding "Verification" Under GSTR-9

*Verification:*

*I hereby solemnly affirm and declare that the information given herein above is true and correct to the best of my knowledge and belief and nothing has been concealed there from and in case of any reduction in output tax liability the benefit thereof has been / will be passed on to the recipient of supply.*

*Signature*

*Place:*

*Name of Authorised Signatory*

*Date:*

*Designation / Status*

The verification part of the said GSTR-9 is crucial in so far, as the GST Auditor is concerned. Among other words, there are several important words and phrases used in this part such as *solemnly affirm, declare, true and correct, knowledge and belief, conceal* etc. An understanding of the true import of these words becomes relevant. These words can be understood as follows:

According to *The Random House Dictionary* the word -

- solemn means "serious or earnest"
- affirm means "confirm, establish or ratify".
- A solemn affirmation is ratification under a statute.

In the case of ***Dilip N. Shroff V/s. Joint Commissioner of Income tax, [2007 (219) ELT 15 (SC)]*** their lordships extracted the meaning of the word "*conceal*" from the Law Lexicon which reads:

*“to hide or keep secret. The word “conceal” is con + celare which implies to hide. It means to hide or withdraw from observation; to cover or keep from sight; to prevent the discovery of; to withhold knowledge of. The offence of concealment is, thus, a direct attempt to hide an item of income or a portion thereof from the knowledge of the income tax authorities.”*

In the very same judgement in para 67 and 68 the Hon'ble Supreme Court goes on to analyse certain phrases, which are relevant and reproduced below:

*‘Concealment of income’ and ‘furnishing of inaccurate particulars’ are different. Both concealment and furnishing inaccurate particulars refer to deliberate acts on the part of the Registered Person. A mere omission or negligence would not constitute a deliberate act of suppressio veri or suggestio falsi. Although it may not be very accurate or apt but suppressio veri would amount to concealment, suggestio falsi would amount to furnishing of inaccurate particulars.*

The authorities did not arrive at a finding that the consideration amount fixed for the sale of property was wholly inadequate. The authorities also do not show what the inaccurate particulars furnished by the Appellant are. They also do not state what should have been the accepted principles of valuation. We, therefore, do not accept the submissions of the learned Additional Solicitor General that concealment or furnishing of inaccurate particulars would overlap each other, the same would not mean that they do not represent different concepts. Had they not been so, the Parliament would not have used different terminologies.

To conclude, malafide or dolus malus becomes a pre-requisite to prove an act of concealment. While every action is not malafide – negligence, carelessness, recklessness coupled with the intention to withhold information tantamount to malafide, it is reiterated that mere failure to provide information or providing inaccurate information also would not amount to concealment.

The latter part of “verification” in the prescribed FORM GSTR-9 (Annual return) reads “*in case of any reduction in output tax liability the benefit thereof has been / would be passed on to the recipient of supply*”. In order to understand the relevance and implication of this expression, one needs to understand the full impact of the provisions of section 171 of the CGST Act. Section 171 (1) of the CGST Act cites two situations as under:

- (A) Reduction in rate of tax; or
- (B) Benefit of input tax credit.

In both the above situations, the Statute warrants that any benefit accruing to a Registered Person ought to be passed on to the recipient by way of commensurate reduction in prices. It simply means a registered supplier to whom a benefit arises by way of additional input tax credit or a reduction in rate is required to necessarily pass on the entire amount to one or all recipients of such supply.

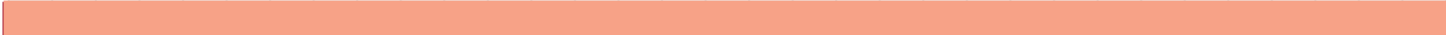
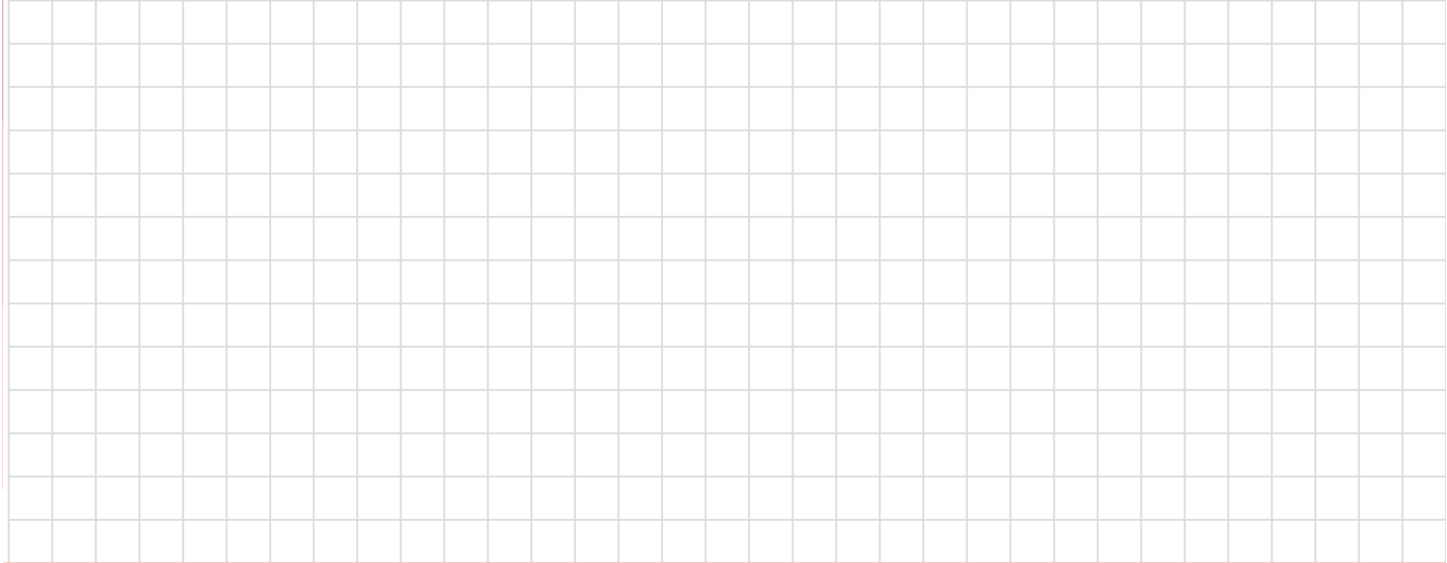


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A plain understanding of the verification portion implies that the Registered Person is cast with the onerous responsibility of finding out whether any such benefit has accrued to him. One can, therefore, construe that the Registered Person has to now assess the impact of the provisions of section 171 of the CGST Act and disclose suitably.

After a conjoint reading and understanding of all aspects cited supra, many experts are of the view that the exercise of verification would actually mean an attest function is being carried out while others believe that it is an exercise of verification/ examination of factual information.



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