



Scrutiny of GST Returns in India

(A) Introduction on Scrutiny of GST returns in India (Section 61 of the CGST Act, 2017)

1. Legality of Scrutiny of GST returns

- (i) Now **Proper officer** (Suprindent at GST department) is permitted to **scrutinize the returns** as furnished by the register person (GST dealer) to **verify about the correctness** of the returns filed and also to inform the GST dealer for **discrepancy** if any noticed during scrutiny of the returns filed and to ask the explanation against the discrepancy as noticed.
- (ii) GST dealer is required to file his **explanation** against the discrepancy as noticed by the Suprindent within a period of **maximum 30 days**.
- (iii) The Superintend is also required to communicate the GST dealer where explanation is found acceptable and also to assure that no further action is required from the GST dealer.
- (iv) **Powers of the Suprindent**
- Suprindent is permitted to initiate any one action out of the followings where GST dealer has **not taken corrective measure** in his returns of the month in which discrepancy is accepted by the GST dealer.
- (a) **Audit by tax authorities** under section **65**
- (b) Or a **Special Audit** under section **66**
- (c) Or an **Inspection, Search and Seizure** under section **67**

- (d) **Determination of tax not paid**, short paid, erroneously refunded, input tax credit wrongly availed and utilized for any reason **other than fraud** or any **wilful misstatement or suppression of facts** under section **73**
- (e) Or **determination of tax not paid**, short paid, erroneously refunded, input tax credit wrongly availed, utilized by **reason of fraud** or any **wilful-misstatement or suppression of facts** under section **74**
- (f) **Suprindent is also permitted to issue the following notices under Rule 99 of CGST Rules, 2019**
- (fa) Issue a notice in Form GST ASMT-10 as informing the GST dealer **about the discrepancy** and seeking his explanation within a maximum period of **30** days from the date of service of notice.
- (fb) The GST dealer is required to **pay tax, interest and penalty** against the discrepancy as notice in Form GST ASMT-10 and to inform the Suprindent in Form GST ASMT-11.
- (fc) The Superintend is also required to inform the GST dealer about his **acceptance** in Form GST ASMT-12
- (v) **Manipulation through misuse of Input Tax Credit (ITC). Samples are as below:-**
- (a) Where **HSN code of purchase** of goods and services are **not matching** directly or indirectly against **sale** of goods and services in the case of **trading** of goods and services.
- (b) Where Claim of ITC is availed against Unreasonable, excessive and **illegally inflated purchases** of goods and services from any GST dealer.
- (c) Where Claim of ITC is availed against the purchases of Goods and Services from the related parties beyond (exceeding) the Arm Length Price (ALP).

*(d) Where Claim of ITC is availed against purchase of **higher quantity** of Goods and Services and sale of **lower quantity** of Goods and Services along with **zero closing stock**. For example purchasing and claiming of ITC against 200 quantity and selling 100 quantity with **zero closing stock***

*(e) Hence in above mentioned and similar other examples, the GST dealer is liable for **disallowing the claim of ITC along with laying additional liability for penal interest, penalty and also imprisonment with approval of the court.***

(B) Standing Operating Procedure (SOP) for scrutiny of returns

(For the financial year ending March 31, 2018 and 2019 through Instruction No. 02/2022-GST dated March 22, 2022)

- The SOP is to **ensure uniformity in selection** or identification of the returns for scrutiny, methodology of scrutiny of the returns and for other related procedures.
 - Selection of the returns for scrutiny is to be made as **based on the robust risk parameters** decided by the government.
 - There are till date **13 parameters** are identified by the government for selection of scrutiny. However **13 parameters** are only **indicative and not exhaustive** as the Suprindent may also consider any **other parameter** as he may deem fit for the purpose of scrutiny
1. **Mismatch in tax liabilities** against the amount of **outward taxable supplies** excluding other than zero rated, nil rated and exempted as declared in table 3.1(a) and table 3.1(b) respectively of FORM GSTR-3B with corresponding **tax liability against outward taxable supplies** as declared in FORM GSTR-1
 2. **Mismatch in tax liabilities** against the amount of **Inward supplies** like liable under Reverse Charge Mechanism (RCM) as declared in Table 3.1(d) of FORM GSTR-3B with
 - (i) ITC availed in Table 4(A)(2) and Table 4(A)(3) of FORM GSTR-3B
 - (ii) ITC against inward supplies attracting RCM as available in FORM GSTR-2A and Tax/Cess paid in cash as per column 8 of Table 6.1 of FORM GSTR-3B
 3. **Mismatch in ITC** as availed against **Inward supplies from ISD** in Table 4(A)(4) of FORM GSTR-3B with FORM GSTR-2A
 4. **Mismatch in ITC** as availed against **all other ITC** in Table 4(A)(5) of FORM GSTR-3B with FORM GSTR-2A

5. **Mismatch in taxable value** as declared against **outward taxable supplies** excluding zero rated, nil rated and exempted in Table 3.1(a) of FORM GSTR-3B with net amount liable for TCS and TDS credit as per GSTR-2A
6. **Mismatch in liability** against **outward supplies** in Table 3.1(a) and 3.1(b) of FORM GSTR-3B with the tax liability as declared in e-way bills
7. **Cases of claim of ITC** against supplies from taxpayers where registrations have not been cancelled **retrospectively** (from back date).
8. **Ineligible ITC** as availed against invoices and debit notes as issued by the suppliers who have **not filed** their GSTR-3B returns for the relevant tax period
9. **Cases where ITC has been availed** against returns in GSTR 3B filed for a tax period **after** the last date of availment of ITC like September of the **next year** against of any invoice and debit note as per section 16(4)
10. **Mismatch in ITC** as availed against **Import of goods** in Table 4(A)(1) of FORM GSTR-3B with corresponding details in FORM GSTR-2A
11. Where a **GST dealer** is required to do **reversals of ITC** in accordance with provisions of rule 42 and rule 43 of the CGST Rules and whether the same has been done **or not**
12. Where a **GST dealer** is required to **pay interest** liability in terms of section 50 and the same has not been paid
13. Where a **GST dealer** is required to **pay late fee** in terms of section 47 and the same has not been paid.

(C) Conclusion

- (i) This SOP as prepared is enabling the GST department to leverage the technology and risk-based tools to encourage self-compliance and to conduct scrutiny of returns with minimal interaction with the GST dealer.*
- (ii) The GST department is also in the process to develop on-line tools for the Suprindent where the abovementioned scrutiny can be executed on on-line and GST dealer is to be intimated for any discrepancy.*
- (iii) The GST department has already initiated scrutiny of returns for the financial year ending on March **31, 2018** and **2019** and many GST dealers have already received the notices for the **mismatch**.*
- (iv) The GST dealers are being suggested that **mismatch of HSN** code should be avoided between **purchase and sales** of goods and services under the head **trading**.*
- (v) Hence it is suggested that GST dealers may themselves undertake the scrutiny at their end and to find any discrepancy which can be reconciled before scrutiny is started by the Suprindent of the GST department.*

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