



## SCRUTINY OF RETURNS – A WEAPON TO THE DEPARTMENT

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Now a days department is sending notice in the FORM ASMT 10 to the registered persons stating that there are discrepancies in the returns they have filed till date. Currently, two returns are functionally effective. One is GSTR 3B and another is GSTR 1. Under GSTR 3B, we are disclosing outward supply, input tax credit, output tax payable, inward supply liable to reverse charge, exempted supply etc. However, GSTR 1 is mainly a statement of detailed outward supply. Sometimes it may happen that the registered person has considered the credit note in filing GSTR 3B and calculate tax considering such credit note. However, at the time of filing GSTR 1 it has been unintentionally ignored. As a result of that there is a difference of liability in GSTR 3B and GSTR 1. There is another difference with respect to input tax credit availed in GSTR 3B and GSTR 2A. Despites of these two there may be several reasons that the department is issuing notices to the registered person.

In this given article, we want to explore the relevant sections read with the rules and how to tackle such notices in a prudent manner to avoid any future litigation.

### **Analysis of section 61 read with rules 99 –**

Section 61 of GST Act has empowered GST officer to verify the correctness of returns and the related particulars furnished by the registered persons. After scrutiny of the returns if any discrepancies is noticed then the proper officer shall inform by serving notice in FORM ASMT-10.

The registered person shall within a period of 30 days or further extended period as allowed by the CGST officer, shall either accept the discrepancies and pay the tax including interest and penalty or furnish an explanation for the said discrepancies in FORM ASMT 11.

Where the explanation in ASMT 11 is found acceptable then the proper officer shall inform the acceptance in ASMT 12 and no further action is required and accordingly the proceeding is dropped.

Where the explanation in ASMT 11 is not satisfactory, then the proper officer may initiate appropriate action under section 65 or 66 or 67 or proceed to determine tax under section 73 or 74. Here no personal hearing is required before the proper officer to explain the case.

Some important FAQ issued by GSTN in this matter are as follows:

- (i) Does a taxpayer get any intimation about the notice or order issued to him?**  
Taxpayer will get intimation of issue of all notices and orders issued to him/her though SMS and e-mail.
- (ii) From where can I view notice issued for Scrutiny of Returns?**  
Navigate to **Services > User Services > View Additional Notices/Orders > View > NOTICES** option.
- (iii) From where can I reply to notice issued for Scrutiny of Returns?**  
Navigate to **Services > User Services > View Additional Notices/Orders > View > REPLIES** option.
- (iv) From where can I view order issued for Scrutiny of Returns?**  
Navigate to **Services > User Services > View Additional Notices/Orders > View > ORDERS** option.
- (v) What is the relevance of amount admitted and paid while replying to notice issued for Scrutiny of Returns?**

The notice issued by the tax official may indicate some discrepancies which were observed during scrutiny of return by him. If due to any of the indicated discrepancy, taxpayer is liable to pay differential tax, and he agrees to the discrepancy and pays the tax due on this count, he may mention the said agreed amount paid and enter the payment particulars in its reply to notice in Form GST ASMT 11. If he is yet to pay the admitted amount, he can pay it either by using Form DRC-03 or he may furnish the outward supply invoice/debit note/amended invoice/amended debit note, in Form GSTR-1 or by paying tax or do cenvat reversal, as the case may be, at the time of filing Form GSTR-3B, in reply to the notice.

### **Some scenarios of differences and important tips to tackle the issues –**

#### **a. Difference in liability declared in GSTR 3B and GSTR 1:**

*Scenario-* There may be a case that there is a difference between GSTR 3B and GSTR 1 with respect to the liability amount.

*Tips to tackle-* Assessee first reconcile its books with respect to GSTR 3B. It may happen that some credit note has not been considered while filing GSTR 1 or debit note, as the case may be. It may also happen that at the time of filing GSTR 1 credit note has wrongly been entered as debit note and as a result there is a double difference in GSTR 3B and GSTR 1. At the time of furnishing reply to the notice, it is advisable to upload the respective credit note/ debit note along with the reconciliation statement. A certificate from CMA may be taken towards the reconciliation statement.

#### **b. Difference in input tax credit declared in GSTR 3B and GSTR 2A:**

*Scenario-* There may be a case that there is a difference between GSTR 3B and GSTR 1 with respect to the input tax credit.

*Tips to tackle-* This is a very common matter. Till date most of the persons have taken input tax credit based on the valid tax invoices of the suppliers as entered in their books of accounts. There are several cases where suppliers have issued tax invoices but they have not filed the returns in GSTR 1 or filed GSTR 3B returns but not filed GSTR 1 returns. As a result there is a difference in 2A and 3B. There are several other cases where recipient has availed input tax credit of the tax paid under reverse charge basis as well as IGST paid on import of goods. These are not reflected in GSTR 2A and as a result there are differences. A clear reconciliation, GSTN number wise, is advisable so that the main reason could be found out. Reply to such difference should be made carefully so that any future litigation issues will be properly dealt with.

#### **c. Difference in e-Way bill generated and outward supply in GSTR 1:**

*Scenario-* There may be a case that there is a difference between total amount of supply declared in GSTR 1 or 3B and the value of outward e-way bills generated.

*Tips to tackle-* E-way bills are generated for movement of goods and all movement of goods may not be the supply of goods. Movement of goods may be other than supply e.g. repairing of goods, supply for job work, returns of goods etc. Detailed reconciliation is to be uploaded and for every e-way bill number the reason will be properly defined in order to avoid future litigation.

*Note:* The above scenarios are examples only. There could have been many reasons. Assessee may reconcile its books with GSTR 1 return and 3B returns. If there are no discrepancies in books and 3B then assessee upload the suitable reply reconciling the turnover of books with 3B and tax payable is NIL. If any difference is noticed during reconciliation then prefers to pay tax voluntarily to ignore penalty or proceedings for tax determination under section 73 or 74, as the case may be.