



## DISCONTINUANCE OF GST AUDIT BY CA/CMA RESULTS IN MORE RELIANCE ON COST RECORDS BY GST AUTHORITIES

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The Government of India has discontinued the GSTR 9C by omitting section 35(5) of CGST Act. The article is an attempt to explore the untouched areas in the GST Audit arena. GST Reconciliation Statements duly audited by CMA/CA have been filed for years beginning 2017-18 till 2019-20. The finance Bill 2021 was presented to give effect to the financial proposals of the Central Government for the financial year 2021-2022. It prima facie means that GST audits for 2020-21 will be continued unless specifically withdrawn. During the process of GST audits, most of the GST auditors pointed out the inconsistencies with the GST provisions and helped in collection of revenue either at the time of filing GSTR 9 or GSTR 9C. the GSTR 9C but somehow with omission of section 35(5) of CGST Act and modification of Section 44 of the CGST act as given below, the assesses have been left at the mercy of departmental officers only and may be subjected to hefty penalties later.

Section 44 can be analysed as given below:

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
- which **may include a self-certified reconciliation statement**,
- reconciling the value of supplies declared in the return furnished for the financial year,
- with the audited annual financial statement for every financial year electronically,

within such time and in such form and in such manner as may be prescribed: Provided that the Commissioner may, on the recommendations of the Council, by notification, exempt any class of registered persons from filing annual return under this section:

Provided further that nothing contained in this section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.

The article has touched upon the following areas:

- a) Revenue Mappings
- b) Quantitative mappings
- c) Alignment of GST data with Income tax returns, income tax audit reports, cost audit annexures (Cost records) and Annual return being filed under Companies Act (AOC-4)

At the outset, the readers are requested to ponder as to which are the different returns/documents that are filed with any ministry periodically at HSN codes level. Most of the persons are aware that GST returns are filed on HSN code basis. Filing of Annual GST returns in GSTR 9 form including reconciliation format is likely to smoothen process for future filings under GST regime but it needs to be noted that all the relevant issues are ironed out before filing of GST Annual return along with self-certified GST reconciliation format to avoid any problems at later stages.

It needs mention that GST data has been aligned with Cost Records data, Financial Data, Income Tax Data etc. The directors/concerned officers must ensure the alignment of the data being reported under different statutory returns. In case variances are detected at a later stage by the department, it may pose problems for company as now the GST auditor will not be there in between the company and the departmental GST Officials.

Till date, the industry, the consultants and the GST officers have somehow forgotten the fact that HSN codes wise Revenue and quantitative details are being reported in GST returns and Cost Records maintained under

section 148 of the companies Act wherever applicable and the both must match or reconciliation must be ready. Not only this the quantitative details are required to be reported in Companies' Annual return AOC-4 in sheet QD. Also, in Income Tax Audit Form 3CD, the quantitative details are required to be mentioned. It needs to be seen that the data in GSTR 9, Income Tax return of companies (ITR 6) & Form 3CA CD and the Cost Records (Annexure B-1) are aligned. For the year 2017-18 some reconciliation will be required to be made.

The HSN code wise itemised level data is required to be prepared under section 148 of the Companies Cost Records and Audit Report Rules 2014 and is reported to MCA under different annexures mandated under section 148 of Companies Act through CCRAR 2014.

All the registered assesses will be required to file GSTR 9 Annual return along with the reconciliation format in future but still the turnover reconciliations have been mandated by the companies maintaining cost records. Practically wherever the directors and the auditors give a declaration with regard to a company that the cost records under section 148 have been maintained, such company must keep the GST turnover reconciliation and Tax Reconciliation ready and file the same with the MCA if such company is under cost audit. The departmental officers can ask the companies to provide such reconciliations. The sentence used in section 44 of the CGST act includes word "may". It means that filing of annual return is compulsory but it may include a self-certified reconciliation statement. Apparently it seems that filing of self-certified reconciliation statement is not compulsory as per CGST Act from the year beginning with April 2021.

Before filing of GSTR 9 now, one must ensure that data being reported in the following statutory document do match and in case of differences, proper reconciliations are made with each other.

- a) Revenue as per GSTR 3B
- b) Revenue as per GSTR 1
- c) Revenue as per financials for the respective period aligned with yearly figures
- d) Revenue as per Tax Return
- e) HSN code wise revenue as is being shown in the cost records in Annexure no A-4 and/or filed with Ministry of Corporate Affairs after approval from the Board of Directors
- f) Tax Reconciliations as per D-6 of the annexures to the Cost Audit Report s mandated under section 148 of the Companies Act 2013.

Not only the revenue but the quantitative details as are being reported in GSTR 9 in HSN sheet must match with the data being reported through cost records.

The companies manufacturing the products like Steel, copper, drugs, fertilisers etc or providing specific services like health care education are required maintain cost records as per the notification issued by MCA on 30<sup>th</sup> June 2014 as amended from time to time.

Recently on 3rd December, 2018 vide G.S.R. 1157(E), MCA brought in a far reaching change in the Companies Cost Records and Audit Report Rules, 2014 which mandated that the Unit of Measurement (UOM) for each Customs Tariff Act Heading, wherever applicable, shall be the same as provided for in the Customs Tariff Act, 1975 (51 of 1975) corresponding to that particular Customs Tariff Act Heading."; This notification has paved the way for final integration of quantities as are being reported in the GST returns and quantitative annexures in the cost records. We can take the example of HSN code 7301 20 10 --- Steel slotted angles the UQC must be mentioned in kgs and not in size and numbers.

MCA had issued another notification on 20<sup>th</sup> Dec 2017 which has paved the way for alignment of Cost Records with GST records after the implementation of GST. The **Companies Cost Records & Audit Rules 2014** (CCRAR) earlier referred to CETA whereas in the GST regime, presently most of the chapters of Central Excise Act do not exist except for few Chapters. Now with the issue of the notification on 20<sup>th</sup> Dec 2017, the CETA Headings have been replaced with Customs Tariff headings (Refer Extract 1)

It also needs mention that "heading", in respect of goods, means a description in list of tariff provisions accompanied by a four-digit number and includes all sub-headings of **tariff items** the first four-digits of which correspond to that number and tariff item means a description of goods in the list of tariff provisions accompanying **eight-digit number**.

It needs mention that in B-1 of the Annexures to the cost audit report, the HSN codes wise quantitative details are required to be reported showing the same UQC (Unit Quantity Code) as is being shown in the GSTR 1 & GSTR 9.

A question is being raised by different quarters that whether the cost data is required to be maintained at four-digit level (heading) or at eight-digit level (tariff item). It needs mention that for the year 2016-17, the costing data was required to be maintained at eight-digit level of CETA. Also, the revised business rules for XBRL had mandated eight-digit codes. The concerned rule reads like *“The concatenated “CETA Code of Manufactured Product” and “Subheading of CETA Code” shall be a valid 8-digit CETA code”*. Under the GST regime also the maintenance of cost records may be kept at eight-digit level and reporting at four-digit level.

One need not forget that any organisation dealing in export or import is required to keep the data at eight-digit level as per the Customs Tariff Act.

Under GST for the sake of convenience initially, the government may have allowed the data to be maintained at four-digit level, but in future GST authorities may ask for the data at the eight-digit level as the reference to the Customs Tariff has been made in the GST notifications.

**Suggestion:** The companies which have to follow Companies Cost Records and Audit Rules 2014 are required to maintain the data at the product level and then at tariff heading level for reporting to MCA, these companies should keep maintaining the data at Eight Digit Level also.

GST regime also referred to Customs Tariff Act as given below (Extract 2) for the purpose of imposition of rates on various types of commodities. Though, the GST rates notification have shown four digits and GST rates have been mentioned at the four-digit levels i.e. headings but it needs mention that a reference to the “Tariff item”, “sub-heading” “heading” and “Chapter” has also been made in the same notification and

#### **Extract 1**

**Extract of Notification no. G.S.R. 1526(E). dated 20<sup>th</sup> Dec 2017 issued by Ministry of Corporate Affairs is given below:**

In the Companies (cost records and audit) Rules, 2014 (hereinafter referred to as the principal rules), in rule 2, for clause (aa) the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017, namely: –

(aa) “Customs Tariff Act Heading” means the heading as referred to in the Additional Notes in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

3. In the principal rules, in rule 3, for the words “Central Excise Tariff Act Heading”, occurring at both

the places, the words “Customs Tariff Act Heading” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017.

4. In the principal rules, in the Annexure, in Form CRA-2, Form CRA-3 and Form CRA-4, for the words

“CETA Heading”, wherever it occurs, the words “CTA Heading” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017.

#### **Extract 2**

**Extracts from Notification No.1/2017-Integrated Tax (Rate) New Delhi, the 28th June, 2017 & Notification No.1/2017-Central Tax (Rate) New Delhi, the 28th June, 2017**

(iii) “Tariff item”, “sub-heading” “heading” and “Chapter” shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975). (iv) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 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 this notification. 2. This notification shall come into force with effect from the 1st day of July, 2017.

**Explanatory/Additional Notes of the First Schedule of The Customs Tariff Act**

The Additional Notes in the First Schedule of The Customs Tariff Act 1975, explains the different terms as follows:

- a) "heading", in respect of goods, means a description in list of tariff provisions accompanied by a four-digit number and includes all sub-headings of tariff items the first four-digits of which correspond to that number;
- b) "sub-heading", in respect of goods, means a description in the list of tariff provisions accompanied by a six-digit number and includes all tariff items the first six-digits of which correspond to that number;
- c) "tariff item" means a description of goods in the list of tariff provisions accompanying eight-digit number and the rate of customs duty;

The maintenance of records especially financial and statistical records under any statute is of utmost importance. The records provide an insight into the functioning of the organisation and ensure the various stake holders about the health of the organisation.

### **Whether records relating to manufacturing are required to be maintained in GST era**

The duty liability under Excise Act arose on the manufacture of goods whereas under GST the liability to pay GST arises primarily on supply of goods or services. As the point of liability of taxation under GST has shifted from Manufacture to Supply, some persons were of the view that there is no requirement to keep separate records for manufacturing and Trading, however, one needs to go through the various provisions/forms under various Acts to check whether records pertaining to manufactured goods are required to be maintained separately or not.

The implementation of GST has brought to the fore many questions for companies having trading as well as manufacturing activities like

- a) whether a company is required to maintain records of Raw materials separately or can it be merged with the other records like records of trading items etc. and no separate records for raw materials and trading goods are required to be maintained as was required under erstwhile Excise regime.
- b) whether a company is required to maintain records of manufactured/Finished goods separately or can it be merged with the other records like records of trading items etc. and no separate records for manufacturing are required to be maintained as was required under erstwhile Excise regime.
- c) Whether there is reporting of manufacturing goods separately under GST or any other Act.

With the implementation of GST, the assesses are required to map the HSN code wise data as per GST (Trading and/or manufacturing) with the HSN Code wise costing data which is being reported to Ministry of Corporate Affairs (Primarily with regard to manufactured goods).

It needs mention that HSN code wise data is being reported to CGST (Central Government) & UTGST/SGST (State Governments) authorities through GST returns and the HSN code wise data will be reported to Ministry of Corporate Affairs, Government of India.

CGST Act has specifically defined "manufacture", the definition is given below"

Definition of Manufacture under Section 2(72) CGST Act states

"manufacture" means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term "manufacturer" shall be construed accordingly.

### **ACCOUNTS AND RECORDS:**

Please refer to the section 35 of CGST Act that specifically mandates the maintenance of data with regard to the production and manufacture of goods & inward and outward supply of goods separately.

(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—

- **production or manufacture of goods;**
- inward and outward supply of goods or services or both;
- stock of goods;

- input tax credit availed;
- output tax payable and paid; and
- 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.

Sec 147 of the CGST Act specifically mandates the importance of keeping the data with regard to the manufacturing separately if the sale of the product is required to be considered as deemed export. The Government may, on the recommendations of the Council, notify certain supplies of goods as deemed exports, where goods supplied do not leave India, and payment for such supplies is received either in Indian rupees or in convertible foreign exchange, if such goods are manufactured in India.

### **Monthly Production Accounts**

Rule 56(12) of CGST Rules states that every registered person manufacturing goods shall maintain monthly production accounts showing quantitative details of raw materials or services used in the manufacture and quantitative details of the goods so manufactured including the waste and by products thereof.

Rule 56(13) rule state that every registered person supplying services shall maintain the accounts showing quantitative details of goods used in the provision of services, details of input services utilised and the services supplied.

GST registration forms and other forms specifically ask the assesses to register themselves as manufacturer and/or trader etc.

### **Valuation: Value of supply of goods or services or both based on cost.**

Though CGST Act and CGST rules have provided the specific provisions with regard to the valuation of supplies based on transaction value/Transaction value primarily yet Rule 30 of CGST rules states that Where the value of a supply of goods or services or both is not determinable by any of the preceding valuation rules the value shall be one hundred and ten percent of the cost of production or manufacture or the cost of acquisition of such goods or the cost of provision of such services.

### **Documents to be made available to the Audit Teams under GST**

Cost Audit Report is one of the documents which will be required to be submitted to the Special Auditor under GST Act or to the

As per section 71(2) every person in charge of place referred to in sub-section (1) shall, on demand, make available to the officer authorised under sub-section (1) or the audit party deputed by the proper officer or a cost accountant or chartered accountant nominated under section 66—

such records as prepared or maintained by the registered person and declared to the proper officer in such manner as may be prescribed;

trial balance or its equivalent;

statements of annual financial accounts, duly audited, wherever required;

cost audit report, if any, under section 148 of the Companies Act, 2013;

the income-tax audit report, if any, under section 44AB of the Income-tax Act, 1961; and

any other relevant record,

for the scrutiny by the officer or audit party or the chartered accountant or cost accountant within a period not exceeding fifteen working days from the day when such demand is made, or such further period as may be allowed by the said officer or the audit party or the chartered accountant or cost accountant.

*The views are personal and the readers are requested to refer to the relevant laws specifically*