



# #GSTR (3B = 3 = 2+1)? WHAT IF THERE IS AN INEQUALITY?

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As we are marching towards completing the first cycle of GST compliance, attempted to be achieved through furnishing of proper information in GST Returns, theoretically and ideally, the equation GSTR (3B = 3 = 2+1) should be in equilibrium.

Yet some quick issues, big questions & horrifying concerns have therefore arisen:

- ❖ What if they are unequal? What if information furnished through these GST Returns for a Tax Period, does not match with each other?
- ❖ Will the Tax Payers be termed as non-compliant?
- ❖ Will they have to face the legal consequences as per provisions of the GST Law?

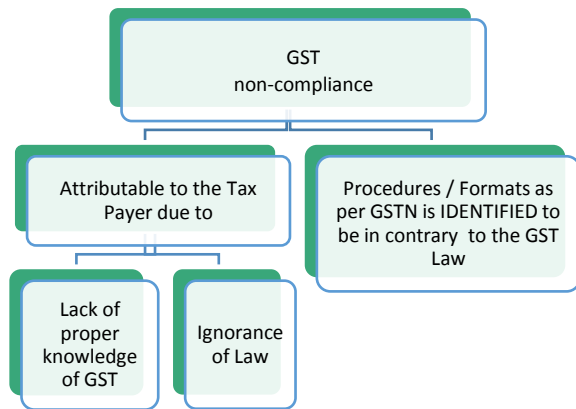
We are all aware that Goods and Services Tax (GST) in India is a 'destination based consumption tax'. GST is also the biggest Indirect Taxation Reform which we are envisaging and experiencing its process implementation. It is taking its own good time to settle down, both with the 'Tax Administrators' & 'Tax Payers' besides the common man/ consumers. Various amendments are notified post-implementation of GST, to facilitate ease of doing business in India & extend benefits to the consumers at large.

It will be a maiden attempt to demonstrate, with some limited examples, why, where and how – a Tax

Payer should not be completely held responsible for being non-compliant, despite their/ its sincere effort to be compliant.

Classifying non-compliance under GST may be out of the following major factors:

GST RETURN	NATURE	FREQUENCY (as per Stated Act / Rules)
GSTR 3B	Summary Return considering both Inward Supplies and Outward Supplies for a Tax Period	For Every Tax Period (i.e. every month) By 20 <sup>th</sup> (as of now) of the next month
GSTR 1	Statement of Outward Supplies	For Every Tax Period - By 10 <sup>th</sup> of next month
GSTR 2	Statement of Inward Supplies	For Every Tax Period – By 15 <sup>th</sup> of the next month
GSTR 3	Summary of GSTR 1 & GSTR 2	By 20 <sup>th</sup> of Next Month



As we are all **'facing the change'** of the biggest indirect tax reform / economic reform, we are all concerned, yet getting educated, skilled and updated every day with the provisions of 'Goods and Services Tax (GST) to meet its compliances at par.

Brief background of Compliance (for a Regular Tax Payer having levy u/s 9, not having any ISD, TDS, TCS issues & also ignoring the recent Notifications issued on 13/10/2017):

**## Issue 1** – How to Disclose Tax Liability on Advance Received from a Customer, where 'Supply' is not made / completed & Invoice not issued' ?

**Analysis:**

- Advance received is not a 'Supply',
- Neither the Supply was made/nor the Invoice was issued.
- GSTR 3B in its instructions (but not in Rules/Act) refers to include 'Advance received' as 'Taxable Supplies' for the purpose of its disclosure, discharge of tax liability and compliance.

As per applicable GST provisions, tax liability ideally on this type of advances received, should not be included as 'Taxable Supplies' under GSTR 3B, as Advance received is not against 'Supply'. However, one may definitely argue under the phrases of the definition of 'supply', mention 'made or agreed to be made...'. Hence, on a contrary view, one may state that, Advance received may be considered as 'Supply'.

**Example:**

Received an Advance of ₹10,000 against a Sales Order of ₹50,000. Supply attracts 9% CGST, 9% SGST.

**Procedures:**

- ❖ Issue an Advance Receipt Voucher indicating the HSN/SAC Code for the goods/services or both, for which the advance was received.
- ❖ Advance Voucher must contain the information relating to mode of payment of such receipt.
- ❖ Supplier should collect GST on the Advance also (i.e. Advance – Principal component ₹10,000 Plus CGST @ 9% = ₹900 & SGST @ 9% = ₹900) [In case, if tax is not paid by the Customer separately, then, the amount of ₹10, 000 shall be considered as inclusive of GST]
- ❖ Must show in GSTR 1 (Table No. 11), where advance is received but supply is not completed/ invoice not issued
- ❖ Accordingly, GST liability shall have to be calculated and furnished in GSTR 1.
- ❖ Payment of tax on Advances are also to be made through Electronic Cash Ledger, Input Tax Credit (ITC), if any, cannot be utilised for payment of GST liability arisen in relation to such advance received. [Note: INPUT TAX CREDIT ON ADVANCES PAID CANNOT BE CLAIMED BY THE CUSTOMER, until the final Invoice is raised and Supply (of either Goods and /or Services is completed)]

**Accounting Entries (relating to advance received):**

In the Books of the Recipient			
	INR	INR	Justification
<b>(i) For receipt of advance</b>			
Bank A/c Dr To Customer's A/c	11,800	11,800	Receipt of Advance
<b>(ii) For creating liability to pay tax</b>			
CGST on Advance A/c Dr	900		Tax paid on Advance, is an Asset for the Supplier
SGST on Advance A/c Dr	900		
To CGST Payable A/c To SGST Payable A/c		900 900	
<b>(iii) For Payment of Tax</b>			
CGST Payable A/c Dr	900		Amount of Tax on Advance shall have to be paid through Electronic
SGST Payable A/c Dr To CGST ECL	900		

A/c To SGST ECL A/c		900	Cash Ledger.
		900	
<b>Case I: After the 'Supply' is made, say of ₹50,000, plus GST, as applicable, then, the Supplier shall have to issue an Invoice of the Total Value as follows:</b>			
(iv) Customer's A/c Dr To Outward Supplies A/c To CGST Payable A/c To SGST Payable A/c	59,000	50,000 4,500 4,500	
<i>(v) Adjustment of Advance received from the Customer (assuming balance payment is received)</i>			
Bank A/c Dr To Customer's A/c	47,200		= 59,000 (-) 11,800
		47,200	

Where should these be reflected GSTRs?

GSTR	TABLE	Taxable Value	CGST	SGST	Remarks
3B	3.1(a)	10,000	900	900	Included in taxable supplies
1	11A	10,000	900	900	Disclosed exclusively as Advance.
2	N.A.	N.A.	N.A.	N.A.	N.A.
3	N.A.	N.A.	N.A.	N.A.	No specific disclosure
Impact	<ul style="list-style-type: none"> <li>❖ Tax liability on Advance received shall have to discharge in accordance with GSTR 1 &amp; GSTR 3B.</li> <li>❖ Tax Paid on Advance is not reflected in GSTR 3 exclusively as it considers 'Net of Advance Adjustments' on Inward Supplies attracting tax liability under Reverse Charge.</li> </ul>				
Concern	<ul style="list-style-type: none"> <li>❖ There is no appropriate disclosure in GSTR 3 for such 'Tax Paid on Advances – Unadjusted, since Tax Invoices are not issued'.</li> </ul>				

**Now, after the completion of 'Supply' and Invoice issued amounting to ₹50,000 plus GST**

Accounting Entries (related to adjustment of advance):

	INR	INR	Justification
(vi) For discharge of Tax Liability			
CGST Payable A/c Dr	4,500		
SGST Payable A/c Dr	4,500		
To CGST on Advance A/c		900	
To SGST on Advance A/c		900	
To CGST ECL A/c		3,600	
To SGST ECL A/c		3,600	

Its corresponding representation in GSTRs should be as follows:

GSTR	TABLE	Taxable Value	CGST	SGST	Remarks
1	4 / 5 / 7	50,000	4,500	4,500	Taxable Supplies
1	11A	(10,000)	(900)	(900)	Adjustment of Tax on Advance.
3	NOT REFLECTED				

**Case II:** If the value of Supply was ₹8,000 only (instead of proposed ₹50,000), what would be the accounting impact & its disclosure?

Customer's A/c Dr To Outward Supplies A/c To CGST Payable A/c To SGST Payable A/c	9,440			
		8,000	720	720
<i>For refund of Advance received from the Customer (assuming balance payment is received) after adjustment of Invoice Value</i>				
Customer's A/c Dr To Bank A/c	2,360			= 11,800 (-) 9440
		2,360		

Its representation in GSTRs would be as follows:

GST R	TABL E	Taxable Value	CGS T	SGS T	Remarks
1	4 /5 / 7	8,000	720	720	Taxable Supplies
1	11B	(10,000)	(900)	(900)	Advance Adjustment
1	9B	2000	180	180	Refund Voucher

Hence, from Case II also, we ascertain that there is no proper representation/ disclosure in GSTR 3 & GSTR 3B in corresponding tax periods. Hence, information furnished in GSTR 1 does not match with its corresponding information furnished in its GSTR 3B & GSTR 3.

**Probable Challenges/Obstacles:**

Advance received, without Supply/raising of Invoice, disclosed in GSTR 3B but 'Supply made/Invoice raised' before filing of GSTR 1. What will be the disclosure criteria?

- (i) Only advance be disclosed in GSTR 1 ; or
- (ii) Full value of supply as per invoice be disclosed ignoring the advance ; or
- (iii) Both advance to be disclosed in GSTR 1 and also Full value of invoice / supply to be disclosed?

**Recommendation:**

In such case, it is advisable that the design & disclosure format of GSTR 3B, should be realigned with GSTR 1.

There should be an exclusive row to be inserted, under the heading 'Tax Liability due to Advances Received'.

**## Issue 2** – How to Disclose Tax Liability on Advance paid to Suppliers attracting Reverse Charge u/s 9(3) & 9(4), in cases, where, Supply is not made or completed & Invoice also not raised/ issued?

**Analysis:**

- ❖ Advance paid to Suppliers for which tax liability has arisen u/s 9(3) / 9(4)
- ❖ There is no 'Supply' yet
- ❖ No Tax Invoice received/ self-invoice generated in accordance.
- ❖ Tax Payer (being the prospective recipient of Supply) shall have to discharge Tax Liability on Advance on which Tax is Payable under RCM.

Example: Tax Payer, had paid an Advance of ₹1,000 to one of its Supplier (against a proposed supply of

₹5,000), which attracts a GST @ 18%. The 'supply' attracts 'Reverse Charge'; hence liability to pay Tax on such Advance also rests with the Tax Payer.

**Accounting Entries (relating to advance paid):**

In the Books of the Recipient			
	INR	INR	Justification
<b>(i) For advance paid</b>			
Vendor's A/c Dr To Bank A/c	1,000	1,000	Advance Paid
<b>(ii) For creating liability to pay tax</b>			
CGST on Advance A/c Dr SGST on Advance A/c Dr To CGST Payable A/c To SGST Payable A/c	90 90	90	Tax paid on Advance, is an Asset for the Supplier
<b>(ii) For Payment of Tax</b>			
CGST Payable A/c Dr SGST Payable A/c Dr To CGST ECL A/c To SGST ECL A/c	90 90	90 90	Amount of Tax on Advance shall have to be paid through Electronic Cash Ledger.
<b>Case I: After the 'Supply' is made, say of ₹5,000, plus GST, as applicable, then, the Supplier shall have to issue an Invoice of the Total Value as follows:</b>			
(iv) Inward Supplies A/c Dr CGST ITC Suspense A/c Dr SGST ITC Suspense A/c Dr To Vendor's A/c To CGST Payable A/c To SGST Payable A/c	5,000 450 450	5,000 450 450	
<b>(v) Adjustment of Advance received from the Customer (assuming balance payment is received)</b>			
Bank A/c Dr To Customer's A/c	4,720	4,720	= 5,900 (-) 1,180

Where should these be reflected GSTRs?

GSTR	TABLE	Taxable Value	CGST	SGST	Remarks
3B	3(1)(d)	1,000	90	90	Considered as Inward Supplies attracting reverse charge
1	N.A.	N.A.	N.A.	N.A.	-
2	10A	1000	90	90	Tax on Advance
3	N.A.	N.A.	N.A.	N.A.	No specific disclosure
Impact	<ul style="list-style-type: none"> <li>❖ Tax liability on Advance paid shall have to made in accordance with GSTR 2 &amp; GSTR 3B.</li> <li>❖ Tax Paid on Advance is not reflected in GSTR 3 exclusively</li> </ul>				
Concern	<ul style="list-style-type: none"> <li>❖ There is no appropriate disclosure in GSTR 3 for such 'Tax Paid on Advances – Unadjusted, since Tax Invoices are not received'.</li> </ul>				
For adjustment of advance paid earlier, tax on such deposited earlier, against Invoice received of ₹5,000 plus GST @18%					
GSTR	TABLE	Taxable Value	CGST	SGST	Remarks
2	4	5,000	450	450	Taxable Inward Supplies on RCM
2	10B	(1,000)	(90)	(90)	Adjustment of Tax on Advance.
3	NOT REFLECTED				

Accounting Entries (related to adjustment of advance paid):

Invoice received ₹5,000 plus CGST 9%, SGST 9%			
	INR	INR	Justification
(vi) For discharge of Tax Liability			
CGST Payable A/c Dr	450		
SGST Payable A/c Dr	450		
To CGST on Advance A/c		90	
To SGST on Advance A/c		90	
To CGST ECL A/c		360	
To SGST ECL A/c		360	

**Case II:** If the value of Supply was ₹800 only (instead of proposed ₹5,000), what would be the accounting impact & its disclosure?

Inward Supplies A/c Dr	800		
CGST ITC Suspense A/c Dr	72		
SGST ITC Suspense A/c Dr	72		
To Vendor's A/c		800	
To CGST Payable A/c		72	
To SGST Payable A/c		72	
<i>For refund of Advance paid to Vendor (assuming balance payment is received) after adjustment of Invoice Value</i>			
Customer's A/c Dr	200		= 1000
To Bank A/c		200	(-) 800

Its corresponding representation in GSTRs would be as follows:

GSTR	TABLE	Taxable Value	CGST	SGST	Remarks
2	4	800	72	72	Inward Supplies
2	10B	(1,000)	(90)	(90)	Advance Adjustment
1 (???)	9B	200	18	18	Refund Voucher (???)

Hence, from "Case II of Issue 2" also, it may be concluded that there is no proper representation/disclosure in GSTR 3 in corresponding tax periods. Hence, information furnished in GSTR 2 does not match with information in GSTR 3B & 3.

This is a typical situation, which I believe is not reflected in the GSTN Online Portal in its GST Return Formats.

Probable Challenges/Obstacles:

Tax on Advances, paid, without receipt of Supply/Invoice, disclosed in GSTR 3B but 'Supply received/Invoice received' before filing of GSTR 2. What will be the disclosure criteria?

(i) Only tax paid u/s 9(3) / 9(4) on advances paid, be disclosed in GSTR 2; or

(ii) Full value of supply received as per invoice /self-invoice, be disclosed ignoring the tax paid on such type of advances as per (i) above; or

(iii) Both advance to be disclosed in GSTR 2 and also Full value of invoice/supply to be disclosed?

14.00]	
Net Proceeds	171.68

**Recommendation:**

In such case, it is advisable that the design & disclosure format of GSTR 3B, should be realigned with GSTR 2.

There should be an exclusive row to be inserted, under the heading 'Tax Liability due to Advances Paid under Reverse Charge u/s 9(3) / 9(4) '.

**## Issue 3 – Where & how to disclose Exports/ Supply to SEZ 'with payment of Tax' in GSTR 3B?**

**Analysis:**

- ❖ Exports/Outward Supply to SEZ can be made either (i) with payment of IGST, or (ii) without payment of IGST.
- ❖ GSTR 3B provides for disclosure as Outward Supplies – zero rated / taxable outward supplies.
- ❖ Now, if in case of Exports/ Outward Supplies to SEZ, with payment of Tax, where should this be disclosed in GSTR 3B – under Taxable outward supplies or Zero-rated?
- ❖ If it is shown under 'zero-rated', then how to disclose the tax liability & how to discharge the said tax liability?
- ❖ Will the said furnished information be treated as information 'not-furnished / wrongly furnished'?

This is a serious disconnect between GSTR 3B & GSTR 1 as regards 'Exports/Supply to SEZ – with payment of IGST'.

**## Issue 4 – Tax Payer making supplies through an e-commerce operator. Sale proceeds received after deduction of applicable charges imposed by such e-commerce operator & GST paid on such.**

Example: A Tax Payer had made a supply to a customer/consumer, through an e-commerce operator, for ₹200, inclusive of GST @ 5%. Now, the e-commerce operator had remitted the net proceeds to the tax payer as under:

Particulars	(INR)
Sale Proceeds collected from Customer/Consumer (inclusive of GST @ 5%)	200.00
Less: Fixed Closing Fees	10.00
Less: Facilitation fees	14.00
Less: IGST @ 18% on (fixed closing fees and facilitation fees)[= 18% on (10.00 +	4.32

It is evidenced by the Tax payer, that the e-commerce operator had not furnished its GSTR 1.

Accordingly, GST levied, charged & collected by the e-commerce operator, from the Tax Payer (i.e. businessman) cannot be claimed as an 'eligible ITC', as it is not getting reflected in GSTR 2A (auto-drafted on the basis of GSTR 1's uploaded by the Suppliers).

Now, if in GSTR 3B, the Tax Payer, estimates the ITC and avail such, by adjusting against its tax liability –

- ❖ Will it be considered as wrongful availment of ITC?
- ❖ Will such not lead to mismatch of ITC?
- ❖ Will this tax payer be directed to repay the amount of ITC so availed?
- ❖ Will penalty / interest be levied on such amount of ITC availed by the Tax Payer?

Each business has its own uniqueness & there would be hundreds and thousands of small / big issues, which are faced by tax payers. Hence, challenges would increase manifold in GST & we will have to gear up and acclimatise in accordance.

**Conclusion on GSTRs:**

With these few instances, a sketch is drafted, demonstrating that information furnished by Tax Payers, it is proved that – GSTR (3B ≠ 1 + 2 ≠ 3).

- ❖ Redesign GSTR 3B, in line with GSTR 1/2, until the same (i.e. GSTR 3B) is in force.
- ❖ Facilitate furnishing of proper information & allow discharging of tax liabilities.

Government of India, Ministry of Finance, GST Council & all State Governments are keeping no stone unturned to facilitate tax payers to create a tax-friendly economic environment by incorporating appropriate amendments in rules/procedures under GST. Yet, appropriate advisory should be issued covering both assessments under GST & Income Tax – so as to avoid/mitigate litigations in future.

**Suggestions:**

(1) A revised draft of GSTR 3B, Table 3.1 is suggested for increasing the degree of transparency & improving upon the quality of information which is getting furnished in the GSTN. This will definitely help both the Tax Payers and the Tax Administrators to avoid/ mitigate probable litigations in future.

	Nature of Supplies	Taxable value	IG ST	CG ST	SG ST	CE SS
(a)	Outward taxable supplies (other than zero rated, nil rated and exempted)					
(b)	Outward taxable supplies (zero rated /without payment of IGST)					
(c)	Outward Taxable Supplies ( zero – rated/with payment of IGST)					
(d)	Other outward supplies (nil rated, exempted)					
(e)	Inward supplies (liable to reverse charge)					
(f)	Non-GST Outward Supplies					
(g)	Tax Liability on Advances received					
(h)	Tax Liability on Advances Paid for supplies under Reverse Charge u/s 9(3) / 9(4)					

(2) GSTR 3B should be (i) either abolished or (ii) Date for its filing should be realigned, so as to avoid the probable instances which may lead to litigation in future.

**A smart deviation from GST would hold us before another major issue under Income Tax Act, especially, relating to computation of Taxable Profits under the head 'Income from Business/ Profession'.**

**## Issue 5** – Impact on INCOME TAX AUDIT – matters related to disallowances u/s 37 of the Income Tax Act, 1961 for Interest, Penalty, Late Fees, etc. to be paid under GST.

Analysis:

As per Sec.37 of the Income Tax Act, 1961, any amount relating to infringement/ violation of law is disallowed. Hence, we will have to wait and watch – whether these type of payments made towards interest, penalty, late fees under GST, would be allowed as eligible business expense or disallowed.

Presumably, if disallowed, during assessment under Income Tax, then, it would be an additional burden on the Tax Payer/Assessee – for no fault of his / its own.

Disconnect in GSTRs should not be attributable to the Tax payer – Assessee.

**## Issue 6** – Reconciliation between GST Annual Returns & Income Tax Returns & Statutory Audit Reports/ Financial Statements.

We are all aware that all Tax Payers above the prescribed threshold limit shall have to furnish Annual Returns under GST.

Challenges:

- ❖ GST Compliance is Registration based/ State specific
- ❖ GST Annual Returns would be based on specific GSTN
- ❖ Income Tax Return is PAN-based for the Assessee, covering all its Operations spread across different States.
- ❖ Statutory Audit Reports/Financial Statements would also be for the entire organisation.

Reconciliation of information furnished under GST Annual Return vis-à-vis Statutory Audited Financial Statements vis-à-vis Income Tax Return, would be quite interesting and challenging too. Entrusted Professional Bodies/Institutes should prepare & prescribe appropriate guidelines to serve the Tax Payers, Professionals & Tax Administrators to meet compliance at par.

LOOKING FORWARD to be GST Compliant.