

Special Audit & Desk Review in GST

Introduction:

GST is a trust based taxation regime wherein the assessee is required to self-assess his returns and determine tax liability without any intervention by the tax official. Therefore, a tax regime that relies on self-assessment has to put in place a robust audit mechanism to measure and ensure compliance of the provisions of law by the taxable person.

“Audit” has been defined in section 2(13) of the CGST Act, 2017 and it means the examination of records, returns and other documents maintained or furnished by the registered person under the GST Acts or the rules made thereunder or under any other law for the time being in force to verify the **correctness of turnover declared, taxes paid, refund claimed and input tax credit availed**, and to assess his **compliance with the provisions of the GST Acts or the rules** made thereunder.

Types of Audit:

Departmental audit – The Commissioner or any officer authorised by him, can undertake audit of any registered person for such period, at such frequency and in such manner as may be prescribed.

In Special Audit the registered person can be directed to get his records including books of account examined and audited by a chartered accountant or a cost accountant during any stage of scrutiny, inquiry, investigation or any other proceedings; depending upon the complexity of the case.

Procedure:

- During the scrutiny, inquiry, investigation or any other proceedings of a registered person, the Assistant Commissioner or any officer senior to him, having regard to the nature and complexity of the case and the interest of revenue, might be of the opinion that the value has not been correctly declared or the credit availed is not within the normal limits.
- In such cases, with the prior approval of the Commissioner, the Assistant Commissioner or any officer senior to him can direct the registered person in FORM GST ADT-03 to get his records including books of account examined and audited by a specified chartered accountant or a cost accountant. The chartered accountant or a cost accountant will be nominated by the Commissioner.

- The chartered accountant or cost accountant so nominated has to submit a report of such audit within the period of ninety days, duly signed and certified by him to the Assistant Commissioner.
- On an application made by the registered person or the chartered accountant or cost accountant or for any material and sufficient reason, the Assistant Commissioner can extend the said period by a further period of ninety days.
- The provisions of special audit shall have effect even if the accounts of the registered person have been audited under any other provisions of the GST Act or any other law for the time being in force.
- The registered person shall be given an opportunity of being heard in respect of any material gathered on the basis of special audit and which is proposed to be used in any proceedings against him under this Act or the rules made thereunder.
- The expenses of the examination and audit of records, including the remuneration of such chartered accountant or cost accountant, shall be determined and paid by the Commissioner.
- On conclusion of the special audit, the registered person shall be informed of the findings of the special audit in FORM GST ADT-04.
- Where the special audit results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the process of demand and recovery will be initiated against the registered person.

Access to business premises

Any officer authorised by the proper officer not below the rank of Joint Commissioner, shall have access to any place of business of a registered person to inspect books of account, documents, computers, computer programs, computer software whether installed in a computer or otherwise and such other things as he may require and which may be available at such place, for the purposes of carrying out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.

Every person shall, on demand, make available to the officer authorised or the audit party deputed by the proper officer or a cost accountant or chartered accountant nominated under section 66-

- (i) such records as prepared or maintained by the registered person and declared to the proper officer in such manner as may be prescribed;
- (ii) trial balance or its equivalent;
- (iii) statements of annual financial accounts, duly audited, wherever required;
- (iv) cost audit report, if any, under section 148 of the Companies Act, 2013 (18 of 2013);
- (v) the income-tax audit report, if any, under section 44AB of the Income-tax Act, 1961 (43 of 1961); and
- (vi) 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.

Basic Principles of GST Audit

- Conducting audit in a systematic and comprehensive manner;
- Emphasis on the identified risk areas and scrutinizing the records maintained in the normal course of business;
- Applying audit techniques on the basis of materiality i.e. degree of scrutiny and application of an audit tool depending upon the identified nature of risk factors;
- Proper recording of all checks and findings made during the entire audit;
- Identifying the unexplored compliance verification parameters;
- Educating the taxpayer for voluntary compliance.

Special audit provides a lawful and legal way for the GST officers to take the assistance of a chartered accountant or cost accountant to determine tax liabilities in complex cases.

The professional expertise of a chartered accountant or cost accountant will be of great significance in ensuring that the interest of revenue is safeguarded at all times.

Desk Review

Before the audit work starts and making a visit to the auditee's place of business, an auditor carry out a basic analysis and study of the available returns files by the taxpayer including other information that he can gather about the taxpayer from his Registration Certificate, documents uploaded like Balance Sheet and Statement of Profit & Loss while filing GSTR 9 and 9C and the like. It is an initial audit procedure carried out to have a view of 360 degree profile of the taxpayer.

Desk review procedure is the very basic criteria for conducting audit under Goods & Services Tax by the department officials. The desk review performed by the department with an object of accumulating data about the registered person, his operations, nature of supply of goods & services, business practices and an understanding of the potential audit issues, understanding his financial and accounting system, studying the flow of materials, cash and documentation to determine any speculative or inconclusive or suspicious areas which may result revenue loss of Govt.

Some of the indicative areas for Desk Review –

- a. Reconciliation between GSTR 1 and 3B to study different types of supplies made by the taxpayer that include taxable supply, Nil rated supply, exempt supply, non-taxable supply, zero-rate supply and advance received and adjusted.
- b. Inward supply made under RCM as per GSTR 3B and auto-populated in GSTR 2B thereof.
- c. ITC availed, reversed and utilized.
- d. Taxes paid in cash and by utilization of ITC.
- e. ITC passed on by ISDs, if any.
- f. TDS deducted and credited to cash ledger vis-à-vis outward supply made.
- g. Outward supply made and tax liability thereof with e-waybill generated.
- h. ITC availed by a taxpayer that he had received from a taxpayer whose registration has been cancelled.
- i. Analysis of ineligible ITC.
- j. ITC availed for import of goods and verification of the same with ICEGATE portal.
- k. Reversal of ITC as per Rule 42 and Rule 43.