

Chapter 10

Returns

Sections	Rules
37. Furnishing details of outward supplies	59. Form and manner of furnishing details of outward supplies
38. Furnishing details of inward supplies	60. Form and manner of furnishing details of inward supplies
39. Furnishing of returns	61. Form and manner of submission of monthly return
40. First return	62. Form and manner of submission of statement and return
41. Claim of input tax credit and provisional acceptance thereof	63. Form and manner of submission of return by non-resident taxable person
42. Matching, reversal and reclaim of input tax credit	64. Form and manner of submission of return by persons providing online information and database access or retrieval services
43. Matching, reversal and reclaim of reduction in output tax liability	65. Form and manner of submission of return by an Input Service Distributor
43A. Procedure for furnishing return and availing input tax credit.	66. Form and manner of submission of return by a person required to deduct tax at source
44. Annual return	67. Form and manner of submission of statement of supplies through an e-commerce operator
45. Final return	68. Notice to non-filers of returns
46. Notice to return defaulters	69. Matching of claim of input tax credit
47. Levy of late fee	70. Final acceptance of input tax credit and communication thereof
48. Goods and services tax practitioners	71. Communication and rectification of discrepancy in claim of input tax credit and reversal of claim of input tax credit

	<p>72. Claim of input tax credit on the same invoice more than once</p> <p>73. Matching of claim of reduction in the output tax liability</p> <p>74. Final acceptance of reduction in output tax liability and communication thereof</p> <p>75. Communication and rectification of discrepancy in reduction in output tax liability and reversal of claim of reduction</p> <p>76. Claim of reduction in output tax liability more than once</p> <p>77. Refund of interest paid on reclaim of reversals</p> <p>78. Matching of details furnished by the e-Commerce operator with the details furnished by the supplier</p> <p>79. Communication and rectification of discrepancy in details furnished by the ecommerce operator and the supplier</p> <p>80. Annual return</p> <p>81. Final return</p> <p>82. Details of inward supplies of persons having Unique Identity Number</p> <p>83. Provisions relating to a goods and services tax practitioner.</p> <p>83A. Examination of Goods and Services Tax Practitioners.</p> <p>84. Conditions for purposes of appearance</p>
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Returns under the GST Law

FORM	PARTICULARS	DUE DATE	APPLICABLE TO
GSTR-3B (RET-1/2/3)	Monthly summary return	20 th of the next month (to be continued till June, 2019)	All registered persons (other than Input Service Distributor (ISD), person liable to deduct TDS and personal liable to collect tax at source).
GSTR-1 (ANX-1)	Outward Supplies > 1.5 Crore Outward Supplies < 1.5 Crore	11 th of the next month Last date of month subsequent to the quarter	Normal / Regular Taxpayer
GSTR-2	Inward Supplies	15 th of the next month (Deferred till Sept, 2019)	Normal / Regular Taxpayer
GSTR-3	Monthly return [periodic]	20 th of the next month (Deferred till Sept, 2019)	Normal / Regular Taxpayer
GSTR-4	Return by compounding tax payers	CMP 08 by 18 th of the month succeeding the quarter GSTR 4 Annually by 30 th April following the end of a financial year.	Composition taxpayer
GSTR-5	Return by non-resident tax payers [foreigners]	20 th of the next month or within 7 days after expiry of registration, whichever is earlier	Non-Resident taxpayer
GSTR-5A	Monthly Return by Online information and database access or retrieval services (supply to a person other than a registered person i.e., online non-taxable recipient)	20 th of the next month	Online information and database access or retrieval services

GSTR-6	Monthly Return by input service distributors	13 th of the next month	Input Service Distributor
GSTR-7	Monthly Return for TDS	10 th of the next month	Tax Deductor
GSTR-8	Monthly Return (Statement) for Collection of Tax at Source	10 th of the next month	E-Commerce Operator
GSTR-9	Annual return	31 st December of the next Financial Year FY 2017-18 has been extended till 30 th June, 2019	Normal tax payer (other than casual tax payer)
GSTR-9A	Annual return by Composition Supplier	31 st December of the next Financial Year FY 2017-18 has been extended till 30 th June, 2019	Compounding Taxpayer
GSTR-9C	Annual return along with the copy of audited annual accounts and a reconciliation statement	31 st December of the next Financial Year FY 2017-18 has been extended till 30 th June, 2019	Normal tax payer having aggregate turnover of more than ₹ 2 crores
GSTR-10	Final Return	Within 3 months of the date of cancellation or date of order of cancellation, whichever is later	Registered Person whose registration has been cancelled
GSTR-11	Return to be filed by a person having UIN (Unique Identity Number) w.r.t inward supplies received by him to file refund of the taxes paid by him on inward supplies.		Person having UIN

Note: Above due dates have been extended from time to time. Please refer Annexure- 'A' for the details of extended due dates and relevant notification(s).

Statutory Provisions**37. Furnishing details of outward supplies**

- (1) Every registered taxable person, other than an input service distributor, a non-resident taxable person and a person paying tax under the provisions of section 10, section 51 or section 52, shall furnish, electronically, in such form and manner as may be prescribed, the details of outward supplies of goods or services or both effected, during a tax period on or before the tenth day of the month succeeding the said tax period and such details shall be communicated to the recipient of the said supplies within the time and in the manner as may be prescribed:

Provided that the registered person shall not be allowed to furnish the details of outward supplies during the period from the eleventh day to the fifteenth day of the month succeeding the tax period:

Provided further that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein:

Provided also that any extension of time limit notified by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be notified by the Commissioner

- (2) Every registered person who has been communicated the details under sub-section (3) of section 38 or the details pertaining to inward supplies of Input Service Distributor under sub-section (4) of section 38, shall either accept or reject the details so communicated, on or before the seventeenth day, but not before the fifteenth day, of the month succeeding the tax period and the details furnished by him under sub-section (1) shall stand amended accordingly.
- (3) Any registered person, who has furnished the details under sub-section (1) for any tax period and which have remained unmatched under section 42 or section 43, shall, upon discovery of any error or omission therein, rectify such error or omission in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period:

Provided that no rectification of error or omission in respect of the details furnished under sub-section (1) shall be allowed after furnishing of the return under section 39 for the month of September following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier

“Provided further that the rectification of error or omission in respect of the details furnished under sub-section (1) shall be allowed after furnishing of the return under section 39 for the month of September, 2018 till the due date for furnishing the

details under sub-section (1) for the month of March, 2019 or for the quarter January, 2019 to March, 2019.”¹

Explanation.—For the purposes of this Chapter, the expression “details of outward supplies” shall include details of invoices, debit notes, credit notes and revised invoices issued in relation to outward supplies made during any tax period

Extract of the CGST Rules, 2017

59. Form and manner of furnishing details of outward supplies

- (1) Every registered person, other than a person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017, required to furnish the details of outward supplies of goods or services or both under section 37, shall furnish such details in FORM GSTR-1 electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner.
- (2) The details of outward supplies of goods or services or both furnished in FORM GSTR-1 shall include the—
 - (a) invoice wise details of all -
 - (i) inter-State and intra-State supplies made to the registered persons; and
 - (ii) inter-State supplies with invoice value more than two and a half lakh rupees made to the unregistered persons;
 - (b) consolidated details of all -
 - (i) intra-State supplies made to unregistered persons for each rate of tax; and
 - (ii) State wise inter-State supplies with invoice value upto two and a half lakh rupees made to unregistered persons for each rate of tax;
 - (c) debit and credit notes, if any, issued during the month for invoices issued previously.
- (3) The details of outward supplies furnished by the supplier shall be made available electronically to the concerned registered persons (recipients) in Part A of FORM GSTR-2A, in FORM GSTR-4A and in FORM GSTR-6A through the common portal after the due date of filing of FORM GSTR-1.
- (4) The details of inward supplies added, corrected or deleted by the recipient in his FORM GSTR-2 under section 38 or FORM GSTR-4 or FORM GSTR-6 under section 39 shall be made available to the supplier electronically in FORM GSTR-1A through the common portal and such supplier may either accept or reject the modifications made by the recipient and FORM GSTR-1 furnished earlier by the supplier shall stand amended to the extent of modifications accepted by him.

¹ Inserted vide Order No. 02/2018-Central Tax dated 31.12.2018

Related provisions of the Statute:

Section or Rule	Description
Section 2(82)	Definition of Output Tax
Section 2(83)	Definition of Outward Supply
Section 2(94)	Definition of Registered Person
Section 2(97)	Definition of Return
Section 2(117)	Definition of Valid Return
Section 16	Eligibility and Conditions for Taking Input Tax Credit
Section 17	Apportionment of Credits and Blocked Credits
Section 22	Persons liable for registration
Section 24	Compulsory registration in certain cases
Section 38	Furnishing details of inward supplies
Section 39	Furnishing of Returns
Section 47	Levy of late fee
Section 14 (IGST)	Special provision for payment of tax by a supplier of online information and database access or retrieval services.

37.1 Introduction

This provision relates to furnishing of details of outward supplies by the supplier.

37.2 Analysis

- (a) A return of Outward supplies in terms of this section should be furnished by every registered taxable person except for the following persons namely,
- Input service distributor
 - A non-resident taxable person
 - A person paying tax under the provisions of section 10 (composition levy)
 - A person paying tax under the provisions of section 51 (TDS)
 - A person remitting tax collected under the provisions of section 52 (TCS)
 - A person referred to in Section 14 of IGST Act – Person providing Online Information and Data Access & Retrieval Services to a non-taxable online recipient.
- (b) Explanation to section 37 relating to furnishing of the “details of outward supplies” shall include details of Invoices, debit notes, credit notes and revised invoices issued in relation to outward supplies made during any tax period. This e-return shall be filed within 11 days from the end of the tax period in **FORM GSTR-1 (to be substituted with**

ANX-1) in case of taxpayer having turnover more than Rs 1.5 Crore. (Refer Annexure 'A' for extension of due date for filing GSTR-1).

- (c) Such returns shall be for supply of goods or services or both as effected during a tax period and shall be filed electronically.
- (d) The Commissioner is empowered to notify any extension of due date of filing, for any class of persons, beyond the tenth of the succeeding month, with reasons to be recorded in writing. Refer to Annexure 'A' at the end of the chapter, for extensions notified, from time to time, for various returns.
- (e) The details provided by the supplier in GSTR-1 shall be auto-populated and made available electronically to the recipient, for matching purposes, in accordance with the provision of Rule 60 in a **FORM GSTR-2A (to be substituted with ANX-2), which can be used for reconciliation and filing of GSTR-9 i.e Annual return.**
- (f) The present process of return filing, envisages that the recipient of the supply shall be provided an opportunity to accept, reject, amend or delete the details in a two-way communication process. This opportunity is not available at present as filing of GSTR-2 has been deferred.
- (g) If any error or omission is discovered in the course of matching as specified in the Act and discussed under Section 42 and 43, rectifications of the same shall be effected; and tax and interest, if any, as applicable shall be paid on such corrections by the person responsible for filing the return of outward supplies. Section 42 and section 43 are currently not applicable as the due dates for filing of details in GSTR-2 is yet to be notified.
- (h) Such rectification of error or omission, however, is not permitted after filing of annual return or the return for the month of September of the following financial year to which the details pertain to, whichever is earlier. However, GST council has decided to provide relaxation to the tax payer for the financial year 2017-18 vide the Central Goods and Services Tax (Second Removal of Difficulties) Order, 2018, after considering the fact that financial year 2017-18 was the first year of the implementation of the Goods and Services Tax in India and the taxpayers were still in the process of familiarising themselves with the new taxation system and due to lack of said familiarity-
 - (i) the registered persons eligible to avail input tax credit could not claim the same in terms of provisions of section 16 because of missing invoices or debit notes referred to sub-section (4) within the stipulated time;
 - (ii) the registered persons could not rectify the error or omission in terms of provisions of sub-section (3) of section 37 within the stipulated time

Therefore, any error or omission pertaining to the financial year 2017-18 can be rectified till the due date for furnishing the details under sub-section (1) for the month of March, 2019 or for the quarter January, 2019 to March, 2019.

For example: Assume an entity has furnished the annual returns for the year 2018-19 on August 15, 2019. If an error is discovered in respect of a transaction pertaining to the tax period July 2018, where the entity has filed its returns for the month of September 2019 on October 18, 2019. In this case, the rectification of the error pertaining to a transaction in July 2018 cannot be made beyond August 15, 2019. This is because the said entity has already filed its annual return on 15th August, 2019.

Linking E-Way Bill with GSTR-1

Every registered person who causes movement of goods of consignment value exceeding Rs. 50,000/- or Rs. 1,00,000/- as the case may be, in relation to supply, or for reason other than supply such as sale of goods on approval basis, job work etc., or due to inward supply from an unregistered person excluding exempted goods needs to furnish information relating to the said goods and thereby, furnish details of invoices while generating e-way bills. Further, the invoice details for business to business supplies have to be given in FORM GSTR-1 by the tax payer. To avoid duplicate data entry, GSTN has provided a facility to taxpayers, where e-way bill data of a tax period can be imported by the taxpayer in their FORM GSTR-1. If the number of e-way bills generated in a month are:

- upto 50 only, the invoice details can be directly imported into the respective Tab of Form GSTR 1, without using the offline tool.
- more than 50 but less than 500, invoices can be downloaded in three separate CSV files with data pertaining to B2B transactions, B2CL transactions and HSN summary. These files can then be imported into FORM GSTR-1 offline tool.
- more than 500, the invoice details in respect of B2B transactions, B2CL transactions and HSN summary can be imported from E-Way Bill portal in a single excel file. This file can then be imported into FORM GSTR-1 offline tool.

However, the data so imported can be edited while filing FORM GSTR-1.

It is pertinent to mention here that 'import EWB data' option in the GSTN portal and selection of requisite data of invoices to be uploaded in the GSTR-1 is an option, made available to ease the return filing procedure and the same is not mandatory. Where the user decides not to use the option, details of such invoices are to be filed manually.

Matching details given in FORM GSTR-1 with those given in the e-way bill will curb tax evasion as evident from certain facts revealed like some transporters are doing multiple trips by generating only a single e-way bill or not reflecting invoices for which e-way bill is generated while filing FORM GSTR-1 or e-way bill is not being generated even as supplies are being made etc.

However, certain points to be considered while reconciling e-way bills generated with the data declared in GST returns so that frivolous demands are not raised:

- movement of goods over and above a threshold limit require generation of e-way bill while data declared in FORM GSTR-1 includes all the supplies regardless of any threshold,
- in case of supply of services, no e-way bill is required to be issued while the same needs to be duly reported in FORM GSTR-1,
- varied State-specific requirements, such as different threshold limits and notified products for which e-way bills are required,
- reconciliation of the value of supplies considering the credit notes (tax or financial) issued later by the supplier to factor the discounts, deficiency, etc. for the customer,
- In case where goods are transported by job worker, the e-way bill will be generated on the basis of Delivery Challan and not on the basis of tax invoice issued by job worker for job work charges. The value of goods moved on the basis of Delivery Challan is not to be reported in FORM GSTR-1 and neither there is mention of tax invoice issued by job worker for job work charges in e-way bill, therefore, no data would be auto-populated in FORM GSTR-1 of the job worker.

Components of valid GST Return for Outward Supplies made by the Taxpayer (FORM GSTR-1)

This Statement of outward supplies would capture the following information:

1. GSTIN
2. Name
3. Period to which the return pertains
4. Aggregate turnover of the taxpayer in the previous Financial Year. This information would be submitted by the taxpayers only in the first year, first tax period and will be auto-populated in subsequent tax periods and years.
5. The transactions of outward supplies is required to be furnished in the said Statement i.e., Form GSTR 1 at an invoice / consolidated level, as per the requirements laid down in law / rules which is as mentioned in the below table:

Table 1: Submission of information at Invoice level.

Table 2: Submission of information at consolidated (Place of supply) level.

Table 1

Type	Supplies made to	Invoice Value	Level of submission
Inter-State	Registered Persons	Any	Invoice level
	Registered Persons	Any	Invoice level
	Unregistered Persons (stated as Consumer in the return)	> 250,000	Invoice level
	Credit Notes for the above		Invoice Level Submission

Table 2

Type	Supplies made to	Invoice Value	Level of submission
Intra-State	Unregistered Persons	Any	Consolidated
	Unregistered Persons (stated as Consumer in the return)	< 250,000	Consolidated
	All Exempted Supplies	Any	Consolidated

Note: For all B2C supplies (whether inter-State or intra-State) where invoice value is up to ₹ 2,50,000/- State-wise and rate-wise summary of supplies should be uploaded in Table 7 of the Form GSTR-1.

Additional Comments: Every registered person furnishing any statement or return or making any application, shall make sure that they have read the instructions provided by GSTN which is to be followed by every registered person furnishing such statement / return / application. The said instruction is available in the format(s) of Form(s) prescribed in CGST Rules, 2017 as well as at the offline utility of each of the Statement / Return / Application.

Illustration:

- 1. HSN requirement:** HSN summary to be provided in Table 12 of Form GSTR 1 is divided into three parts i.e., (a) every registered person with annual turnover above ₹ 1.5 Crore but below ₹ 5 Crore in the preceding FY, is required to furnish details of supply HSN wise atleast at 2 digit level; (b) person with annual turnover above ₹ 5 Crore is required to provide details of outward supplies at 4 digit level; and (c) supplier not falling under (a) or (b) above, is required to provide details of goods supplied at the level of description of goods supplied.

Further, Unit Quantity Code (UQC) for which no specific unit of measurement is available, shall be selected as 'OTHERS' for example in case of supply of services, UQC can be on the basis of number of invoices issued under particular HSN for a particular tax period.

It is also important to note that, HSN Summary or summary of supplies at description of goods / services level, shall also contain details of supplies which are exempt from payment of tax or is not liable to Goods and Service Tax i.e., non-taxable supply (example supply of alcoholic liquor meant for human consumption).

- 2. Furnishing of details of Physical Exports as against supplies made to SEZ unit or SEZ developer / Deemed Exports:** Details of Physical export of goods or services or both are to be separately furnished in Table 6A of Form GSTR 1.

37.3 Comparative Review

Under all the earlier laws, which is been subsumed into GST, there was no concept of furnishing a statement of outward supplies for the purpose of matching outward supplies with

the input tax credit availed by the recipient of such supply. However, VAT laws of few States such as Karnataka had the facility of e-UPaSS which was introduced with the intent of matching output tax paid by the seller with that of input tax credit availed. However, the said activity was never carried out even as part of assessment under respective State VAT Laws.

37.4 Issues and Concerns

- (i) It is important for every registered person to note that the details of all outward supplies made by him is to be furnished in Form GSTR 1 i.e., statement of outward supplies, irrespective of the fact, whether such supply is outside the umbrella of GST or exempted from payment of tax i.e., GST, by way of exemption notification or is it a supply of notified goods or services which is liable to tax in the hands of recipient. The reason for disclosure is **(1)** the law requires one to provide details of such supplies though not liable to tax; **and (2)** as a registered person, by disclosing the values of all supplies, the registered person is effecting a reconciliation of financial statements with that of statements / returns furnished.
- (ii) Person effecting zero-rated supplies (physical export of goods), who wishes to claim refund of taxes paid has to ensure that details relating to such supplies as provided in GSTR 1, like invoice no., shipping bill details, value of goods exported and amount of IGST paid match with the details as available in the ICEGATE system. Only on matching of such details, refund of tax paid will be granted. Therefore, it is important that every registered person making physical export of goods verifies whether details of all export invoices as provided in GSTR 1 matches with details available in customs in ICEGATE.

The same can be verified by logging in to www.gst.gov.in with valid credentials and following the below mentioned steps:

Refunds >> Track Status of Invoice data to be shared with ICEGATE

Note: If the difference in the value of IGST paid is more than ₹ 100, between values disclosed in Form GSTR 3B and that of Form GSTR 1, the information will not be shared by GSTN for verification by ICEGATE, in such cases one has to first ensure that there is parity in the value disclosed in Form GSTR 3B and Form GSTR 1 by amending the details as required.

Statutory Provisions

38. Furnishing details of inward supplies

- (1) *Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10, section 51 or section 52, shall verify, validate, modify or delete, if required, the details relating to outward supplies and credit or debit notes communicated under sub-section (1) of section 37 to prepare the details of his inward supplies and credit or debit notes and*

may include therein, the details of inward supplies and credit or debit notes received by him in respect of such supplies that have not been declared by the supplier under sub-section (1) of section 37.

- (2) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish, electronically, the details of inward supplies of taxable goods or services or both, including inward supplies of goods or services or both on which the tax is payable on reverse charge basis under this Act and inward supplies of goods or services or both taxable under the Integrated Goods and Services Tax Act or on which integrated goods and services tax is payable under section 3 of the Customs Tariff Act, 1975, and credit or debit notes received in respect of such supplies during a tax period after the tenth day but on or before the fifteenth day of the month succeeding the tax period in such FORM and manner as may be prescribed:

Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be notified by the Commissioner

- (3) The details of supplies modified, deleted or included by the recipient and furnished under sub-section (2) shall be communicated to the supplier concerned in such manner and within such time as may be prescribed
- (4) The details of supplies modified, deleted or included by the recipient in the return furnished under sub-section (2) or sub-section (4) of section 39 shall be communicated to the supplier concerned in such manner and within such time as may be prescribed.
- (5) Any registered person, who has furnished the details under sub-section (2) for any tax period and which have remained unmatched under section 42 or section 43, shall, upon discovery of any error or omission therein, rectify such error or omission in the tax period during which such error or omission is noticed in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period:

Provided that no rectification of error or omission in respect of the details furnished under sub-section (2) shall be allowed after furnishing of the return under section 39 for the month of September following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier.

Extract of the CGST Rules, 2017**60. Form and manner of furnishing details of inward supplies**

- (1) Every registered person, other than a person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017, required to furnish the details of inward supplies of goods or services or both received during a tax period under sub-section (2) of section 38 shall, on the basis of details contained in Part A, Part B and Part C of FORM GSTR-2A, prepare such details as specified in sub-section (1) of the said section and furnish the same in FORM GSTR-2 electronically through the common portal, either directly or from a Facilitation Centre notified by the Commissioner, after including therein details of such other inward supplies, if any, required to be furnished under sub-section (2) of section 38.
- (2) Every registered person shall furnish the details, if any, required under sub-section (5) of section 38 electronically in FORM GSTR-2.
- (3) The registered person shall specify the inward supplies in respect of which he is not eligible, either fully or partially, for input tax credit in FORM GSTR-2 where such eligibility can be determined at the invoice level.
- (4) The registered person shall declare the quantum of ineligible input tax credit on inward supplies which is relatable to non-taxable supplies or for purposes other than business and cannot be determined at the invoice level in FORM GSTR-2.
- (4A) The details of invoices furnished by a non-resident taxable person in his return in FORM GSTR-5 under rule 63 shall be made available to the recipient of credit in Part A of FORM GSTR 2A electronically through the common portal and the said recipient may include the same in FORM GSTR-2.
- (5) The details of invoices furnished by an Input Service Distributor in his return in FORM GSTR-6 under rule 65 shall be made available to the recipient of credit in Part B of FORM GSTR 2A electronically through the common portal and the said recipient may include the same in FORM GSTR-2.
- (6) The details of tax deducted at source furnished by the deductor under sub-section (3) of section 39 in FORM GSTR-7 shall be made available to the deductee in Part C of FORM GSTR-2A electronically through the common portal and the said deductee may include the same in FORM GSTR-2.
- (7) The details of tax collected at source furnished by an e-commerce operator under section 52 in FORM GSTR-8 shall be made available to the concerned person in Part C of FORM GSTR 2A electronically through the common portal and such person may include the same in FORM GSTR-2.
- (8) The details of inward supplies of goods or services or both furnished in FORM GSTR-2 shall include the-

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| <p>(a) <i>invoice wise details of all inter-State and intra-State supplies received from registered persons or unregistered persons;</i></p> <p>(b) <i>import of goods and services made; and</i></p> <p>(c) <i>debit and credit notes, if any, received from supplier.</i></p> |
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Related provisions of the Statute

Section or Rule	Description
Section 2(62)	Definition of Input Tax
Section 2(67)	Definition of Inward Supply
Section 2(94)	Definition of Registered Person
Section 2(97)	Definition of Return
Section 2(117)	Definition of Valid Return
Section 16	Eligibility and Conditions for Taking Input Tax Credit
Section 17	Apportionment of Credits and Blocked Credits
Section 22	Persons liable for registration
Section 24	Compulsory registration in certain cases
Section 37	Furnishing details of Outward supplies
Section 39	Furnishing of Returns
Section 47	Levy of late fee
Section 14 (IGST)	Special provision for payment of tax by a supplier of online information and database access or retrieval services.

38.1 Introduction

This provision relates to furnishing of details of inward supplies by the recipient on the basis of details of outward supplies uploaded by the supplier(s) in Form GSTR 1.

38.2 Analysis

- (a) In respect of the return for outward supplies filed by the supplier of goods / services (under section 37 of CGST / SGST Act, 2017), recipient of supply is required to match his inward supply details with that of the details uploaded by the supplier by way of furnishing Form GSTR 1.
- (b) The details uploaded by the supplier will be made available to the recipient in Part 'A' of Form GSTR 2A (the details of input tax credit distributed by input service distributor will be made available in Part 'B' of said Form i.e., Form GSTR 2A). The details will be available for verification as and when the supplier has furnished Form GSTR 1. The

details of tax deducted at source and tax collected at source will be made available in Part 'B' of Form GSTR 2A and the activities as specified supra for Part 'A' can be done i.e., accept / modify / reject / add, for values made available to the recipient of supply in Part 'B' of the said form.

Part A of FORM GSTR 2A will contain the following details (auto-populated on basis of Form GSTR 1 submitted by supplier).

Sl. No. of Form 2A	Content of FORM GSTR 1 of supplier
3	Inward supplies received from a registered person other than the supplies attracting reverse charge.
4	Inward supplies received from a registered person on which tax is to be paid on reverse charge.
5	Debit / Credit notes (including amendments thereof) received during current tax period.

Note: The filing of Form GSTR-2 has been suspended for the time being and same will be notified by way of notification.

- (c) In case, any error or omission is discovered in the course of matching as specified in the Act and discussed under Section 42 and 43, rectifications of the same shall be effected and tax and interest, if any as applicable shall be paid on such corrections by the person responsible for filing the return of inward supplies.
- (d) Such rectification of error or omission, however, is not permitted after filing of annual return or before the due date for filing the return for the month of September of the following financial year to which the details pertain, whichever is earlier.

38.3 Issues and Concerns

- (i) The GST Council / GSTN is effecting a number of modifications in the modules to the returns and more changes to the same are expected to be made in the near future. In this regard, as a recipient of supply one would have to be cautious since uploading of the supply details is by his suppliers by way of filing of GSTR 1 (for the period beginning July 2017 till date new system of return is made available). The Recipient will only download and verify such details in Form GSTR 2A. The Recipient should ensure that, all his inward supplies on which he has availed input tax credit has been uploaded by his supplier and the details of the same is available in Form GSTR 2A. By this, recipient of supply can avoid interest liability on availment of excess credit (in the eyes of exchequer) which may also effect his Goods and Service Tax Compliance rating in long run.
- (ii) Further, recipient of credit shall be aware of the fact that, input tax credit in relation to supply received in a particular financial year say 2018-19 (including transactions of

credit / debit notes as the case may be), if not availed earlier, is to be availed on or before the due date prescribed for filing of return for the month of September 2019 or date of filing of annual return in Form GSTR 9, whichever is earlier. On this aspect law would be sacrosanct and may not allow additional time which will result in losing out on input tax credit.

Additional Comments

It is important to note that GST Council in its 27th Council Meeting held on 04.05.2018 has approved the principles for the new return design proposed by a Group of Ministers on IT simplification. According to the press release issued by Central Board of Indirect Taxes and Customs, it is recommended that there will be one single return to be furnished by taxpayer every month (except for composition taxpayer). Further uploading of invoices for outward supplies will be allowed on real time basis and the same will be visible to the recipient as and when the invoice(s) is / are uploaded by the supplier.

The recommendations also state that for another six months, returns will have to be filed in Form GSTR 3B and GSTR 1. Input tax credit will be available to the recipient during this phase as well as for six months from the date of introduction of new return proposed on provisional basis *i.e., on the basis of input tax credit availed by the recipient of supply in his return*. However from the date of introduction of proposed return system, details of differences between credit availed by recipient of supply and amount of credit as per the invoices uploaded by the supplier will be made available to the recipient of the supply. After end of Phase 2 of introduction of new return system, availability of input tax credit on provisional basis will be withdrawn *i.e., input tax credit will be available only when the invoice details is uploaded by the supplier i.e., purely on the matching concept basis*.

Also, the proposed return system has taken into consideration unnecessary movement of input tax credit by suppliers who are defaulters of payment of taxes. Default beyond threshold amount will result in blocking of input tax credit to the recipient of supply from such default suppliers.

Statutory Provisions

39. **Furnishing of returns**

- (1) *Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, **in such form, manner and within such time as may be prescribed**², a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax*

² Substituted vide The Central Goods and Services Tax (Amendment) Act, 2018

*payable, tax paid and such other particulars as may be prescribed, ~~on or before the twentieth day of the month succeeding such calendar month or part thereof~~*³.

“Provided that the Government may, on the recommendations of the Council, notify certain classes of registered persons who shall furnish return for every quarter or part thereof, subject to such conditions and safeguards as may be specified therein.”⁴

- (2) *A registered taxable person paying tax under the provisions of section 10 shall, for each quarter or part thereof, furnish, in such FORM and manner as may be prescribed, a return, electronically, of turnover in the state or union territory, inward supplies of goods or services or both, tax payable and tax paid within eighteen days after the end of such quarter.*
- (3) *Every registered person required to deduct tax at source under the provisions of section 51 shall furnish, in such form and manner as may be prescribed, a return, electronically, for the month in which such deductions have been made within ten days after the end of such month.*
- (4) *Every taxable person registered as an Input Service Distributor shall, for every calendar month or part thereof, furnish, in such form and in such manner as may be prescribed, a return, electronically, within thirteen days after the end of such month.*
- (5) *Every registered non-resident taxable person shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within twenty days after the end of a calendar month or within seven days after the last day of the period of registration specified under sub-section (1) of section 27, whichever is earlier.*
- (6) *The Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the returns under this section for such class of registered persons as may be specified therein*

Provided that any extension of time limit notified by the Commissioner of State tax or Union territory tax shall be deemed to be notified by the Commissioner.

- (7) *Every registered person, who is required to furnish a return under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (5), shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return*

“Provided that the Government may, on the recommendations of the Council, notify certain classes of registered persons who shall pay to the Government

³ Omitted vide The Central Goods and Services Tax (Amendment) Act, 2018

⁴ Inserted vide The Central Goods and Services Tax (Amendment) Act, 2018

the tax due or part thereof as per the return on or before the last date on which he is required to furnish such return, subject to such conditions and safeguards as may be specified therein.”⁵

- (8) Every registered person who is required to furnish a return under sub-section (1) or sub-section (2) shall furnish a return for every tax period whether or not any supplies of goods or services or both have been made during such tax period.
- (9) Subject to the provisions of sections 37 and 38, if any registered person after furnishing a return under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (4) or sub-section (5) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars **in such form and manner as may be prescribed**⁶, subject to payment of interest under this Act.
- Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of return for the month of September or second quarter following **the end of the financial year to which such details pertain***⁷, or the actual date of furnishing of relevant annual return, whichever is earlier.
- (10) A registered person shall not be allowed to furnish a return for a tax period if the return for any of the previous tax periods has not been furnished by him.

Amendment by Finance (No. 2) Act, 2019⁸

In section 39 of the Central Goods and Services Tax Act,—

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

- (1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars, in such form and manner, and within such time, as may be prescribed:

Provided that the Government may, on the recommendations of the Council, notify certain class of registered persons who shall furnish a return for every quarter or part thereof, subject to such conditions and restrictions as may be specified therein

⁵ Inserted vide The Central Goods and Services Tax (Amendment) Act, 2018

⁶ Substituted vide The Central Goods and Services Tax (Amendment) Act, 2018

⁷ Substituted vide The Central Goods and Services Tax (Amendment) Act, 2018

⁸ Effective date yet to be notified

(2) *A registered person paying tax under the provisions of section 10, shall, for each financial year or part thereof, furnish a return, electronically, of turnover in the State or Union territory, inward supplies of goods or services or both, tax payable, tax paid and such other particulars in such form and manner, and within such time, as may be prescribed.”*

(b) for sub-section (7), the following sub-section shall be substituted, namely:—

(7) *Every registered person who is required to furnish a return under sub-section (1), other than the person referred to in the proviso thereto, or sub-section (3) or sub-section (5), shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return*

Provided that every registered person furnishing return under the proviso to sub-section (1) shall pay to the Government, the tax due taking into account inward and outward supplies of goods or services or both, input tax credit availed, tax payable and such other particulars during a month, in such form and manner, and within such time, as may be prescribed:

Provided further that every registered person furnishing return under sub-section (2) shall pay to the Government, the tax due taking into account turnover in the State or Union territory, inward supplies of goods or services or both, tax payable, and such other particulars during a quarter, in such form and manner, and within such time, as may be prescribed.”

Extract of the CGST Rules, 2017

61. Form and manner of submission of monthly return

- (1) *Every registered person other than a person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 or an Input Service Distributor or a non-resident taxable person or a person paying tax under section 10 or section 51 or, as the case may be, under section 52 shall furnish a return specified under sub-section (1) of section 39 in FORM GSTR-3 electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.*
- (2) *Part A of the return under sub-rule (1) shall be electronically generated on the basis of information furnished through FORM GSTR-1, FORM GSTR-2 and based on other liabilities of preceding tax periods.*
- (3) *Every registered person furnishing the return under sub-rule (1) shall, subject to the provisions of section 49, discharge his liability towards tax, interest, penalty, fees or any other amount payable under the Act or the provisions of this Chapter by debiting the electronic cash ledger or electronic credit ledger and include the details in Part B of the return in FORM GSTR-3.*

- (4) A registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49, may claim such refund in Part B of the return in FORM GSTR-3 and such return shall be deemed to be an application filed under section 54.
- [(5) Where the time limit for furnishing of details in FORM GSTR-1 under section 37 or in FORM GSTR-2 under section 38 has been extended, the return specified in subsection (1) of section 39 shall, in such manner and subject to such conditions as the Commissioner may, by notification, specify, be furnished in FORM GSTR-3B electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner:
 Provided that where a return in FORM GSTR-3B is required to be furnished by a person referred to in sub-rule (1) then such person shall not be required to furnish the return in FORM GSTR-3]⁹
- ~~(6) Where a return in FORM GSTR-3B has been furnished, after the due date for furnishing of details in FORM GSTR-2—~~
- ~~(a) Part A of the return in FORM GSTR-3 shall be electronically generated on the basis of information furnished through FORM GSTR-1, FORM GSTR-2 and based on other liabilities of preceding tax periods and PART B of the said return shall be electronically generated on the basis of the return in FORM GSTR-3B furnished in respect of the tax period;~~
- ~~(b) the registered person shall modify Part B of the return in FORM GSTR-3 based on the discrepancies, if any, between the return in FORM GSTR-3B and the return in FORM GSTR-3 and discharge his tax and other liabilities, if any;~~
- ~~(c) where the amount of input tax credit in FORM GSTR-3 exceeds the amount of input tax credit in terms of FORM GSTR-3B, the additional amount shall be credited to the electronic credit ledger of the registered person.]^{10]}¹¹~~
- 62. [Form and manner of submission of statement and return]¹²**
- (1) Every registered person paying tax under section 10 or paying tax by availing the benefit of notification of the Government of India, Ministry of Finance, Department of Revenue No. 02/2019– Central Tax (Rate), dated the 7th March, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.189 (E), dated the 7th March, 2019 shall-

⁹ Substituted wef 01.07.2017 vide Notf no. 49/2019 – CT dt 09.10.2019

¹⁰ Inserted wef 01.07.2017 vide Notf no. 17/2017 – CT dt 27.07.2017

¹¹ Omitted w.e.f. 01.07.2017 vide Notf no. 49/2019-CT dt. 09.10.2019

¹² Substituted vide Notf no. 20/2019-CT dt. 23.04.2019 for –Form and manner of submission of quarterly return by the composition supplier

- (i) furnish a statement, every quarter or, as the case may be, part thereof, containing the details of payment of self-assessed tax in FORM GST CMP-08, till the 18th day of the month succeeding such quarter; and
- (ii) furnish a return for every financial year or, as the case may be, part thereof in FORM GSTR-4, till the thirtieth day of April following the end of such financial year]¹³

electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

~~[Provided that the registered person who opts to pay tax under section 10 with effect from the first day of a month which is not the first month of a quarter shall furnish the return in FORM GSTR-4 for that period of the quarter for which he has paid tax under section 10 and shall furnish the returns as applicable to him for the period of the quarter prior to opting to pay tax under section 10.]¹⁴~~

- (2) Every registered person furnishing the [statement under sub-rule (1) shall discharge his liability towards tax or interest]¹⁵ payable under the Act or the provisions of this Chapter by debiting the electronic cash ledger.
- (3) The return furnished under sub-rule (1) shall include the-
- (a) invoice wise inter-State and intra-State inward supplies received from registered and un-registered persons; and
 - (b) consolidated details of outward supplies made.
- (4) A registered person who has opted to pay tax under section 10 [or by availing the benefit of notification of the Government of India, Ministry of Finance, Department of Revenue No. 02/2019- Central Tax (Rate), dated the 7th March, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.189 (E), dated the 7th March, 2019]¹⁶ from the beginning of a financial year shall, where required, furnish the details of outward and inward supplies and return under rules 59, 60 and 61 relating to the period during which the person was liable to furnish such details and returns till the due date of furnishing the return for the month of September of the succeeding financial year or furnishing of annual return of the preceding financial year, whichever is earlier.

¹³ Substituted vide Notf no. 20/2019-CT dt. 23.04.2019

¹⁴ Inserted vide Notf no. 45/2017 - CT dt 13.10.2017 and Omitted vide Notf no. 20/2019-CT dt. 23.04.2019

¹⁵ Substituted vide Notf no. 20/2019-CT dt. 23.04.2019

¹⁶ Inserted vide Notf no. 20/2019-CT dt. 23.04.2019

Explanation.— For the purposes of this sub-rule, it is hereby declared that the person shall not be eligible to avail ~~of~~¹⁷ input tax credit on receipt of invoices or debit notes from the supplier for the period prior to his opting for the composition scheme [or opting for paying tax by availing the benefit of notification of the Government of India, Ministry of Finance, Department of Revenue No. 02/2019– Central Tax (Rate), dated the 7th March, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i) vide number G.S.R.189 (E), dated the 7th March, 2019]¹⁸.

(5) *A registered person opting to withdraw from the composition scheme at his own motion or where option is withdrawn at the instance of the proper officer shall, where required, furnish [a statement in FORM GST CMP-08 for the period for which he has paid tax under the composition scheme till the 18th day of the month succeeding the quarter in which the date of withdrawal falls and furnish a return in FORM GSTR-4 for the said period till the thirtieth day of April following the end of the financial year during which such withdrawal falls].¹⁹*

[(6) *A registered person who ceases to avail the benefit of notification of the Government of India, Ministry of Finance, Department of Revenue No. 02/2019– Central Tax (Rate), dated the 7th March, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.189 (E) , dated the 7th March, 2019, shall, where required, furnish a statement in FORM GST CMP-08 for the period for which he has paid tax by availing the benefit under the said notification till the 18th day of the month succeeding the quarter in which the date of cessation takes place and furnish a return in FORM GSTR - 4 for the said period till the thirtieth day of April following the end of the financial year during which such cessation happens.]²⁰*

63. Form and manner of submission of return by non-resident taxable person.-

Every registered non-resident taxable person shall furnish a return in FORM GSTR-5 electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner, including therein the details of outward supplies and inward supplies and shall pay the tax, interest, penalty, fees or any other amount payable under the Act or the provisions of this Chapter within twenty days after the end of a tax period or within seven days after the last day of the validity period of registration, whichever is earlier.

¹⁷ Omitted vide Notf no. 20/2019-CT dt. 23.04.2019

¹⁸ Inserted vide Notf no. 20/2019-CT dt. 23.04.2019

¹⁹ Substituted vide Notf no. 20/2019-CT dt. 23.04.2019

²⁰ Inserted vide Notf no. 20/2019-CT dt. 23.04.2019

64. Form and manner of submission of return by persons providing online information and database access or retrieval services

Every registered person providing online information and data base access or retrieval services from a place outside India to a person in India other than a registered person shall file return in FORM GSTR-5A on or before the twentieth day of the month succeeding the calendar month or part thereof.

65. Form and manner of submission of return by an Input Service Distributor.-

Every Input Service Distributor shall, on the basis of details contained in FORM GSTR-6A, and where required, after adding, correcting or deleting the details, furnish electronically the return in FORM GSTR-6, containing the details of tax invoices on which credit has been received and those issued under section 20, through the common portal either directly or from a Facilitation Centre notified by the Commissioner.

66. Form and manner of submission of return by a person required to deduct tax at source.-

- (1) Every registered person required to deduct tax at source under section 51 (hereafter in this rule referred to as deductor) shall furnish a return in FORM GSTR-7 electronically through the common portal either directly or from a Facilitation Centre notified by the Commissioner.
- (2) The details furnished by the deductor under sub-rule (1) shall be made available electronically to each of the [deductees]²¹ [~~suppliers in Part C of FORM GSTR-2A and FORM GSTR-4A~~]²² on the common portal after [~~the due date of~~]²³ filing of FORM GSTR-7 [for claiming the amount of tax deducted in his electronic cash ledger after validation]²⁴.
- (3) The certificate referred to in sub-section (3) of section 51 shall be made available electronically to the deductee on the common portal in FORM GSTR-7A on the basis of the return furnished under sub-rule (1).

67. Form and manner of submission of statement of supplies through an ecommerce operator.-

- (1) Every electronic commerce operator required to collect tax at source under section 52 shall furnish a statement in FORM GSTR-8 electronically on the common portal, either directly or from a Facilitation Centre notified by the Commissioner, containing

²¹ Inserted vide Notf no. 31/2019 – CT dt. 28.06.2019

²² Omitted vide Notf no. 31/2019 – CT dt. 28.06.2019

²³ Omitted vide Notf no. 31/2019 – CT dt. 28.06.2019

²⁴ Inserted vide Notf no. 31/2019 – CT dt. 28.06.2019

details of supplies effected through such operator and the amount of tax collected as required under sub-section (1) of section 52.

- (2) *The details furnished by the operator under sub-rule (1) shall be made available electronically to each of the suppliers [~~in Part C of FORM GSTR-2A~~]²⁵ on the common portal after [~~the due date of~~]²⁶ filing of FORM GSTR-8 [for claiming the amount of tax collected in his electronic cash ledger after validation].²⁷*

68. Notice to non-filers of returns.-

A notice in FORM GSTR-3A shall be issued, electronically, to a registered person who fails to furnish return under section 39 or section 44 or section 45 or section 52.

Related provisions of the Statute

Section or Rule	Description
Section 2(94)	Definition of Registered Person
Section 2(97)	Definition of Return
Section 2(117)	Definition of Valid Return
Section 16	Eligibility and Conditions for Taking Input Tax Credit
Section 17	Apportionment of Credits and Blocked Credits
Section 22	Persons liable for registration
Section 24	Compulsory registration in certain cases
Section 37	Furnishing details of Outward supplies
Section 38	Furnishing details of inward supplies
Section 41	Claim of input tax and provisional acceptance thereof
Section 42	Matching of reversal and reclaim of input tax credit
Section 43	Matching, reversal and reclaim of reduction in output tax liability
Section 46	Notice to return defaulters
Section 47	Levy of late fee
Section 51	Tax deduction at source
Section 52	Collection of tax at source
Section 14 (IGST)	Special provision for payment of tax by a supplier of online information and database access or retrieval services.

²⁵ Omitted vide Notf no. 31/2019 – CT dt. 28.06.2019

²⁶ Omitted vide Notf no. 31/2019 – CT dt. 28.06.2019

²⁷ Inserted vide Notf no. 31/2019 – CT dt. 28.06.2019

39.1 Analysis

This section deals with filing of GST Return by persons registered under different provisions of this Act and rules made thereto.

A. Return and due dates for payment of tax and filing of return for the registered person

Section Ref – (A)	Person Liabile – (B)	FORM – (C)	CGST Rule – (D)	Due date for payment of tax –(E)	Due Date for filing of return - (F)	Periodicity – (G)
39(1)	Regular Taxpayers (other than registered person covered under subsection 2, 3, 4 & 5 of Section 39)	GSTR-3 / 3B	Rule – 61	On or before the due date of filing of return – As referred in column (F)	On or before 20 th day of subsequent month	Monthly
39(2)	Composition Taxable persons	GSTR-4	Rule – 62	On or before the due date of filing of return – Ref column (F)	Within 18 th day from the end of relevant quarter	Quarterly
39(3)	Any Registered person who is liable to deduct tax at source under section 51	GSTR-7	Rule – 66	On or before the due date of filing of return – As referred in column (F)	On or before 10 th day of the subsequent month	Monthly
39(4)	Input Service Distributor (for distributing credits)	GSTR-6	Rule – 65	Not Applicable	On or before 13 th day of the succeeding month	Monthly
39(5)	Non-Resident Taxable person	GSTR-5	Rule – 63	On or before the due date of filing of	Within 20 days from the end of the calendar month or within 7 days after the last day of the	

				return – As referred in column (F)	period of registration, whichever is earlier	
39(5)	Supplier located outside taxable territory – making supply of online information and data base access or retrieval services from a place outside India to non-taxable online recipient	GSTR-5A	Rule – 64	On or before due date of filing of return – As referred in Column (F)	On or before 20 th day of the succeeding month (including part thereof)	Monthly

B. The extension of time limit for furnishing the returns

The Commissioner is empowered by sub-section (6) of section 36, for extending the due dates for furnishing the returns and basis this commissioner Central Tax / State Tax has issued Notification(s) extending due date(s) originally prescribed for filing of statement(s) / return(s) as the case may be.

Please refer '**Annexure – A**' at the end of the chapter, giving details of Notification(s) extending due date(s) for various statement(s) / return(s) prescribed under the GST laws.

C. Mandatory to file returns

Every registered person covered under section 39(1) & 39(2) shall furnish a return for every tax period whether or not any supplies of goods and/or services have been effected during such tax period. In other words, the person registered as regular taxpayer (including SEZ unit or developer) and person registered as a composition taxpayer, are obliged to file "NIL RETURN" even when there is / are no transaction(s) effected by them in any tax period.

D. Rectification of error and omission

- (i) Every registered person (including ISD, person liable to deduct tax at source) who has furnished or is required to file a return in terms of this section, can on identification of any error or omission rectify the same in the tax period in which such error or omission is noticed by him.
- (ii) Rectification, resulting in additional output tax or reduction in input tax credit shall be paid / reversed and the same would be subject to interest as prescribed in section 50 of this Act.

- (iii) Such rectification of error or omission will not be allowed, when omission or incorrect particulars are discovered as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities,
- (iv) Further, no rectification of any error or omission will be allowed after the due date for filing of return for the month of September or second quarter of the succeeding financial year, or the actual date of filing of relevant annual return, whichever is earlier.

E. Non-submission of previous tax period returns

A registered person will not be allowed to furnish a return for any tax period, unless returns for all previous tax periods has been furnished by him. Currently, the filing of monthly return in Form GSTR 3 is suspended and a summary return in Form GSTR 3B is required to be filed on monthly basis by every taxpayer including composition taxpayer.

Further, filing of Form GSTR 2 i.e., Statement of inward supply is also suspended for an indefinite period and therefore filing of Form GSTR 3 i.e., monthly return will not be possible. As a result, it now appears that for the period July 2017 to the date of the proposed return system is in place the assessment of returns and information furnished thereon, will be done on the basis of information furnished in Form GSTR 3B, Form GSTR 1 i.e., statement of outward supply for supplies effected and Form GSTR 2A which is made available to the recipient of supply on the basis of details of outward supply furnished by supplier in Form GSTR 1.

Provisions relating to deduction of tax at source (section 51) and provisions of collection of tax at source (section 52), has been implemented w.e.f 1.10.2018. Form GSTR 7 is required to file by a person liable to deduct tax at source and furnishing of a statement in Form GSTR 8 is required by the person liable to collect at source in terms of GST provisions.

Return by Composition taxpayer:

Every person registered as composition taxpayer is required to furnish return on quarterly basis in Form GSTR 4 within 18 days from the end of the relevant quarter to which such return pertains to.

Please refer Annexure – A at the end of this chapter for changes in due dates and details of relevant notifications.

Return by Input Service Distributor:

Every person who is registered as an Input Service Distributor for the purpose of distributing credits relating to input services, is required to file a monthly return in Form GSTR 6 within 13 days of the succeeding month.

Please refer Annexure – A at the end of this chapter for changes in due dates and details of relevant notifications.

Valid Return:

Return furnished for any tax period will be considered as a valid return in terms of section 2(117) of the CGST Act, 2017, only when self-assessed taxes are paid in full.

Statutory provisions**40. First Return**

Every registered person who has made outward supplies in the period between the date on which he became liable to registration till the date on which registration has been granted shall declare the same in the first return furnished by him after grant of registration.

40.1 Analysis

First Return – On grant of registration, a taxable person is required to file his first return. This section specifies the period for which this first return needs to be furnished. It is important to note that there is no separate form / return prescribed for first return and will have to furnish first return in regular forms such as GSTR 3B / 3 or GSTR 4 as the case may be.

Furnishing details as part of first return would apply, only when the person has effected taxable supplies between the period of date of application for registration and the actual date of grant of registration, where such registration certificate is granted effective from the date of application for registration.

The details would generally include:

Transaction to be reported	Related Period
Outward supplies	From date on which he becomes liable to get registered till the date on which registration is granted

Applicability of provisions of revised invoice:

It is important to note that, one would have to issue or raise a revised invoice, to give effect for the taxes liable to be paid under GST laws. This would be applicable only when any person, receives a certificate of registration in Form GST REG-06 bearing the date of application for registration as effective date of registration, though such registration certificate may be received at a later date (Rule 53 of CGST Rules, 2017 should be referred).

Input tax credit on purchases prior to the date of registration:

As per the provisions of Sec 18(1), Person making an application for new registration shall be entitled to claim credit of input tax held in inputs as such, inputs contained in semi-finished goods or finished goods held in stock by such person on the day immediately preceding the date from which such person is liable to obtain registration i.e., the supplies made thirty days before the date of registration if the application for registration is made on thirtieth day, from the date on which he became liable to get registered **OR** the date on which he made an

application for registration, if application for registration is made immediately he became liable for registration.

Note: Input tax credit in relation to capital goods held as a fixed asset as on the above date, which will be used or is intended to be used in making taxable supply will not be available, as there is no specific provision in this regard. In such cases, person making an application for registration could effect purchases of such capital goods (if he is intending to purchase any) after receiving the said registration certificate.

Statutory provisions

41. Claim of input tax credit and provisional acceptance thereof

- (1) *Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to take the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited on a provisional basis to his electronic credit ledger.*
- (2) *The credit referred to in sub section (1) shall be utilised only for payment of self-assessed output tax liability as per the return referred to in the said sub-section.*

41.1 Introduction

This Section relates to claim of input tax credit on self-assessment basis and its provisional acceptance thereof by the revenue.

41.2 Analysis

All registered persons shall be eligible to avail eligible input tax credit on self-assessment basis. Amount availed as input tax credit on self-assessment basis, shall be credited to his electronic credit ledger on a provisional basis and it would attain finality only after applying the procedures as prescribed under section 42 and 43 of CGST / SGST Act, 2017.

This self-assessed input tax credit can be utilised for making payment of self-assessed output tax only (other than inward supplies liable to tax under reverse charge).

Statutory provisions

42. Matching, reversal and reclaim of input tax credit

- (1) *The details of every inward supply furnished by a registered person (hereafter in this section referred to as the "recipient") for a tax period shall, in such manner and within such time as may be prescribed, be matched-*
- (a) *with the corresponding details of outward supply furnished by the corresponding registered person (hereafter in this section referred to as the "supplier") in his valid return for the same tax period or any preceding tax period,*

- (b) *with the integrated goods and services tax paid under section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him, and*
- (c) *for duplication of claims of input tax credit.*
- (2) *The claim of input tax credit in respect of invoices or debit notes relating to inward supply that match with the details of corresponding outward supply or with the integrated goods and services tax paid under section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him shall be finally accepted and such acceptance shall be communicated, in such manner as may be prescribed, to the recipient.*
- (3) *Where the input tax credit claimed by a recipient in respect of an inward supply is in excess of the tax declared by the supplier for the same supply or the outward supply is not declared by the supplier in his valid returns, the discrepancy shall be communicated to both such persons in such manner as may be prescribed.*
- (4) *The duplication of claims of input tax credit shall be communicated to the recipient in such manner as may be prescribed.*
- (5) *The amount in respect of which any discrepancy is communicated under subsection (3) and which is not rectified by the supplier in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the recipient, in such manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated.*
- (6) *The amount claimed as input tax credit that is found to be in excess on account of duplication of claims shall be added to the output tax liability of the recipient in his return for the month in which the duplication is communicated.*
- (7) *The recipient shall be eligible to reduce, from his output tax liability, the amount added under sub-section (5), if the supplier declares the details of the invoice or debit note in his valid return within the time specified in sub-section (9) of section 39.*
- (8) *A recipient in whose output tax liability any amount has been added under subsection (5) or sub-section (6), shall be liable to pay interest at the rate specified under subsection (1) of section 50 on the amount so added from the date of availing of credit till the corresponding additions are made under the said sub-sections.*
- (9) *Where any reduction in output tax liability is accepted under sub-section (7), the interest paid under sub-section (8) shall be refunded to the recipient by crediting the amount in the corresponding head of his electronic cash ledger in such manner as may be prescribed*
- Provided that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the supplier.*
- (10) *The amount reduced from the output tax liability in contravention of the provisions of sub-section (7) shall be added to the output tax liability of the recipient in his return*

for the month in which such contravention takes place and such recipient shall be liable to pay interest on the amount so added at the rate specified in sub-section (3) of section 50.

Extract of the CGST Rules, 2017

69. Matching of claim of input tax credit.-

The following details relating to the claim of input tax credit on inward supplies including imports, provisionally allowed under section 41, shall be matched under section 42 after the due date for furnishing the return in FORM GSTR-3-

- (a) *Goods and Services Tax Identification Number of the supplier;*
- (b) *Goods and Services Tax Identification Number of the recipient;*
- (c) *invoice or debit note number;*
- (d) *invoice or debit note date; and*
- (e) *tax amount:*

Provided that where the time limit for furnishing FORM GSTR-1 specified under section 37 and FORM GSTR-2 specified under section 38 has been extended, the date of matching relating to claim of input tax credit shall also be extended accordingly:

Provided further that the Commissioner may, on the recommendations of the Council, by order, extend the date of matching relating to claim of input tax credit to such date as may be specified therein.

Explanation.- For the purposes of this rule, it is hereby declared that –

- (i) *The claim of input tax credit in respect of invoices and debit notes in FORM GSTR- 2 that were accepted by the recipient on the basis of FORM GSTR-2A without amendment shall be treated as matched if the corresponding supplier has furnished a valid return;*
- (ii) *The claim of input tax credit shall be considered as matched where the amount of input tax credit claimed is equal to or less than the output tax paid on such tax invoice or debit note by the corresponding supplier.*

70. Final acceptance of input tax credit and communication thereof.--

- (1) *The final acceptance of claim of input tax credit in respect of any tax period, specified in sub-section (2) of section 42, shall be made available electronically to the registered person making such claim in FORM GST MIS-1 through the common portal.*
- (2) *The claim of input tax credit in respect of any tax period which had been communicated as mismatched but is found to be matched after rectification by the supplier or recipient shall be finally accepted and made available electronically to the person making such claim in FORM GST MIS-1 through the common portal.*

71. Communication and rectification of discrepancy in claim of input tax credit and reversal of claim of input tax credit.

- (1) Any discrepancy in the claim of input tax credit in respect of any tax period, specified in sub-section (3) of section 42 and the details of output tax liable to be added under sub-section (5) of the said section on account of continuation of such discrepancy, shall be made available to the recipient making such claim electronically in FORM GST MIS-1 and to the supplier electronically in FORM GST MIS-2 through the common portal on or before the last date of the month in which the matching has been carried out.
- (2) A supplier to whom any discrepancy is made available under sub-rule (1) may make suitable rectifications in the statement of outward supplies to be furnished for the month in which the discrepancy is made available.
- (3) A recipient to whom any discrepancy is made available under sub-rule (1) may make suitable rectifications in the statement of inward supplies to be furnished for the month in which the discrepancy is made available.
- (4) Where the discrepancy is not rectified under sub-rule (2) or sub-rule (3), an amount to the extent of discrepancy shall be added to the output tax liability of the recipient in his return to be furnished in FORM GSTR-3 for the month succeeding the month in which the discrepancy is made available.

Explanation.- For the purposes of this rule, it is hereby declared that –

- (i) Rectification by a supplier means adding or correcting the details of an outward supply in his valid return so as to match the details of corresponding inward supply declared by the recipient;
- (ii) Rectification by the recipient means deleting or correcting the details of an inward supply so as to match the details of corresponding outward supply declared by the supplier.

72. Claim of input tax credit on the same invoice more than once.

Duplication of claims of input tax credit in the details of inward supplies shall be communicated to the registered person in FORM GST MIS-1 electronically through the common portal.

77. Refund of interest paid on reclaim of reversals.

The interest to be refunded under sub-section (9) of section 42 or sub-section (9) of section 43 shall be claimed by the registered person in his return in FORM GSTR-3 and shall be credited to his electronic cash ledger in FORM GST PMT-05 and the amount credited shall be available for payment of any future liability towards interest or the taxable person may claim refund of the amount under section 54.

Related provisions of the Statute

Section or Rule	Description
Section 16	Eligibility and Conditions for Taking Input Tax Credit
Section 17	Apportionment of Credits and Blocked Credits
Section 37	Furnishing details of Outward supplies
Section 38	Furnishing details of inward supplies
Section 41	Claim of input tax and provisional acceptance thereof
Section 43	Matching, reversal and reclaim of reduction in output tax liability
Section 46	Notice to return defaulters
Section 47	Levy of late fee
Section 49	Payment of tax, interest, penalty and other amounts
Section 50	Interest on delayed payment of tax
Section 51	Tax deduction at source
Section 52	Collection of tax at source

42.1 Introduction

This provision relates to matching, reversal and reclaim of input tax credit. However, the provisions of section 42 shall not be applicable for the financial year 2017-18 and 2018-19 due to deferment of filing of Form No. GSTR-2 and GSTR-3. However, the matching of input tax credit and verification of output tax liability would still be done on the basis of GSTR 1 furnished for outward supplies and amount of credit availed by recipient apart from values as made available to him in his Form GSTR 2A, the facility of which is still available to both registered persons as well as to exchequer to ensure that there is no mismatch in output tax paid or payable / input tax credit availed or available, as the case may be.

42.2 Analysis**A. Matching, reversal and reclaim envisages the following circumstances**

Situation	Remarks / Comments
All Transactions where Input credit details of recipient are matched for output tax as stated by supplier and recipient (including cases where amount of input tax credit claimed is less than the amount of output tax paid by supplier on a particular tax invoice)	The transaction is treated as matched.

Transactions where the claim of input tax credit is made more than once (i.e., Duplication of claims)	Details of such discrepancy shall be communicated to the registered person (only recipient) in FORM GST MIS 1 .
Transactions where the claim for input tax credit is higher than the output tax as declared by the supplier	<p>Details of such discrepancy shall be made available to recipient in Form GST MIS-1 and to the supplier in Form GST MIS-2 – Two possibilities:</p> <p>(a) If discrepancy is due to supplier's mistake and accepts it, can correct it in GSTR 1 of that month (results in increase in output liability in the hands of supplier).</p> <p>(b) If discrepancy is due to recipient's mistake and accepts it, can correct it in statement of inward supply for that month (results in reduction in input tax credit in the hands of recipient).</p> <p>However, if the same is not rectified by both of them, such amount will get added to output tax liability of such recipient and the said amount is payable along with applicable interest (section 50(1) of CGST Act, 2017).</p>
Transactions where the claim for input tax credit is higher than the output tax as declared by the supplier because the supplier has not furnished a particular transaction.	Same as above

Illustration:

The recipient of supply has filed his return for the month of July, 2018 on 20th of August, 2018. There is mismatch in the amount of input tax credit availed and amount of tax paid by the supplier on the particular tax invoice, the discrepancy will be made available to recipient in Form GST MIS-1 and to the supplier in Form GST MIS-2 by 31st day of August 2018 through the common portal.

In this case one has to understand who has committed the error and who should rectify – whether the supplier shall make rectification in their GSTR 1 to be submitted for the month of August 2018 **OR** the recipient shall make rectification in Form GSTR 2 to be submitted for the

said month i.e., August 2018. In such a situation, if the supplier has committed the error and corrects it in his GSTR 1 to the said extent there will be increase in his output tax, along with applicable interest. Similarly, if the error has been committed by the recipient and he corrects it in Form GSTR 2, then to the said extent there will be reduction in the amount of input tax credit available for payment of taxes.

However, if neither the supplier nor the recipient rectifies the discrepancy, then the difference amount will get added to the output tax liability of the recipient of supply in his return in **FORM GSTR-3 / GSTR 3B as the case may be** for the month of September 2018. The said differential amount shall be payable by recipient along with applicable interest.

However, if the supplier declares the invoice or debit note in any subsequent month but before the time limit prescribed, say in the month Jan 2019, the recipient of supply can reduce the relevant tax amount from the output tax liability for the month of January 2019. Further, recipient will also be eligible for refund of interest paid earlier and the said amount will get credited to electronic cash ledger under the head of interest and can be utilised for any payment towards interest in future.

Statutory Provisions

43. Matching, reversal and reclaim of reduction in output tax liability

- (1) *The details of every credit note relating to outward supply furnished by a registered person (hereinafter referred to in this section as the 'supplier') for a tax period shall, in such manner and within such time as may be prescribed, be matched -*
 - (a) *with the corresponding reduction in the claim for input tax credit by the corresponding registered person (hereinafter referred to in this section as the 'recipient') in his valid return for the same tax period or any subsequent tax period, and*
 - (b) *for duplication of claims for reduction in output tax liability.*
- (2) *The claim for reduction in output tax liability by the supplier that matches with the corresponding reduction in the claim for input tax credit by the recipient shall be finally accepted and communicated, in the manner as may be prescribed, to the supplier.*
- (3) *Where the reduction of output tax liability in respect of outward supplies exceeds the corresponding reduction in the claim for input tax credit or the corresponding credit note is not declared by the recipient in his valid returns, the discrepancy shall be communicated to both such persons in the manner as may be prescribed.*
- (4) *The duplication of claims for reduction in output tax liability shall be communicated to the supplier in such manner as may be prescribed.*
- (5) *The amount in respect of which any discrepancy is communicated under sub-section (3) and which is not rectified by the recipient in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the supplier,*

in such manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated.

- (6) *The amount in respect of any reduction in output tax liability that is found to be on account of duplication of claims shall be added to the output tax liability of the supplier in his return for the month in which such duplication is communicated.*
- (7) *The supplier shall be eligible to reduce, from his output tax liability, the amount added under sub-section (5) if the recipient declares the details of the credit note in his valid return within the time specified in sub-section (9) of section 39.*
- (8) *A supplier in whose output tax liability any amount has been added under subsection (5) or sub-section (6), shall be liable to pay interest at the rate specified under subsection (1) of section 50 in respect of the amount so added from the date of such claim for reduction in the output tax liability till the corresponding additions are made under the said sub-sections.*
- (9) *Where any reduction in output tax liability is accepted under sub-section (7), the interest paid under sub-section (8) shall be refunded to the supplier by crediting the amount in the corresponding head of his electronic cash ledger in such manner as may be prescribed.*

Provided that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the recipient.

- (10) *The amount reduced from output tax liability in contravention of the provisions of sub-section (7) shall be added to the output tax liability of the supplier in his return for the month in which such contravention takes place and such supplier shall be liable to pay interest on the amount so added at the rate specified in sub-section (3) of section 50.*

Extract of the CGST Rules, 2017

73. Matching of claim of reduction in the output tax liability.-

The following details relating to the claim of reduction in output tax liability shall be matched under section 43 after the due date for furnishing the return in FORM GSTR-3, namely:-

- (a) *Goods and Services Tax Identification Number of the supplier;*
- (b) *Goods and Services Tax Identification Number of the recipient;*
- (c) *credit note number;*
- (d) *credit note date; and*
- (e) *tax amount:*

Provided that where the time limit for furnishing FORM GSTR-1 under section 37 and FORM GSTR-2 under section 38 has been extended, the date of matching of claim of reduction in the output tax liability shall be extended accordingly:

Provided further that the Commissioner may, on the recommendations of the Council, by order, extend the date of matching relating to claim of reduction in output tax liability to such date as may be specified therein.

Explanation.- For the purposes of this rule, it is hereby declared that –

- (i) the claim of reduction in output tax liability due to issuance of credit notes in FORM GSTR-1 that were accepted by the corresponding recipient in FORM GSTR-2 without amendment shall be treated as matched if the said recipient has furnished a valid return.*
- (ii) the claim of reduction in the output tax liability shall be considered as matched where the amount of output tax liability after taking into account the reduction claimed is equal to or more than the claim of input tax credit after taking into account the reduction admitted and discharged on such credit note by the corresponding recipient in his valid return.*

74. Final acceptance of reduction in output tax liability and communication thereof

- (1) The final acceptance of claim of reduction in output tax liability in respect of any tax period, specified in sub-section (2) of section 43, shall be made available electronically to the person making such claim in FORM GST MIS-1 through the common portal.*
- (2) The claim of reduction in output tax liability in respect of any tax period which had been communicated as mis-matched but is found to be matched after rectification by the supplier or recipient shall be finally accepted and made available electronically to the person making such claim in FORM GST MIS-1 through the common portal.*

75. Communication and rectification of discrepancy in reduction in output tax liability and reversal of claim of reduction.-

- (1) Any discrepancy in claim of reduction in output tax liability, specified in sub-section (3) of section 43, and the details of output tax liability to be added under sub-section (5) of the said section on account of continuation of such discrepancy, shall be made available to the registered person making such claim electronically in FORM GST MIS- 1 and the recipient electronically in FORM GST MIS- 2 through the common portal on or before the last date of the month in which the matching has been carried out.*
- (2) A supplier to whom any discrepancy is made available under sub-rule (1) may make suitable rectifications in the statement of outward supplies to be furnished for the month in which the discrepancy is made available.*

<p>(3) A recipient to whom any discrepancy is made available under sub-rule (1) may make suitable rectifications in the statement of inward supplies to be furnished for the month in which the discrepancy is made available.</p> <p>(4) Where the discrepancy is not rectified under sub-rule (2) or sub-rule (3), an amount to the extent of discrepancy shall be added to the output tax liability of the supplier and debited to the electronic liability register and also shown in his return in FORM GSTR-3 for the month succeeding the month in which the discrepancy is made available.</p> <p><i>Explanation.- For the purposes of this rule, it is hereby declared that –</i></p> <p>(i) rectification by a supplier means deleting or correcting the details of an outward supply in his valid return so as to match the details of corresponding inward supply declared by the recipient;</p> <p>(ii) rectification by the recipient means adding or correcting the details of an inward supply so as to match the details of corresponding outward supply declared by the supplier.</p> <p>76. Claim of reduction in output tax liability more than once.-</p> <p><i>The duplication of claims for reduction in output tax liability in the details of outward supplies shall be communicated to the registered person in FORM GST MIS-1 electronically through the common portal.</i></p> <p>77. Refund of interest paid on reclaim of reversals.-</p> <p><i>The interest to be refunded under sub-section (9) of section 42 or sub-section (9) of section 43 shall be claimed by the registered person in his return in FORM GSTR-3 and shall be credited to his electronic cash ledger in FORM GST PMT-05 and the amount credited shall be available for payment of any future liability towards interest or the taxable person may claim refund of the amount under section 54.</i></p>

Related provisions of the Statute

Section or Rule	Description
Section 16	Eligibility and Conditions for Taking Input Tax Credit
Section 17	Apportionment of Credits and Blocked Credits
Section 37	Furnishing details of Outward supplies
Section 38	Furnishing details of inward supplies
Section 41	Claim of input tax and provisional acceptance thereof
Section 43	Matching, reversal and reclaim of reduction in output tax liability
Section 46	Notice to return defaulters

Section 47	Levy of late fee
Section 49	Payment of tax, interest, penalty and other amounts
Section 50	Interest on delayed payment of tax

43.1 Introduction

This provision relates to matching, reversal and reclaim of output tax liability due to discrepancy in the output tax reduced by the supplier by way of issuing credit note and corresponding reduction of input tax credit by the recipient. However, the provisions of section 43 shall not be applicable for the financial year 2017-18/18-19 as filing of details in inward supplies in Form GSTR 2 and furnishing a monthly return in Form GSTR 3 has been suspended for an indefinite period. However, still matching of reduction in output tax paid by the supplier and reduction of corresponding input tax credit (if availed earlier) will be verified by revenue authorities by adopting different modes, such as, obtaining details through jurisdiction of the recipient of supply, as the Government will not be ready to forego revenue twice viz., (i) on account of reduction in output tax liability by the supplier by way of issuing credit note; and (ii) availment of input tax credit in full, without reversing credit resulting due to credit note issued by the supplier.

The said reduction in output tax liability can also be possible on account of reduction of output tax liability by the supplier which originally was due to duplication of output tax liability, the procedure as said above would mutatis and mutandis would apply

43.2 Analysis

A. Issuance of Credit note for reduction in output tax liability:

Where the output tax is reduced by the supplier by way of issuing a credit note, details of every such credit note issued is to be matched with the corresponding reduction in the credit by the recipient by availing lower input tax credit to that extent in the return furnished for such period in which details of credit note is made available to the recipient on the portal. For example: a supply invoice was originally issued at ₹ 150,000 was overstated by ₹ 50,000, to that effect a credit note is issued by the supplier (along with tax). This credit note is to be accepted by the recipient and should result in reduction of input tax credit to the said extent in the return furnished by the recipient of the supply.

B. Reduction in output tax liability due to duplication of output liability:

Similarly, where the supplier has paid taxes twice on a particular supply by issuing tax two tax invoices or otherwise and a credit note is issued to rectify the said error, the recipient of supply shall reduce his input tax credit (only if availed credit twice) in the tax period in which such credit note is issued by the supplier and the same is made available to the portal to the recipient. same shall also be accounted by the recipient.

Additional Comments:

All procedures as prescribed in analysis of section 42 supra and related rules thereto, would equally be applicable to this section and the reference to the same can be made to understand consequences, liability to pay interest and refund of interest paid earlier by way of credit to electronic credit ledger.

Amendment by The Central Goods and Services Tax (Amendment) Act, 2018²⁸

Insertion of new section 43A.

After section 43 of the principal Act, the following section shall be inserted, namely:—

“43A. Procedure for furnishing return and availing input tax credit.

- (1) Notwithstanding anything contained in sub-section (2) of section 16, section 37 or section 38, every registered person shall in the returns furnished under sub-section (1) of section 39 verify, validate, modify or delete the details of supplies furnished by the suppliers.*
- (2) Notwithstanding anything contained in section 41, section 42 or section 43, the procedure for availing of input tax credit by the recipient and verification thereof shall be such as may be prescribed.*
- (3) The procedure for furnishing the details of outward supplies by the supplier on the common portal, for the purposes of availing input tax credit by the recipient shall be such as may be prescribed.*
- (4) The procedure for availing input tax credit in respect of outward supplies not furnished under sub-section (3) shall be such as may be prescribed and such procedure may include the maximum amount of the input tax credit which can be so availed, not exceeding twenty per cent. of the input tax credit available, on the basis of details furnished by the suppliers under the said sub-section.*
- (5) The amount of tax specified in the outward supplies for which the details have been furnished by the supplier under sub-section (3) shall be deemed to be the tax payable by him under the provisions of the Act.*
- (6) The supplier and the recipient of a supply shall be jointly and severally liable to pay tax or to pay the input tax credit availed, as the case may be, in relation to outward supplies for which the details have been furnished under sub-section (3) or sub-section (4) but return thereof has not been furnished.*
- (7) For the purposes of sub-section (6), the recovery shall be made in such manner as may be prescribed and such procedure may provide for non-recovery of an amount of tax or input tax credit wrongly availed not exceeding one thousand rupees.*

²⁸ Effective date yet to be notified

(8) *The procedure, safeguards and threshold of the tax amount in relation to outward supplies, the details of which can be furnished under sub-section (3) by a registered person,—*

(i) *within six months of taking registration;*

(ii) *who has defaulted in payment of tax and where such default has continued for more than two months from the due date of payment of such defaulted amount,*

shall be such as may be prescribed.”.

43A.1 Introduction

This is a new provision that was introduced vide CGST Amendment Act, 2018 but among various provisions that were notified from 1 Feb 2019 vide 2/2019-Central Tax dated 29 Jan 2019, this section was excluded and NOT been notified. As a result, the procedure of furnishing returns and the method of appropriation of credit as prescribed under this section are NOT APPLICABLE. Procedure prescribed for furnishing return in rule 61 and method of appropriation of credit in rule 88A ONLY WILL APPLY.

43A.2 Analysis

‘Return’ in GST assumes far greater responsibility and authority that under earlier laws. GST Return is not a procedure to be disclose what has been done but the prescribed way for:

- admitting liability on outward supplies and RCM inward supplies; and
- declaration of eligibility to credit and registering the claim for credit.

At the outset, this section overrides the following sections:

- Section 16(2) which lays down the conditions linked to claim of input tax credit (discussed as ‘vesting conditions’ under section 16);
- Section 37 which prescribes the requirement to file GSTR 1 in respect of outward supplies;
- Section 38 which prescribes the requirement to file GSTR 2 in respect of inward supplies.

And mandates that a return filed under section 39(1) MUST BE verified, validated, modified or deleted in respect of those details. This should some understanding and appreciation of the ‘role’ envisioned in Legislature for ‘returns’ in GST law.

From the terms laid down in section 43A, it becomes clear that:

- ADMISSIONS of liability on outward supplies will be in the returns filed; and
- CLAIM of input tax credit on ‘eligible’ inward supplies will be in the returns filed.

Experts are unanimous that no liability can be sustained unless there is an actual underlying supply in real terms. Mere reporting error cannot bring into existence liability on non-existent supplies.

Now to examine the nature of 'credit adjustment', the following illustration is provided in circular 98/17/2019-GST dated 23 Apr 2019:

Head	Output Liability	Input tax Credit
Integrated tax	1000	1300
Central tax	300	200
State tax / Union Territory tax	300	200
Total	1600	1700

Appropriation of tax credits available as above may be as follows:

Option 1:

Input tax Credit on account of	Discharge of output liability on account of Integrated tax	Discharge of output liability on account of Central tax	Discharge of output liability on account of State tax / Union Territory tax	Balance of Input Tax Credit
Integrated tax	1000	200	100	0
<i>Input tax Credit on account of Integrated tax has been completely exhausted</i>				
Central tax	0	100	-	100
State tax / Union territory tax	0	-	200	0
Total	1000	300	300	100

Option 2:

Input tax Credit on account of	Discharge of output liability on account of Integrated tax	Discharge of output liability on account of Central tax	Discharge of output liability on account of State tax / Union Territory tax	Balance of Input Tax Credit
Integrated tax	1000	100	200	0
<i>Input tax Credit on account of Integrated tax has been completely exhausted</i>				
Central tax	0	200	-	0
State tax / Union territory tax	0	-	100	100
Total	1000	300	300	100

From the foregoing, it becomes abundantly clear that there is only a two-step hierarchy and once credit of IGST is fully adjusted with liability of IGST, then remainder of credit of IGST may be utilized IN ANY ORDER against liability of CGST or liability of SGST.

Although section 43A is NOT YET notified, the provisions of rule 61(5) (amended by 49/2019-Central Tax dated 9 Oct 2019) endorsing GSTR 3B being 'in lieu of' return under section 39 and rule 88A permitting flow of credit through such return and its appropriation (or adjustment) in this return makes it clear that the Government is pushing through with this legislative intent.

Statutory Provisions

44. Annual return

- (1) 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 for every financial year electronically in such form and manner as may be prescribed on or before the thirty-first day of December following the end of such financial year.
- (2) Every registered person who is required to get his accounts audited in accordance with the provisions of sub-section (5) of section 35 shall furnish, electronically, the annual return under sub-section (1) along with a copy of the audited annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement, and such other particulars as may be prescribed.

²⁹Explanation. — For the purposes of this section, it is hereby declared that the annual return for the period from the 1st July, 2017 to the 31st March, 2018 shall be furnished on or before the ~~30th March, 2019~~ ^{31st March, 2019} ~~30th June 2019~~ ^{31st August, 2019} ~~30th November 2019~~

Amendment by Finance (No.2) Act, 2019³³

In section 44 of the Central Goods and Services Tax Act, in sub-section (1), the following provisos shall be inserted, namely:—

²⁹ Inserted vide Central Goods and Services Tax (Removal of Difficulties) Order, 2018-Order No. 1/2018-Central Tax dated 11.12.2018

³⁰ Substituted vide the Central Goods and Services Tax (Third Removal of Difficulties) Order, 2018-e Order No. 6/2019-Central Tax dated 26.06.2019 Prior to substitution it was read as : "31st March, 2019"

³¹ Substituted vide the Central Goods and Services Tax (Sixth Removal of Difficulties) Order, 2019 vide Order No. 6/2019-Central Tax dated 26.06.2019 Prior to substitution it was read as : "30th June, 2019"

³²Substituted vide the Central Goods and Services Tax (Seventh Removal of Difficulties) Order, 2019 vide Order No. 7/2019-Central Tax dated 26.08.2019. Prior to substitution it was read as : "31st August, 2019"

³³ Effective date yet to be notified

“Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual return for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.”.

Extract of the CGST Rules, 2017

80. Annual return.-

- (1) *Every registered person, other than those referred to in the proviso to sub-section (5) of section 35, 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 as specified under sub-section (1) of section 44 electronically in FORM GSTR-9 through the common portal either directly or through a Facilitation Centre notified by the Commissioner:*

Provided that a person paying tax under section 10 shall furnish the annual return in FORM GSTR-9A.

- (2) *Every electronic commerce operator required to collect tax at source under section 52 shall furnish annual statement referred to in sub-section (5) of the said section in FORM GSTR -9B.*
- (3) *Every registered person whose aggregate turnover during a financial year exceeds two crore rupees shall get his accounts audited as specified under sub-section (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in FORM GSTR-9C, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.*

Related provisions of the Statute

Section or Rule	Description
Section 2(6)	Definition of aggregate turnover
Section 2(94)	Definition of registered person
Section 16	Eligibility and Conditions for Taking Input Tax Credit
Section 17	Apportionment of Credits and Blocked Credits
Section 37	Furnishing details of outward supplies

Section 38	Furnishing details of inward supplies
Section 39	Furnishing of returns
Section 47	Levy of late fee
Section 49	Payment of tax, interest, penalty and other amounts

44.1 Introduction

This section applies to all registered taxable person other than person registered as,

- An Input Service Distributor;
- A person liable to deduct tax under Section 51 (TDS) – Provision suspended till 30.09.2018;
- A person liable to collect tax at source under Section 52 (TCS) – Provision suspended till 30.09.2018;
- A casual tax Taxable person; and
- Non-resident taxable person.

Due date for filing Annual Return is on or before 31st December, following the end of the financial year to which the said Annual return is to be submitted.

44.2 Analysis

- (a) Every taxable person (other than those covered in the exclusion list specified supra) is required to file an annual return in **FORM GSTR-9**;
- (b) Person paying tax under composition scheme in terms of section 10 of this Act will be required to furnish annual return in **Form GSTR 9A**;

The said annual return is to be submitted electronically by persons specified in (a) and (b) supra, for every financial year on or before 31st day of December of the following the end of financial year, to which such annual return pertains to.

The same has been extended for 30th Nov 2019 for the Financial year 2017-18, vide Order No. 7/2019-Central Tax dated 26th Aug 2019.

Every person, whose aggregate turnover exceeds ₹ Two crores, who is required to get his accounts audited in terms of section 35(5) of this Act, shall in addition to annual return in 9, 9A as the case may be, furnish a copy of audited financial statements along with reconciliation statement in **Form GSTR 9C**, electronically.

Vide Notification No. 74/2018 – Central Tax dated 31st Dec, 2018 format of FORM GSTR 9C is notified. Reference may be had to the handbook released by ICAI with regard to GST Audit.

Further, Notification No. 47/2019 dated 9th October, 2019 made filing of annual return under section 44 (1) of CGST Act for F.Y. 2017-18 and 2018-19 optional for small taxpayers whose aggregate turnover is less than Rs 2 crores and who have not filed the said return before the due date.

Applicability of 9C

Branch 1 (Turnover)	Branch 2 (Turnover)	Whether 9C is required ?
Karnataka 100 L	Tamil Nadu 5L	Both state not required
Karnataka 199L	Assam 2 L	Both state required
Karnataka 210L	Kerala Re.1	Both state required
Karnataka 110 L + 50 L worth goods sent to Tamilnadu branch	TN 50 L	Both state required
Karnataka exclusively exempted goods 250L registration not taken	Tamil Nadu taxable goods 5L	Only in Tamil Nadu
Karnataka total sale 90L plus 50 L transfer to Mysore branch from Blr	Mysore Branch Sale 90L	Both state not required

Nature of Income 1	Nature of Income 2	Whether 9C is required ?
Rent from residential building 150L	Sale of garments 60L	Required
Sale of petrol 190L	engine oil 20L	Required
Salary received 180L	Sale of stationery 30L	Not Required
Sale of land 190L	Construction service 30L	Not Required
Sales 180L (including GST collected Rs.30 Lacs)	-	Not Required
Sales 180L with GST	Inward RCM 30L	Not Required

Statutory Provisions

45. Final return

Every registered person who is required to furnish a return under sub-section (1) of section 39 and whose registration has been cancelled shall furnish a final return within three months of the date of cancellation or date of order of cancellation, whichever is later, in such form and manner as may be prescribed.

Extract of the CGST Rules, 2017**81. Final return**

Every registered person required to furnish a final return under section 45, shall furnish such return electronically in FORM GSTR-10 through the common portal either directly or through a Facilitation Centre notified by the Commissioner.

Related provisions of the Statute

Section or Rule	Description
Section 18	Availability of credit in special circumstances
Section 25	Cancellation of registration
Section 37	Furnishing details of Outward supplies
Section 38	Furnishing details of inward supplies
Section 39	Furnishing of returns
Section 47	Levy of late fee
Section 49	Payment of tax, interest, penalty and other amounts

45.1 Introduction

This section applies to all registered taxable person other than persons registered as,

- Input Service Distributor;
- A person paying tax under Section 51 (TDS) – Provision suspended till 30.06.2018;
- A person paying tax under Section 52 (TCS) – Provision suspended till 30.06.2018;
- Non-resident taxable person; and
- A person paying tax under Section (10) composition levy.

45.2 Analysis

Every registered person whose registration is cancelled (suo moto or on an application made by applicant i.e., voluntary cancellation) shall file a final return in **FORM GSTR-10** through the common portal within 3 months from the date of cancellation (in case of voluntary cancellation) or date of order of cancellation (forceful cancellation by authority), whichever is later.

Details, which shall be made available in the Final return to be furnished in Form GSTR 10, is available in CGST Rules, 2017 as latest amended on 18.04.2018 vide Notification No. 21/2018 – Central Tax dated 18.04.2018.

Most important information, is that this return would require a person whose registration is cancelled, to furnish, is as follows:

- (a) The details of value (after adjustment of credit/debit notes) and quantity of inputs held in stock, inputs contained in semi-finished or finished goods held in stock and capital goods /plant and machinery.
- (b) The details of credit availed / reversed as per the provisions of GST law and tax payable if any.
- (c) Details of amount to be payable on cancellation of registration through Electronic Cash Ledger/ Electronic Credit Ledger.
- (d) Details of interest / late fee if any payable and paid details.
- (e) State-wise summary of supplies, rate-wise, should be uploaded in Table 7 of the Form GSTR-1.

Further, it is also important to take care of the following things while furnishing final return in **Form GSTR 10**.

- (a) While providing details of inputs held in stock, inputs contained in semi-finished goods or finished goods as the case may be:

- Where the tax invoices related to the inputs held in stock or inputs contained in semi-finished or finished goods held in stock are not available, the registered person shall estimate the value of inputs available in stock (in all three forms) for the purpose of reversal, is based on the on prevailing market price of the goods

Note: The details of stock for which invoices are not available, shall be certified by a Chartered Accountant or Cost Accountant and needs to be furnished with final return filed in Form GSTR 10.

- In case of capital goods / plant and machinery, the value for the purpose of arriving at the value of input tax to be reversed or paid, should be the invoice value reduced by 1/60th value per month or part thereof, from the date of invoice / purchase taking useful life as five years. For example: if the asset value was say ₹ 5 Lac and input tax credit availed on the same was ₹ 90,000 (at 18%), the said asset was put to use for say 48 months as on the date of cancellation of registration, then in such case amount of reversal would be calculated as follows:

Amount of input tax credit eligible, till the date of cancellation - ₹ 90,000 / 60 * 48 = ₹ 72,000/-.

Amount of input tax credit to be reversed / paid in cash - ₹ 90,000 / 60 * 12 = ₹ 18,000/-.

Statutory Provisions**46. Notice to return defaulters**

Where a registered person fails to furnish a return under section 39 or section 44 or section 45, a notice shall be issued requiring him to furnish such return within fifteen days in such form and manner as may be prescribed.

Related provisions of the Statute:

Section or Rule	Description
Section 37	Furnishing details of outward supplies
Section 38	Furnishing details of inward supplies
Section 39	Furnishing of returns
Section 47	Levy of late fee
Section 49	Payment of tax, interest, penalty and other amounts
Section 62	Assessment of non-filers of returns

46.1 Introduction

This section applies to all registered persons who fail to furnish return under section 39 or section 44 and includes final return to be furnished in terms of section 45 of CGST Act, 2017.

46.2 Analysis**Notice to defaulter**

Notice in **FORM GSTR-3A** shall be issued electronically to a registered person, who has failed to file return(s) under 39 (monthly return) and under section 44 (annual return) requiring him to file all such return(s) within 15 days from the date of serving of notice.

It is important to note that, a registered person who has failed to furnish return(s) as prescribed under section 39 including annual return under section 44, read with relevant rules thereto even after serving of notice as specified supra, the proper officer in such cases, can proceed with making a best judgement assessment on the basis of information available with him or gathered by him, anytime within 5 years from the due date prescribed for filing annual return under section 44 of CGST Act, 2017 for that particular year, and issue an assessment order to that effect (reference to Rule 100(1) of CGST Rules, 2017 can be made).

However, where the return(s) are furnished by a person on whom such order is served, within 30 days from the date of serving of order, the order issued will stand withdrawn but the liability to pay interest for delay in payment and late fee for delay in furnishing returns would continue. Refer detailed discussion under section 62 with respect to notice under 46.

Statutory Provisions**47. Levy of late fee**

- (1) Any registered person who fails to furnish the details of outward or inward supplies required under section 37 or section 38 or returns required under section 39 or section 45 by the due date shall pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum amount of five thousand rupees.
- (2) Any registered person who fails to furnish the return required under section 44 by the due date shall be liable to pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum of an amount calculated at a quarter per cent. of his turnover in the State or Union territory.

Related provisions of the Statute:

Section or Rule	Description
Section 2(112)	Definition turnover in the State or turnover in Union territory
Section 37	Furnishing details of outward supplies
Section 38	Furnishing details of inward supplies
Section 39	Furnishing of returns
Section 44	Annual return
Section 46	Notice to return defaulters
Section 49	Payment of tax, interest, penalty and other amounts

47.1 Introduction

This provision provides for late fee applicable on belated filing of statement / return(s) including belated filing of annual return.

47.2 Analysis

For late filing of return, late fee as specified below will apply:

Defaulted Return	Late fee under each CGST & SGST / UTGST Law	Revised late fee under each CGST & SGST / UTGST Law
Details of Outward Supplies (Ref: Section 37)	₹ 100 per day of delay with cap on maximum late fee of ₹ 5,000	₹ 25 per day each under CGST /SGST of delay (maximum of ₹ 5,000) In case of NIL return – ₹ 10 per day of delay maximum of ₹ 5000

Details of Inward Supplies (Ref: Section 38)	same as above	Not Applicable – As Form GSTR 2 is suspended for indefinite period
Monthly Return (Ref: Section 39) – GSTR 3 / GSTR 3B	same as above	₹ 25 per day of delay (maximum of ₹ 5,000) In case of NIL return – ₹ 10 per day of delay maximum of ₹ 5000
Details of Supplies made by Composition dealers (Ref Sec 39(2))	₹ 100 per day of delay with cap on maximum late fee of ₹ 5,000	₹ 25 per day of delay (maximum of ₹ 5,000) In case of nil return – ₹ 10 per day of delay maximum of ₹ 5000
Annual Return (Sec 44)	₹ 100 per day of delay with cap on maximum amount = 0.25% on turnover in the state / UT*	No revision
Final Return in case of cancellation of registration (Sec 45)	Same as applicable to regular return / statement	No revision

(Refer Note No. 2 at the end of the chapter, for details of Notification reducing late fee for returns to be furnished in Form GSTR 1 and GSTR 3B.

* “turnover in State” or “turnover in Union territory” means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis) and exempt supplies made within a State or Union territory by a taxable person, exports of goods or services or both and inter-State supplies of goods or services or both made from the State or Union territory by the said taxable person but excludes central tax, State tax, Union territory tax, integrated tax and cess.

However, by way of Notification No. 1/2018 – Central Tax dated 01.01.2018, trader will have to pay taxes at 1% (0.5% CGST and 0.5% SGST) on turnover of taxable supply of goods in the State / Union territory, by this logic the late fee should also be calculated only on value of taxable supplies for the purpose of levy of late fee on belated annual return furnished in Form 9A, by composition taxpayer being a trader. However, contradictory view is also possible to say that the restricted meaning was provided only for the purpose of collecting taxes on supply of taxable goods and not otherwise.

Statutory Provisions**48. Goods and services tax practitioners**

- (1) *The manner of approval of goods and services tax practitioners, their eligibility conditions, duties and obligations, manner of removal and other conditions relevant for their functioning shall be such as may be prescribed.*
- (2) *A registered person may authorise an approved goods and services tax practitioner to furnish the details of outward supplies under section 37, the details of inward supplies under section 38 and the return under section 39 or section 44 or section 45 **and to perform such other functions**³⁴ in such manner as may be prescribed.*
- (3) *Notwithstanding anything contained in sub-section (2), the responsibility for correctness of any furnished in the return or other details filed by the goods and services tax practitioners shall continue to rest with the registered person on whose behalf such return and details are furnished.*

Extract of the CGST Rules, 2017**83. Provisions relating to a goods and services tax practitioner.-**

- (1) *An application in FORM GST PCT-01 may be made electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner for enrolment as goods and services tax practitioner by any person who,*
 - (i) *is a citizen of India;*
 - (ii) *is a person of sound mind;*
 - (iii) *is not adjudicated as insolvent;*
 - (iv) *has not been convicted by a competent court;**and satisfies any of the following conditions, namely:-*
 - (a) *that he is a retired officer of the Commercial Tax Department of any State Government or of the [Central Board of Indirect Taxes]³⁵ and Customs, Department of Revenue, Government of India, who, during his service under the Government, had worked in a post not lower than the rank of a Group-B gazetted officer for a period of not less than two years; or*
 - (b) *that he has enrolled as a sales tax practitioner or tax return preparer under the existing law for a period of not less than five years;*
 - (c) *he has passed,*

³⁴ Inserted vide The Central Goods & Services Amendment Act

³⁵ Substituted vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019

- (i) a graduate or postgraduate degree or its equivalent examination having a degree in Commerce, Law, Banking including Higher Auditing, or Business Administration or Business Management from any Indian University established by any law for the time being in force; or
- (ii) a degree examination of any Foreign University recognised by any Indian University as equivalent to the degree examination mentioned in sub-clause (i); or
- (iii) any other examination notified by the Government, on the recommendation of the Council, for this purpose; or
- (iv) has passed any of the following examinations, namely:
- (a) final examination of the Institute of Chartered Accountants of India; or
 - (b) final examination of the Institute of Cost Accountants of India; or
 - (c) final examination of the Institute of Company Secretaries of India.
- (2) On receipt of the application referred to in sub-rule (1), the officer authorised in this behalf shall, after making such enquiry as he considers necessary, either enrol the applicant as a goods and services tax practitioner and issue a certificate to that effect in FORM GST PCT-02 or reject his application where it is found that the applicant is not qualified to be enrolled as a goods and services tax practitioner.
- (3) The enrolment made under sub-rule (2) shall be valid until it is cancelled
- Provided that no person enrolled as a goods and services tax practitioner shall be eligible to remain enrolled unless he passes such examination conducted at such periods and by such authority as may be notified by the Commissioner on the recommendations of the Council:*
- Provided further that no person to whom the provisions of clause (b) of sub-rule (1) apply shall be eligible to remain enrolled unless he passes the said examination within a period of [thirty months]³⁶ from the appointed date.*
- (4) If any goods and services tax practitioner is found guilty of misconduct in connection with any proceedings under the Act, the authorised officer may, after giving him a notice to show cause in FORM GST PCT-03 for such misconduct and after giving him a reasonable opportunity of being heard, by order in FORM GST PCT -04 direct that he shall henceforth be disqualified under section 48 to function as a goods and services tax practitioner.
- (5) Any person against whom an order under sub-rule (4) is made may, within thirty days

³⁶ Substituted for the word —eighteen months vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019

from the date of issue of such order, appeal to the Commissioner against such order.

(6) *Any registered person may, at his option, authorise a goods and services tax practitioner on the common portal in FORM GST PCT-05 or, at any time, withdraw such authorisation in FORM GST PCT-05 and the goods and services tax practitioners authorised shall be allowed to undertake such tasks as indicated in the said authorisation during the period of authorisation.*

(7) *Where a statement required to be furnished by a registered person has been furnished by the goods and services tax practitioner authorised by him, a confirmation shall be sought from the registered person over email or SMS and the statement furnished by the goods and services tax practitioner shall be made available to the registered person on the common portal:*

Provided that where the registered person fails to respond to the request for confirmation till the last date of furnishing of such statement, it shall be deemed that he has confirmed the statement furnished by the goods and services tax practitioner.

[(8) *A goods and services tax practitioner can undertake any or all of the following activities on behalf of a registered person, if so authorised by him to-*

(a) furnish the details of outward and inward supplies;

(b) furnish monthly, quarterly, annual or final return;

(c) make deposit for credit into the electronic cash ledger;

(d) file a claim for refund;

(e) file an application for amendment or cancellation of registration;

(f) furnish information for generation of e-way bill;

(g) furnish details of challan in FORM GST ITC-04;

(h) file an application for amendment or cancellation of enrolment under rule 58; and

(i) file an intimation to pay tax under the composition scheme or withdraw from the said scheme

Provided that where any application relating to a claim for refund or an application for amendment or cancellation of registration or where an intimation to pay tax under composition scheme or to withdraw from such scheme has been submitted by the goods and services tax practitioner authorised by the registered person, a confirmation shall be sought from the registered person and the application submitted by the said practitioner shall be made available to the registered person on the common portal and

such application shall not be further proceeded with until the registered person gives his consent to the same.]³⁷

- (9) *Any registered person opting to furnish his return through a goods and services tax practitioner shall-*
- (a) *give his consent in FORM GST PCT-05 to any goods and services tax practitioner to prepare and furnish his return; and*
 - (b) *before confirming submission of any statement prepared by the goods and services tax practitioner, ensure that the facts mentioned in the return are true and correct.*
- (10) *The goods and services tax practitioner shall-*
- (a) *prepare the statements with due diligence; and*
 - (b) *affix his digital signature on the statements prepared by him or electronically verify using his credentials.*
- (11) *A goods and services tax practitioner enrolled in any other State or Union territory shall be treated as enrolled in the State or Union territory for the purposes specified in sub-rule (8).*

[83A. Examination of Goods and Services Tax Practitioners.-

- (1) *Every person referred to in clause (b) of sub-rule (1) of rule 83 and who is enrolled as a goods and services tax practitioner under sub-rule (2) of the said rule, shall pass an examination as per sub-rule (3) of the said rule.*
- (2) *The National Academy of Customs, Indirect Taxes and Narcotics (hereinafter referred to as "NACIN") shall conduct the examination.*
- (3) *Frequency of examination.- The examination shall be conducted twice in a year as per the schedule of the examination published by NACIN every year on the official websites of the Board, NACIN, common portal, GST Council Secretariat and in the leading English and regional newspapers.*
- (4) *Registration for the examination and payment of fee.-*
- (i) *A person who is required to pass the examination shall register online on a website specified by NACIN.*
 - (ii) *A person who registers for the examination shall pay examination fee as specified by NACIN, and the amount for the same and the manner of its payment shall be specified by NACIN on the official websites of the Board, NACIN and common portal.*
- (5) *Examination centers.- The examination shall be held across India at the designated*

³⁷ Substituted vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019

centers. The candidate shall be given an option to choose from the list of centers as provided by NACIN at the time of registration.

- (6) *Period for passing the examination and number of attempts allowed.-*
- (i) *A person enrolled as a goods and services tax practitioner in terms of sub-rule (2) of rule 83 is required to pass the examination within two years of enrolment:*
Provided that if a person is enrolled as a goods and services tax practitioner before 1st of July 2018, he shall get one more year to pass the examination:
Provided further that for a goods and services tax practitioner to whom the provisions of clause (b) of sub-rule (1) of rule 83 apply, the period to pass the examination will be as specified in the second proviso of sub-rule (3) of said rule.
- (ii) *A person required to pass the examination may avail of any number of attempts but these attempts shall be within the period as specified in clause (i).*
- (iii) *A person shall register and pay the requisite fee every time he intends to appear at the examination.*
- (iv) *In case the goods and services tax practitioner having applied for appearing in the examination is prevented from availing one or more attempts due to unforeseen circumstances such as critical illness, accident or natural calamity, he may make a request in writing to the jurisdictional Commissioner for granting him one additional attempt to pass the examination, within thirty days of conduct of the said examination. NACIN may consider such requests on merits based on recommendations of the jurisdictional Commissioner.*
- (7) *Nature of examination.-The examination shall be a Computer Based Test. It shall have one question paper consisting of Multiple Choice Questions. The pattern and syllabus are specified in Annexure-A.*
- (8) *Qualifying marks.- A person shall be required to secure fifty per cent. of the total marks.*
- (9) *Guidelines for the candidates.-*
- (i) *NACIN shall issue examination guidelines covering issues such as procedure of registration, payment of fee, nature of identity documents, provision of admit card, manner of reporting at the examination center, prohibition on possession of certain items in the examination center, procedure of making representation and the manner of its disposal.*
- (ii) *Any person who is or has been found to be indulging in unfair means or practices shall be dealt in accordance with the provisions of sub-rule (10). An illustrative list of use of unfair means or practices by a person is as under: -*
- (a) *obtaining support for his candidature by any means;*
- (b) *impersonating;*

- (c) *submitting fabricated documents;*
 - (d) *resorting to any unfair means or practices in connection with the examination or in connection with the result of the examination;*
 - (e) *found in possession of any paper, book, note or any other material, the use of which is not permitted in the examination center;*
 - (f) *communicating with others or exchanging calculators, chits, papers etc. (on which something is written);*
 - (g) *misbehaving in the examination center in any manner;*
 - (h) *tampering with the hardware and/or software deployed; and*
 - (i) *attempting to commit or, as the case may be, to abet in the commission of all or any of the acts specified in the foregoing clauses.*
- (10) *Disqualification of person using unfair means or practice.- If any person is or has been found to be indulging in use of unfair means or practices, NACIN may, after considering his representation, if any, declare him disqualified for the examination.*
- (11) *Declaration of result.- NACIN shall declare the results within one month of the conduct of examination on the official websites of the Board, NACIN, GST Council Secretariat, common portal and State Tax Department of the respective States or Union territories, if any. The results shall also be communicated to the applicants by e-mail and/or by post.*
- (12) *Handling representations.- A person not satisfied with his result may represent in writing, clearly specifying the reasons therein to NACIN or the jurisdictional Commissioner as per the procedure established by NACIN on the official websites of the Board, NACIN and common portal.*
- (13) *Power to relax.- Where the Board or State Tax Commissioner is of the opinion that it is necessary or expedient to do so, it may, on the recommendations of the Council, relax any of the provisions of this rule with respect to any class or category of persons.*
- Explanation :- For the purposes of this sub-rule, the expressions –*
- (a) *“jurisdictional Commissioner” means the Commissioner having jurisdiction over the place declared as address in the application for enrolment as the GST Practitioner in FORM GST PCT-1. It shall refer to the Commissioner of Central Tax if the enrolling authority in FORM GST PCT-1 has been selected as Centre, or the Commissioner of State Tax if the enrolling authority in FORM GST PCT-1 has been selected as State;*
 - (b) *NACIN means as notified by notification No. 24/2018-Central Tax, dated 28.05.2018.*

<i>Pattern and Syllabus of the Examination PAPER: GST Law & Procedures:</i>	
<i>Time allowed:</i>	<i>2 hours and 30 minutes</i>
<i>Number of Multiple Choice Questions:</i>	<i>100</i>
<i>Language of Questions:</i>	<i>English and Hindi</i>
<i>Maximum marks:</i>	<i>200</i>
<i>Qualifying marks:</i>	<i>100</i>
<i>No negative marking</i>	
Syllabus:	
1	The Central Goods and Services Tax Act, 2017
2	The Integrated Goods and Services Tax Act, 2017
3	All The State Goods and Services Tax Acts, 2017
4	The Union territory Goods and Services Tax Act, 2017
5	The Goods and Services Tax (Compensation to States) Act, 2017
6	The Central Goods and Services Tax Rules, 2017
7	The Integrated Goods and Services Tax Rules, 2017
8	All The State Goods and Services Tax Rules, 2017
9	Notifications, Circulars and orders issued from time to time under the said Acts and Rules.

] ³⁸**[83B. Surrender of enrolment of goods and service tax practitioner.-**

- (1) A goods and services tax practitioner seeking to surrender his enrolment shall electronically submit an application in FORM GST PCT-06, at the common portal, either directly or through a facilitation centre notified by the Commissioner.
- (2) The Commissioner, or an officer authorised by him, may after causing such enquiry as

³⁸ Inserted vide Notf no. 60/2018 – CT dt. 30.10.2018

deemed fit and by order in FORM GST PCT-07, cancel the enrolment of such practitioner.]³⁹

84. Conditions for purposes of appearance.-

- (1) *No person shall be eligible to attend before any authority as a goods and services tax practitioner in connection with any proceedings under the Act on behalf of any registered or un-registered person unless he has been enrolled under rule 83.*
- (2) *A goods and services tax practitioner attending on behalf of a registered or an unregistered person in any proceedings under the Act before any authority shall produce before such authority, if required, a copy of the authorisation given by such person in FORM GST PCT-05.*

48.1 Introduction

This provision relates to:

- Procedure to be followed in appointment / termination of specified persons as Goods and Service Tax Practitioners (GSTPs)
- Activities, which can be performed or services that can be offered by a person eligible for appointment as GST practitioner.

48.2 Analysis

The procedure as prescribed in Rule 83 of CGST Rules, 2017 supra, is to be followed to enrol as a Goods and Services Tax Practitioner (GSTP). The eligibility and disqualifications from enrolment as GSTP is also provided in the said rule.

Further, procedure and purposes for which a registered person can appoint a GSTP and duties of GSTP in relation to activities specified, is also clearly provided in the rule.

Activities, such as application for refund and cancellation of registration it is important to note that though the application is made by GSTP, approval / confirmation of the information by the registered person of information submitted by GSTP is mandatory.

A GST practitioner can undertake any or all of the following activities on behalf of a registered person, if so authorised by the registered person viz.,

- (a) furnish details of outward and inward supplies;
- (b) furnish monthly, quarterly, annual or final return;
- (c) make deposit for credit into the electronic cash ledger;
- (d) file a claim for refund; and
- (e) file an application for amendment or cancellation of registration.

³⁹ Inserted vide Notf no. 33/2019-CT dt. 18.07.2019 with effect from a date to be notified later

Notes to the Chapter:

Note 1. Filing of GSTR-2 and GSTR-3 have been suspended for indefinite period. As such, all provisions relating to filing of details of inward supply in GSTR-2, monthly return in GSTR-3, matching provisions specified in section 42 and section 43 shall not be applicable till the date government prescribes the new model of returns and issue notification(s) in this regard.

Note 2. Late fees for failure to file GSTR-3B has been waived for the months of July 2017, August 2017 and September 2017. From October 2017, the late fees has been reduced to twenty five rupees per day (both under CGST, SGST / UTGST) and where the central tax payable is nil, the late fee is restricted to ten rupees per day (both under CGST and SGST / UTGST / IGST). Refer table in Para 47.2 supra.

Note 3. Non-filing of GST Returns for two consecutive tax periods/ months would debar the taxpayer from generating any e-way bill

In a bid to force non-compliant businesses to file returns regularly, the finance ministry has barred e-way bill generation while transporting consignment if the supplier or recipient of the cargo has not furnished returns for

- two consecutive tax periods under GST in case of Composition Tax Payer
- a consecutive period of two months, in case of person other than Composition Tax Payer

Annexure A**Revised / Applicable due dates:**

Type of Return:	Tax period	Due date	Reference
GSTR - 1 (Quarterly)	July 2017 to Sep 2017	31.10.2018	Notification No. 43/2018, dated 10 th Sep 2018
	Oct 2017 to Dec 2017	31.10.2018	
	Jan 2018 to Mar 2018	31.10.2018	
	Apr 2018 to June 2018	31.10.2018	
	July 2018 to Sep 2018	31.10.2019	Notification No. 43/2018, dated 10 th Sep 2018, whose principal place of business is not in Srikakulam district in the state of Andhra Pradesh, In the State of Kerala & in Mahe in the UT of Puducherry & in Kodagu district in the State of Karnataka

	July 2018 to Sep 2018	30.11.2018	Notification No. 64/2018 - Central Tax dated 29.11.2018. Whose principal place of business is in Srikakulam district in the state of Andhra Pradesh
	July 2018 to Sep 2018	15 th Nov 2018	Notification No. 43/2018, dated 10 th Sep 2018, registered persons in the State of Kerala, in Mahe in the UT of Puducherry & in Kodagu district in the State of Karnataka
	July 2017 to Sep 2018	31 st Dec 2018	Notification No. 43/2018, dated 10 th Sep 2018 For the taxpayers who have obtained Goods and Services Tax Identification Number (GSTIN) in terms of notification No. 31/2018 Newly Migrated
	Oct 2018 to Dec 2018	31.01.2019	Notification No. 43/2018, dated 10 th Sep 2018
	Jan 2019 to March 2019	30.04.2019	Notification No. 43/2018, dated 10 th Sep 2018
	April 2019 to June 2019	31 st July 2019	Notification No. 11/2019, dated 7 th March 2019
	July 2019 to Sept 2019	31 st Oct 2019	Notification No. 27/2019, dated 7 th March 2019
GSTR - 1 (Monthly)	July 2017 to June 18	31.10.2018	Notification No.44/2018 - Central Tax dated 10.09.2018
	July 18 to Aug 18	31.10.2018	Notification No.44/2018 - Central Tax dated 10.09.2018, Not registered persons in the State of Kerala, Not having principal place of business is in Kodagu district in the State of Karnataka; and registered persons whose principal

			place of business is in Mahe in the Union territory of Puducherry
Sep-18	31.10.2018		Notification No.44/2018 - Central Tax dated 10.09.2018 ,whose principal place of business is not in Srikakulam district in the state of Andhra Pradesh
Sep-18	30-11-2018		Notification No. 63/2018 - Central Tax dated 29.11.2018. Whose principal place of business is in Srikakulam district in the state of Andhra Pradesh
Oct-18	11.11.2018		Notification No.44/2018 - Central Tax dated 10.09.2018 , whose principal place of business is not in Srikakulam district in the state of Andhra Pradesh & some districts of Tamil Nadu
Oct-18	30-11-2018		Notification No. 63/2018 - Central Tax dated 29.11.2018. Whose principal place of business is in Srikakulam district in the state of Andhra Pradesh
Oct-18	20-12-2018		Notification No. 63/2018 - Central Tax dated 29.11.2018. Whose principal place of business is in Cuddalore, Thiruvarur, Pudukottai, Dindigul, Nagapatinam, Theni, Thanjavur, Sivagangai, Tiruchirappalli, Karur and Ramanathapuram in the State of Tamil Nadu

	Nov-18	11.12.2018	Notification No.44/2018 - Central Tax dated 10.09.2018
	Dec-18	11.01.2018	Notification No.44/2018 - Central Tax dated 10.09.2018
	July 17 to Nov 18	31 st Dec 2018	For the taxpayers who have obtained Goods and Services Tax Identification Number (GSTIN) in terms of notification No. 31/2018 Newly Migrated.
	Jan-19	11.02.2019	Notification No.44/2018 - Central Tax dated 10.09.2018
	Feb-19	11.03.2019	Notification No.44/2018 - Central Tax dated 10.09.2018
	March-19	11.04.2019	Notification No.44/2018 - Central Tax dated 10.09.2018
	April 2019	11 th May 2019	Notification No.12/2019 - Central Tax dated 07.03.2019
		10 th June, 2019	for registered persons whose principal place of business is in the districts of Angul, Balasore, Bhadrak, Cuttack, Dhenkanal, Ganjam, Jagatsinghpur, Jajpur, Kendrapara, Keonjhar, Khordha, Mayurbhanj, Nayagarh and Puri in the State of Odisha - vide Notification date 23/2019 dated 11 th May 2019
	May 2019	11 th June 2019	Notification No.12/2019 - Central Tax dated 07.03.2019
	June 2019	11 th July 2019	Notification No.12/2019 - Central Tax dated 07.03.2019
	July 2019	11 th Aug 2019	Notification No.28/2019 - Central Tax dated 28.06.2019

	Aug 2019	11 th Sept 2019	Notification No.28/2019 - Central Tax dated 28.06.2019
	Sept 2019	11 th Oct 2019	Notification No.28/2019 - Central Tax dated 28.06.2019
GSTR - 3B	Jul-17	25/28.08.2017	Notification No. 23 & 24/2017 - Central Tax dated 17.08.2017 and 21.08.2017 respectively
	Aug-17	20.09.2017	
	Sep-17	20.10.2017	Notification No.35/2017 Central Tax dated 15.09.2017 & Notification No. 2/2018 - Central Tax dated 20.01.2018 (for January only)
	Oct-17	20.11.2017	
	Nov-17	20.12.2017	
	Dec-17	22.01.2018	Notification No. 56/2017 – Central Tax dated 15.11.2017 & Notification No.16/2018 – Central Tax dated 23.03.2018
	Jan-18	20.02.2018	
	Feb-18	20.03.2018	
	Mar-18	20.04.2018	
	Apr-18	20.05.2018	
	May-18	20.06.2018	
	Jun-18	20.07.2018	Notification 35/2018 Central tax dated 21 st Aug 2018 person other than registered persons in the State of Kerala, registered persons whose principal place of business is in Kodagu district in the State of Karnataka; and in Mahe in the Union territory of Puducherry
	July -18	24.08.2018	
		July -18	05-10-2018

	Aug-18	20.09.2018	Notification 34/2018 Central tax dated 10 th Aug 2018 person other than registered persons in the State of Kerala, registered persons whose principal place of business is in Kodagu district in the State of Karnataka; and in Mahe in the Union territory of Puducherry
	Aug-18	10-10-2018	registered persons in the State of Kerala, registered persons whose principal place of business is in Kodagu district in the State of Karnataka; and in Mahe in the Union territory of Puducherry
	Sep-18	25.10.2018	Notification 55/2018 Central tax dated 21 st Oct 2018, whose principal place of business is not in Srikakulam district in the state of Andhra Pradesh
	Sep-18	30-11-2018	Notification No. 62/2018 - Central Tax dated 29.11.2018. Whose principal place of business is in Srikakulam district in the state of Andhra Pradesh
	Oct-18	20.11.2018	Notification 34/2018 Central tax dated 10 th Aug 2018, whose principal place of business is not in Srikakulam district in the state of Andhra Pradesh & some districts of Tamil Nadu
	Oct-18	30-11-2018	Notification No. 62/2018 - Central Tax dated 29.11.2018. Whose principal

			place of business is in Srikakulam district in the state of Andhra Pradesh
Oct-18	20-12-2018		Notification No. 62/2018 - Central Tax dated 29.11.2018. Whose principal place of business is in Cuddalore, Thiruvarur, Pudukottai, Dindigul, Nagapatinam, Theni, Thanjavur, Sivagangai, Tiruchirappalli, Karur and Ramanathapuram in the State of Tamil Nadu
Nov-18	20.12.2018		Notification 34/2018 Central tax dated 10 th Aug 2018
Dec-18	20.01.2018		Notification 34/2018 Central tax dated 10 th Aug 2018
July 17 to Nov 18	31 st Dec 2018		Taxpayers who have obtained Goods and Services Tax Identification Number (GSTIN) in terms of notification No. 31/2018 (newly migrated persons)
Jan-19	20.02.2019		Notification 34/2018 Central tax dated 10 th Aug 2018
Feb-19	20.03.2019		Notification 34/2018 Central tax dated 10 th Aug 2018
March-19	20.04.2019		Notification 34/2018 Central tax dated 10 th Aug 2018
April 2019	20 th May 2019		Notification No.13/2019 - Central Tax dated 07.03.2019
	20 th June, 2019		for registered persons whose principal place of business is in the districts of Angul, Balasore, Bhadrak, Cuttack, Dhenkanal, Ganjam, Jagatsinghpur, Jajpur, Kendrapara, Keonjhar,

			Khordha, Mayurbhanj, Nayagarh and Puri in the State of Odisha - vide Notification date 24/2019 dated 11 th May 2019
	May 2019	20 th June 2019	Notification No.13/2019 - Central Tax dated 07.03.2019
	June 2019	20 th July 2019	Notification No.13/2019 - Central Tax dated 07.03.2019
	July 2019	20 th Aug 2019	Notification No.29/2019 - Central Tax dated 28.06.2019
	Aug 2019	20 th Sept 2019	Notification No.29/2019 - Central Tax dated 28.06.2019
	Sept 2019	20 th Oct 2019	Notification No.29/2019 - Central Tax dated 28.06.2019
GSTR – 4	July 2017 to Sept 2017	24.12.2017	Notification No. 59/2017 - Central Tax dated 15.11.2017
	Oct 2017 to Dec 2017	18.01.2018	No Notification issued and date as per law continues
	Jan 2018 to Mar 2018	18.04.2018	No extension as of now [as per section 39(2) due date is provided]
	Apr 2018 to June 2018	18.07.2018	
	July 18 to Sep 2018	18.10.2018	No Notification issued and date as per law continues, whose principal place of business is not in Srikakulam district in the state of Andhra Pradesh
	July 18 to Sep 2018	30.11.2018	Notification No. 65/2018 - Central Tax dated 29.11.2018. Whose principal place of business is in Srikakulam district in the state of Andhra Pradesh
Oct 18 to Dec 2018	18.01.2019	No Notification issued and date as per law continues	

	Jan 19 to Mar 2019	18.04.2019	No Notification issued and date as per law continues
	April 2019 to March 2020	30 th April 2019	Notification No. 21/2019 - Central Tax dated 23 rd April 2019
CMP 08	Apr 2019 to June 2019	31 st Aug 2019	Notification No. 35/2019 - Central Tax dated 29 th July 2019
	July 19 to Sep 2019	22 nd Oct 2019	Notification No. 50/2019 - Central Tax dated 24 th October 2019
	Oct 19 to Dec 2019	18 th Jan 2020	Notification No. 21/2019 - Central Tax dated 23 rd April 2019
	Jan 20 to Mar 2020	18 th Apr 2020	Notification No. 21/2019 - Central Tax dated 23 rd April 2019
GSTR 6	July 2017 to Aug 2018	30.09.2018	Notification No. 30/2018 - Central Tax dated 30.07.2018
	Sept 2018 onwards	13 th of Next month	
GSTR 7	July 2017 to Sept 2018	Not Applicable	NA
	Oct 2017 to July 2019	31 st Aug 2019	Notification No. 26/2019 - Central Tax dated 28 th June 2018
	Aug 2019 onwards	10 th of next month	