

Chapter 8

Accounts and Records

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SECTION 35 – ACCOUNTS AND OTHER RECORDS

35. Accounts and other records

- (1) *Every registered person shall keep and maintain, at his principal place of business, as mentioned in the certificate of registration, a true and correct account of—*
- (a) *production or manufacture of goods;*
 - (b) *inward and outward supply of goods or services or both;*
 - (c) *stock of goods;*
 - (d) *input tax credit availed;*
 - (e) *output tax payable and paid; and*
 - (f) *such other particulars as may be prescribed:*

Provided that where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business:

Provided further that the registered person may keep and maintain such accounts and other particulars in electronic form in such manner as may be prescribed.

- (2) *Every owner or operator of warehouse or godown or any other place used for storage of goods and every transporter, irrespective of whether he is a registered person or not, shall maintain records of the consigner, consignee and other relevant details of the goods in such manner as may be prescribed.*
- (3) *The Commissioner may notify a class of taxable persons to maintain additional accounts or documents for such purpose as may be specified therein.*

- (4) *Where the Commissioner considers that any class of taxable person is not in a position to keep and maintain accounts in accordance with the provisions of this section, he may, for reasons to be recorded in writing, permit such class of taxable persons to maintain accounts in such manner as may be prescribed.*
- (5) [Omitted
- vide section 110 of Finance Act 2021 .
 - This omission shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint vide para 2(b) of the Finance Act 2021
 - Central Government appoints the 1st day of August, 2021, as the date on which the provisions of sections 110 and 111 of the said Finance Act 2021 shall come into force – vide *Notification No. 29/2021 – Central Tax, dated the 30th July, 2021*
 - This sub-section(5) prior to its omission read as follows::
“Every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a Chartered Accountant or a Cost Accountant and shall submit a copy of the audited annual accounts, the reconciliation statement under sub-section (2) of section 44 and such other documents in such form and manner as may be prescribed.
Provided that nothing contained in this sub-section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force”]
- (6) *Subject to the provisions of clause (h) of sub-section (5) of section 17, where the registered person fails to account for the goods or services or both in accordance with the provisions of sub-section (1), the proper officer shall determine the amount of tax payable on the goods or services or both that are not accounted for, as if such goods or services or both had been supplied by such person and the provisions of section 73 or section 74, as the case may be, shall, mutatis mutandis, apply for determination of such tax.*

Extract of the CGST Rules, 2017

56. Maintenance of accounts by registered persons

- (1) *Every registered person shall keep and maintain, in addition to the particulars mentioned in sub-section (1) of section 35, a true and correct account of the goods or services imported or exported or of supplies attracting payment of tax on reverse charge along with the relevant documents, including invoices, bills of supply, delivery*

challans, credit notes, debit notes, receipt vouchers, payment vouchers and refund vouchers.

- (2) *Every registered person, other than a person paying tax under section 10, shall maintain the accounts of stock in respect of goods received and supplied by him, and such accounts shall contain particulars of the opening balance, receipt, supply, goods lost, stolen, destroyed, written off or disposed of by way of gift or free sample and the balance of stock including raw materials, finished goods, scrap and wastage thereof.*
- (3) *Every registered person shall keep and maintain a separate account of advances received, paid and adjustments made thereto.*
- (4) *Every registered person, other than a person paying tax under section 10, shall keep and maintain an account, containing the details of tax payable (including tax payable in accordance with the provisions of sub-section (3) and sub-section (4) of section 9), tax collected and paid, input tax, input tax credit claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period.*
- (5) *Every registered person shall keep the particulars of -*
 - (a) *names and complete addresses of suppliers from whom he has received the goods or services chargeable to tax under the Act;*
 - (b) *names and complete addresses of the persons to whom he has supplied goods or services, where required under the provisions of this Chapter;*
 - (c) *the complete address of the premises where goods are stored by him, including goods stored during transit along with the particulars of the stock stored therein.*
- (6) *If any taxable goods are found to be stored at any place(s) other than those declared under sub-rule (5) without the cover of any valid documents, the proper officer shall determine the amount of tax payable on such goods as if such goods have been supplied by the registered person.*
- (7) *Every registered person shall keep the books of account at the principal place of business and books of account relating to additional place of business mentioned in his certificate of registration and such books of account shall include any electronic form of data stored on any electronic device.*
- (8) *Any entry in registers, accounts and documents shall not be erased, effaced or overwritten and all incorrect entries, otherwise than those of clerical nature, shall be scored out under attestation and thereafter the correct entry shall be recorded and where the registers and other documents are maintained electronically, a log of every entry edited or deleted shall be maintained.*
- (9) *Each volume of books of account maintained manually by the registered person shall be serially numbered.*

- (10) *Unless proved otherwise, if any documents, registers, or any books of account belonging to a registered person are found at any premises other than those mentioned in the certificate of registration, they shall be presumed to be maintained by the said registered person.*
- (11) *Every agent referred to in clause (5) of section 2 shall maintain accounts depicting the,-*
- (a) *particulars of authorisation received by him from each principal to receive or supply goods or services on behalf of such principal separately;*
 - (b) *particulars including description, value and quantity (wherever applicable) of goods or services received on behalf of every principal;*
 - (c) *particulars including description, value and quantity (wherever applicable) of goods or services supplied on behalf of every principal;*
 - (d) *details of accounts furnished to every principal; and*
 - (e) *tax paid on receipts or on supply of goods or services effected on behalf of every principal.*
- (12) *Every registered person manufacturing goods shall maintain monthly production accounts showing quantitative details of raw materials or services used in the manufacture and quantitative details of the goods so manufactured including the waste and by products thereof.*
- (13) *Every registered person supplying services shall maintain the accounts showing quantitative details of goods used in the provision of services, details of input services utilised and the services supplied.*
- (14) *Every registered person executing works contract shall keep separate accounts for works contract showing -*
- (a) *the names and addresses of the persons on whose behalf the works contract is executed;*
 - (b) *description, value and quantity (wherever applicable) of goods or services received for the execution of works contract;*
 - (c) *description, value and quantity (wherever applicable) of goods or services utilized in the execution of works contract;*
 - (d) *the details of payment received in respect of each works contract; and*
 - (e) *the names and addresses of suppliers from whom he received goods or services.*
- (15) *The records under the provisions of this Chapter may be maintained in electronic form and the record so maintained shall be authenticated by means of a digital signature.*
- (16) *Accounts maintained by the registered person together with all the invoices, bills of supply, credit and debit notes, and delivery challans relating to stocks, deliveries,*

inward supply and outward supply shall be preserved for the period as provided in section 36 and shall, where such accounts and documents are maintained manually, be kept at every related place of business mentioned in the certificate of registration and shall be accessible at every related place of business where such accounts and documents are maintained digitally.

- (17) *Any person having custody over the goods in the capacity of a carrier or a clearing and forwarding agent for delivery or dispatch thereof to a recipient on behalf of any registered person shall maintain true and correct records in respect of such goods handled by him on behalf of such registered person and shall produce the details thereof as and when required by the proper officer.*
- (18) *Every registered person shall, on demand, produce the books of accounts which he is required to maintain under any law for the time being in force.*

57. Generation and maintenance of electronic records

- (1) *Proper electronic back-up of records shall be maintained and preserved in such manner that, in the event of destruction of such records due to accidents or natural causes, the information can be restored within a reasonable period of time.*
- (2) *The registered person maintaining electronic records shall produce, on demand, the relevant records or documents, duly authenticated by him, in hard copy or in any electronically readable format.*
- (3) *Where the accounts and records are stored electronically by any registered person, he shall, on demand, provide the details of such files, passwords of such files and explanation for codes used, where necessary, for access and any other information which is required for such access along with a sample copy in print form of the information stored in such files.*

58. Records to be maintained by owner or operator of godown or warehouse and transporters

- (1) *Every person required to maintain records and accounts in accordance with the provisions of sub-section (2) of section 35, if not already registered under the Act, shall submit the details regarding his business electronically on the common portal in Form GST ENR-01, either directly or through a Facilitation Centre notified by the Commissioner and, upon validation of the details furnished, a unique enrolment number shall be generated and communicated to the said person.*
- ¹[(1A) *For the purposes of Chapter XVI of these Rules, a transporter who is registered in more than one State or Union Territory having the same Permanent Account Number, he may apply for a unique common enrolment number by submitting the details in Form GST ENR-02 using any one of his Goods and Services Tax Identification*

¹ Inserted vide Notf no. 28/2018-CT dt. 19.06.2018

Numbers, and upon validation of the details furnished, a unique common enrolment number shall be generated and communicated to the said transporter:

Provided that where the said transporter has obtained a unique common enrolment number, he shall not be eligible to use any of the Goods and Services Tax Identification Numbers for the purposes of the said Chapter XVI.]

- (2) *The person enrolled under sub-rule (1) as aforesaid in any other State or Union territory shall be deemed to be enrolled in the State or Union territory.*
- (3) *Every person who is enrolled under sub-rule (1) shall, where required, amend the details furnished in Form GST ENR-01 electronically on the common portal either directly or through a Facilitation Centre notified by the Commissioner.*
- (4) *Subject to the provisions of rule 56, -*
 - (a) *any person engaged in the business of transporting goods shall maintain records of goods transported, delivered and goods stored in transit by him along with the Goods and Services Tax Identification Number of the registered consigner and consignee for each of his branches.*
 - (b) *every owner or operator of a warehouse or godown shall maintain books of accounts with respect to the period for which particular goods remain in the warehouse, including the particulars relating to dispatch, movement, receipt and disposal of such goods.*
- (5) *The owner or the operator of the godown shall store the goods in such manner that they can be identified item-wise and owner-wise and shall facilitate any physical verification or inspection by the proper officer on demand.*

35.3.Related provisions of the Statute

Section or Rule	Description
Section 2(94)	Definition of registered person
Section 2(85)	Definition of place of business
Section 2(89)	Definition of principal place of business
Section 36	Period of retention of accounts
Section 44	Annual return
Rule 80	Annual return
Rule 56	Maintenance of accounts by registered persons
Rule 57	Generation and maintenance of electronic records
Rule 58	Records to be maintained by owner or operator of godown or warehouse and transporters

35.1 Introduction

This section mandates the upkeep and maintenance of records, at the place(s) of business, in electronic or other forms. Furnishing of an audited statement of accounts and reconciliation statement is also contemplated for registered persons having turnover exceeding the prescribed limit. There is no relaxation provided to persons who have voluntarily obtained registration. This section, read with relevant rules provides for the manner and method of maintenance of records of all kinds and classes of persons, as well.

35.2 Analysis

- (i) The importance of maintenance of books and records need no emphasis. It is presumed that all business entities would be aware of the nature of books and records to be maintained. However, it is important to note that the GST Law is a devil in details. It means that the emphasis is placed on primary and secondary books and records. There is no need to stress on the relevance or importance of maintenance of such records, since it is common in the digital world for businesses to maintain such books and records electronically. Having said that, one must bear in mind the importance of maintaining the primary books or records of entry that would have evidentiary value.
- (ii) This section emphasises “true and correct” account meaning the concept of materiality is largely given a go-bye. Tax authorities would go by the actual records maintained and would not place much reliance on the concept of materiality.
- (iii) Every registered person is required to keep and maintain accounts and records that reflect the true and correct account of the transactions effected. In other words, separate accounts shall have to be maintained by a single person, in respect of each of the GSTINs operative during the year reflecting the following details:
 - Production / manufacture of goods
 - Inward and outward supply of goods or services or both
 - Stock records of goods
 - Input tax credit availed, output tax payable and paid
 - Such other particulars as may be prescribed in this behalf.
- (iv) The accounts are to be maintained at the principal place of business (as mentioned in the certificate of registration). In case of multiple places of business (as specified in the certificate of registration), the accounts relating to each place of business shall be kept at the respective place of business concerned. Where records are maintained manually, all records pertaining to the operations at every place of business shall be maintained in such place of business.
- (v) The registered person has the option to keep and maintain accounts and other records in electronic form. In such a case, the records shall be authenticated by way of digital signature. Additionally, the GST Law mandates that a proper electronic back-up is

maintained and preserved where accounts are maintained electronically, to restore information in the event of its destruction, within a reasonable period of time.

- (vi) It is important to note that in respect of quantitative information, the 'unit of measurement' must be such that the actual units used for procurement and supply can be determined or computed. For example, in case goods are procured in 'square meters' and they are supplied in 'square feet', the accounts for the stock of goods must be maintained in either sq.mt. or sq.ft., or a conversion-ratio must be applied so as to extract information in terms of one of the units. The processing or other transaction ~~translation~~ losses, if any, may be written off – however, input tax credit if any, involved in such written off value or reduction in inputs would also require a reversal. In case of any increase, the value may be ignored, given that the increase does not result in additional pay-out to the supplier.
- (vii) The Commissioner is empowered to:
- (a) Notify a class of taxable persons to maintain additional accounts or documents for specified purpose . *[No notification has been issued in this regard as of date.]*
 - (b) Permit a class of taxable persons to maintain the records in any other manner , if he believes that they are not in a position to keep and maintain accounts in accordance with this section.
- (viii) It was specified in section 35(5) of the Act that every registered person whose turnover during a financial year exceeds prescribed limit shall get his accounts audited. Therefore, it is apparent that the audit under the provisions of the GST law should be undertaken for each registration viz., GSTIN-wise. *However, it may be noted that section 35(5) has been omitted vide Finance Act 2021 with effect from 1st August, 2021.*
- (a) Rule 80(3) provides that a registered person, other than those referred to in the second proviso to section 44, an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, whose aggregate turnover during a financial year exceeds five crore rupees, shall also furnish a self-certified reconciliation statement as specified under section 44 in Form GSTR-9C along with the annual return, on or before the thirty-first day of December following the end of such financial year.²
 - (b) The registered person is required to make the following submissions to the proper officer:
 - (i) the annual return for the financial year;
 - (ii) a self certified reconciliation statement under section 44, reconciling the value of supplies declared in the annual return with the audited annual financial statement, and
 - (iii) other particulars as may be prescribed.

² Rule 80 as amended vide *Notf. No. 30/2021-CT dt. 30th July, 2021*

Note: No other document has been prescribed in this regard as of date. The details that may be sought for, may be an extract of any of the records / documents which are required to be maintained under this section.

- (c) The audit of the transactions undertaken under the GST regime will cover the entire gamut of transactions of a particular GSTIN. For instance, if the audit is undertaken for a registered person being an agent for supply of goods, it must be understood that the agent would be recording all the goods received on behalf of the Principal as inward supply of goods, as also the goods dispatched on behalf of the Principal as outward supply of goods. On the other hand, the income / revenue that would be reflected in his books of account under any other statute would only be limited to the commission income. Accordingly, for the purpose of the GST Laws, the agent would be regarded as a person engaged in effecting outward supply of goods and would therefore be required to maintain all the stock records that are to be maintained by a trader.
- (d) It should be noted that the provisions relating to audit of books of accounts were amended vide Central Goods and Services Tax (Amendment) Act, 2018 whereby a *proviso* has been inserted in section 35(5) to extend exemption from audit of books of accounts to the Central Government, State Government and local authority whose books of accounts are subject to audit by the Comptroller and Auditor General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force. However, this exemption has become infructuous due to the omission of section 35(5) of the Act vide Finance Act 2021.
- (ix) The following checks / approach may be adopted for the purpose of ensuring comprehensiveness in reporting or for the purpose of preparation of reconciliation statement under section 44³:
 - (a) *Inward supplies*: Every inward supply effected by a registered person shall be one of the following:
 - ✓ Appear in the details for inward supplies (including the effect of debit / credit notes received) furnished in the returns, (including cases of exchange, barter, deemed supply such as agency transactions, etc.) while the details may be of:
 - (1) Eligible credits – including partly ineligible credits which are reversed to the extent ineligible;
 - (2) Ineligible credits.
 - ✓ Appear as exempt / nil rated / non-taxable inward supplies; or
 - ✓ Appear as inward supplies from composition suppliers; or
 - ✓ Not reported for any of the following reasons:

³ As per section 44 substituted vide *Notf No. 29/2021 CT-dt. 30th July, 2021*

- (1) It is neither a supply of goods nor a supply of services (such as salary paid to employees) or
- (2) It is an inward supply received from a registered supplier wherein the supplier is unaware of the fact that the supply is made to a registered person (i.e., where the supplier reports the transaction as part of summary details under B2C supplies in his GST returns) – e.g., food bills, etc.
- (3) It is an accounting entry made in the books of account by virtue of a requirement under another statute – such as provision for accrued expenses, depreciation, bad debts written-off, debit / credit notes issued in the capacity of a recipient, etc.

Note: Every inward supply that is eligible for credits shall form part of detailed entries (invoice-level information) in Form GSTR-1 of any registered supplier, except in the case of inward supplies liable to tax on reverse charge basis.

- (b) *Outward supplies:* Every outward supply effected by the registered person would need to appear in the returns for outward supplies where:
- ✓ Every taxable outward supply that is effected to a registered person shall be reported at invoice level, including:
 - (1) credit notes having a reduction in taxable value / tax, unless the same is time-barred under the GST Laws;
 - (2) debit notes issued for increase in taxable value / tax;
 - (3) value of expenses incurred by the recipient, although liable to be incurred by the registered person as a supplier, the value of incidental expenses such as delivery charges, etc. and any other amount liable to be included in the value of supply in terms of section 15(2) of the CGST Act, 2017;
 - (4) value determined under the valuation rules, where the price is not the sole consideration for the supply, or where the supply is made to a related person, is to be reckoned for these purposes;
 - (5) transactions regarded as supply despite lacking consideration (i.e., activities specified under Schedule I);
 - ✓ Summary details to be reported in case of supply of exempted / nil-rated / non-taxable outward supplies and supplies to unregistered persons.
- (x) It has been clarified vide *Circular No. 47/21/2018-GST dated 08.06.2018* that the persons involved in auction either as a principal or auctioneer shall declare warehouse or other places as additional place of business in case such places are meant for storage of goods. The principal and the auctioneer shall also maintain the books of accounts in terms of section 35(1) at such places. However, it is clarified that the books of accounts may be maintained at the principal place of business in case of any difficulties faced in

maintaining the books of accounts at such additional place of business upon intimating the jurisdictional officer in writing.

- (xi) It is also clarified vide *Circular No. 61/35/2018-GST dated 04.09.2018* that in case of storing of goods in the godown of the transporter, the transporter's godown has to be declared as an additional place of business by the recipient. The transporter and recipient shall maintain the books of account in terms of section 35 at such places. However, it is clarified that books of accounts in relation to goods stored at the transporter's godown (i.e., the recipient taxpayer's additional place of business) by the recipient taxpayer may be maintained by him at his principal place of business.
- (xii) Special attention is required in cases of requirement to reverse input tax credit availed, as provided under section 16(2), section 17(2) or section 17(5)(h) – Where goods are lost, stolen, destroyed, written off, or disposed of as gifts or free samples, proportionate input tax credit should be reversed.
- (xiii) One needs to pay attention to the relevant Rules, wherein it is mandated that the details specified / prescribed ought to be captured while maintaining books and records viz., name, address, GSTIN, description, quantity, value etc., as stipulated in section 31. Special category of persons such as works contractors, lessors, agents, auctioneers, etc ought to maintain data / details in the manner specified.
- (xiv) It is important to note that rule 56(6) clearly specifies that taxable goods stored in an unregistered place of business without cover of valid documents would be subjected to tax as if such goods have been supplied.
- (xv) Entries in books and records cannot be erased, effaced or overwritten. However, any such act needs to be attested in cases of manual maintenance of books and records while digital records would require maintenance of a suitable log of such corrections..
- (xvi) Rule 56(10) is presumptive in nature, meaning any documents or books and records found in a place other than the registered persons' place of business, would be presumed to be maintained by such registered person. All other consequences under the GST Laws would automatically follow.
- (xvii) The law mandates the following persons to maintain the records of the consignor, consignee and other relevant details of the goods, even if such persons are not registered under the Act:
 - (a) A transporter of goods;
 - (b) Persons who own and operate, or persons who operate any warehouse, godown, etc. for storage of goods – the goods shall be stored in a manner in which they can be identified item-wise and owner-wise.

The provisions relating to enrolment of transporters are amended vide the Central Goods and Services Tax (Sixth Amendment) Rules, 2018 with effect from 19.06.2018 whereby it was provided that in case the transporter is having place of business in more than one State or

Union Territory and all such places of business are registered under the provisions of the GST law, he shall obtain the unique common enrolment number. The application seeking unique common enrolment number shall be filed in Form GST ENR – 02. Such registered transporter shall get enrolled on the basis of GSTIN of any State of his choice. It is also provided that such enrolment number shall be used by the transporter for generating the e-way bills and for undertaking the transport of goods.

35.3 Comparative Review

Maintenance of records had been prescribed under the earlier Central Excise, Service Tax and State VAT laws. The provisions are briefly discussed below:

Service tax records

- Rule 5(1) of Service Tax Rules, 1994 provided that the records including computerised data as maintained by the assessee in accordance with the various laws in force from time to time shall be acceptable.
- Rule 5(2) provided that every assessee, at the time of filing of his first return shall furnish to the Department, a list in duplicate of the following : -
 - (i) All the records maintained by the assessee for accounting of transactions in regard to: -
 - (a) Providing of any service;
 - (b) Receipt or procurement of input service and payment of such input service;
 - (c) Receipt, purchase, manufacture, storage, sale, or delivery, regarding input or capital goods
 - (d) Other activities such as manufacture and sale of goods if any.
 - (ii) All other financial records maintained by him in the normal course of business.
- Rules 5(4) and 5(5) provide for preservation of records in electronic form.

Central Excise Records

- Rule 10 of the Central Excise Rules, 2002 obligated the maintenance of "Daily Stock Account" indicating the particulars regarding description of the goods produced or manufactured, opening balance, quantity produced or manufactured, inventory of goods, quantity removed, assessable value, the amount of duty payable and particulars regarding amount of duty paid.
- Chapter 6 of the Central Excise Manual obligated every assessee to furnish to the Range Officer, a list in duplicate, of all the records prepared or maintained by him for accounting of transactions in regard to receipt, purchase, manufacture, storage, sales or delivery of the goods including inputs and capital goods

CENVAT Records

Rule 9 of Cenvat Credit Rules, 2004 provided for maintenance of various records for taking and utilizing CENVAT credit on inputs, input services and capital goods.

VAT Records

VAT laws of most States required every assessee to keep and maintain an up-to-date, true and correct account showing full and complete particulars of his business and such other records as may be prescribed. There is an option to maintain those records at other place or places as he may notify to the registering authority in advance.

Audit of Accounts and Reconciliation Statement

Under the Central excise and service tax laws, there was no requirement for audit of accounts and furnishing reconciliation statement by a Chartered Accountant or Cost accountant. Many State VAT laws stipulated audit of records by a Chartered Accountant and filing of VAT audit reports. Threshold limits were prescribed for such audits.

Reconciliations between the tax records and audited statement of accounts is generally sought for at the time of assessment, audit or investigation by the revenue authorities. There was no statutory requirement to furnish such reconciliation statements under the erstwhile laws although it was carried out during audit / Certification of records.

35.4 Issues and concerns

1. **Multiple books of account for the same entity:** While the accounts of a person are required to be maintained for the entire business concern (i.e., PAN-wise), the GST law requires separate book-keeping for every GSTIN. This will mean that every account maintained will repeat based on the number of GSTINs obtained under a single PAN. The solution to this task may be to maintain records in such a manner so as to capture the GSTIN to which every transaction pertains, separately, so as to enable the person to extract only such of those transactions relevant to a particular GSTIN.
2. **Separate book-keeping practices for GST law:** The registered person is liable to record the details of all supplies, whether or not the supplies are considered to be supplies under the Accounting Standards or any such requirement under other statutes. While some transactions would have a netting-off effect, such as stock transfers, certain other transactions may not form part of the revenue of the entity, such as permanent disposal of a business asset without consideration / supply valued under the Valuation Rules wherein the consideration actually received is different from the value of supply for the purpose of the GST laws. One must exercise utmost caution to look into all such transactions with a view to ensure that the financial statements are not misreported with details relevant only from the GST-standpoint. E.g., Credit notes not fulfilling conditions under the GST law cannot reduce the value of supply, while the books of account would reflect reduction in the value.

Meaning of 'annual audited accounts': Till the omission of section 35(5) of the Act by the Finance Act 2021, the law required a registered person having an aggregate turnover exceeding Rs. 5 Crore, to get his books of account audited and submit a copy of annual audited accounts.

3. **Books in respect of 'non-monetary' transactions:** The law makes no concession in respect of transactions that are underlying for 'non-monetary' consideration. As such, care must be taken to document through identifiable invoice (may be, separate series) and corresponding disclosure (for time and place of supply) and the basis for such non-monetary transactions so that they can be tracked separately.

35.5 FAQs

Q1. Where should the books and other records mentioned under section 35 be maintained?

Ans. Such records shall be maintained at his principal place of business, as mentioned in the certificate of registration. If more than one place of business is specified in the certificate of registration, records relating to each place of business should be maintained at that place.

Q2. What are the records that are to be maintained under section 35?

Ans. The following records are to be maintained under section 35:

- (i) Production or manufacture of goods
- (ii) Inward or outward supply of goods or services or both
- (iii) Stock of goods
- (iv) Input tax credit availed
- (v) Output tax payable and paid
- (vi) Such other documents as may be prescribed.

Q3. Where more than one place of business is specified in the certificate of registration, can the assessee choose to maintain the records at a single place for all the places within that State?

Ans. No. In such cases, the accounts and records relating to each place of business shall be kept at such places of business concerned.

Q4. Whether the records are to be maintained physically or in electronic form?

Ans. The records need to be maintained physically. In case they are maintained in electronic form, they must conform to such procedures as may be prescribed.

Q5. Apart from the records maintained as above, are there any additional documents to be submitted/maintained?

Ans. Section 44⁴ obligates an assessee whose turnover exceeds the prescribed limit to file an electronic self certified reconciliation statement and the assessee is obliged to submit such a statement in addition to the audited statement of accounts and other documents and records prescribed.

35.6 MCQs

Q1. The books and other records specified under section 35 are to be maintained at -

- (a) The place where the books of account are maintained.
- (b) The principal place of business mentioned in the Registration Certificate.
- (c) The place of address of the Proprietor/ Partner / Director / Principal Officer, etc.
- (d) Any of the above.

Ans. (b) The principal place of business mentioned in the Registration Certificate

Q2. In case, more than one place of business situated within a State are specified in the Registration Certificate, books and other records shall be maintained at ____

- (a) Each such place of business
- (b) At the principal place of business mentioned in the Registration Certificate for all places of business in each State.
- (c) The place where the books of accounts are maintained for all places situated within a State.
- (d) Any place of business in a State pertaining to all places situated within that State.

Ans. (a) Each place of business

Q3. Which of the following is true -

- (a) The assessee can maintain some records with prior permission of the Commissioner.
- (b) The assessee is obligated to maintain such additional records as the Commissioner may notify.
- (c) The assessee can maintain only records notified thereto by the Commissioner.
- (d) The specified class of assessee are obligated to maintain such additional or other records as the Commissioner may notify.

Ans. (d) The specified class of assessee are obligated to maintain such additional or other records as the Commissioner may notify.

⁴ As substituted vide *Finance Act, 2021* and notified vide *Notf No. 29/2021-CT dt. 30th July, 2021* w.e.f. 01.08.2021

Statutory provisions**36. Period of retention of accounts**

Every registered person required to keep and maintain books of account or other records in accordance with the provisions of sub-section (1) of section 35 shall retain them until the expiry of seventy-two months from the due date of furnishing of annual return for the year pertaining to such accounts and records:

Provided that a registered person, who is a party to an appeal or revision or any other proceedings before any Appellate Authority or Revisional Authority or Appellate Tribunal or court, whether filed by him or by the Commissioner, or is under investigation for an offence under Chapter XIX, shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceedings or investigation for a period of one year after final disposal of such appeal or revision or proceedings or investigation, or for the period specified above, whichever is later.

Related provisions of the Statute

Section or Rule	Description
Section 35	Accounts and other records
Section 44	Annual return

36.1. Introduction

This section specifies the period up to which records and accounts must be retained by the registered person.

36.2. Analysis

- (i) Every registered person is required to mandatorily retain the books of accounts and other records until the expiry of 72 months (6 years) from the due date for filing of Annual Return for the year, i.e., 81 months from the end of the financial year pertaining to such accounts and records.
- (ii) For instance, the books of account and other records for the FY 2017-18 are to be maintained till 31.12.2024, regardless of the actual date of filing of annual return for the year. This time period is more than the duration prescribed in section 62(1) for issuance of order of assessment i.e., 5 years from the due date for filing of annual return or date of erroneous refund (as applicable) in cases of fraud, wilful mis-statement, suppression of facts, etc. (in the above example, the order of assessment shall be issued by 31.12.2023).
- (iii) In case, an appeal or revision or any other proceeding is pending before any Appellate Authority or Revisional Authority or Appellate Tribunal or Court, or in case the registered person is under investigation for an offence under Chapter XIX, he shall retain the books

of account and other records pertaining to the subject matter of such appeal or revision or proceeding or investigation for a further period of one year after final disposal of such appeal or revision or proceeding, or until the expiry of 72 months (6 years) from the due date for filing of annual return for the year whichever is later. This may result in maintaining the books and records even after the expiry of 72 months from the due date for furnishing the annual return.

- (iv) Where any disputes are involved, then records must be maintained until the final disposal of those matters.

36.3. Comparative Review

- Rule 5(3) of Service Tax Rules, 1994 provided that all records shall be preserved for a period of five years immediately after the financial year to which such records pertain.
- Chapter 6 of the CBIC's Central Excise Manual required every assessee to maintain the records for a period of five years immediately after the financial year to which such records pertain.
- Different State VAT laws prescribed different time periods for maintenance of records. However, many States prescribed a period of five years.
- Where proceedings are pending in appeal, revision etc., the records are generally maintained till the proceedings are finally concluded, though this is not specifically stipulated in the erstwhile laws. In fact, the books and records are required to be maintained till the time limit for revision proceedings stand open and are not barred by limitation of period.

36.4 Issues and concerns

Due date of annual return: If the due date to furnish the annual return is amended for any reason, the registered person must bear in mind that the requirement to maintain the records would also stand extended accordingly. For instance, if the due date to furnish the annual return for the FY 2017-18 is extended to 30-June-2019 for whatever reason, the period of retention would be 30-June-2025 and not 31-Dec-2024.

36.5. FAQs

- Q1. Is a separate time limit for maintenance of records specified where an assessee is involved in any litigation?
- Ans. In case an assessee is a party to an appeal or revision or any other proceeding before any Appellate Authority or Revisional Authority or Appellate Tribunal or Court, (as an appellant or a respondent), or where he is under investigation for an offence under Chapter XIX, then he shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceeding or investigation for a further period of 1 year after final disposal of such appeal or revision or proceeding, or for the period specified for records by section 36(1), whichever is later.

- Q2. Who is responsible for the maintenance of proper accounts related to job work?
- Ans. The responsibility for the maintenance of proper accounts of job work-related inputs and capital goods rests with the principal.
- Q3. What action can be taken for transportation of goods without valid documents or attempted removal without proper recording in the books?
- Ans. If any person transports any goods or stores any such goods while in transit without the documents prescribed under the Act (i.e., invoice and a declaration) or supplies or stores any goods that have not been recorded in the books or accounts maintained by him, then such goods shall be liable for detention along with any vehicle on which they are being transported. Such goods shall be released only on payment of the applicable tax and penalty or upon furnishing of security.

36.6. MCQs

- Q1. The time limit for maintenance of the books of account or other records under section 36 is -
- (a) Seventy-two months from the date of filing of Annual Return or due date of filing the Annual Return, whichever is earlier.
 - (b) Five years from the due date for filing of annual return.
 - (c) Seventy-two months from the due date of filing of annual return.
 - (d) None of the above.
- Ans. (c) Seventy-two months from the due date of filing of Annual Return
- Q2. In case, the assessee is a party to an appeal or revision or any other proceeding before any Appellate Authority or Appellate Tribunal or Court, (as an appellant or a respondent), then the time limit for retaining the records shall be -
- (a) Up to the final disposal of such appeal or revision or proceeding.
 - (b) One year after final disposal of such appeal or revision or proceeding, or the period specified for records under section 36(1), whichever is earlier.
 - (c) Six months after final disposal of such appeal or revision or proceeding, or the period specified for records under section 47(1), whichever is later.
 - (d) One year after the final disposal of such appeal or revision or proceeding, or the period specified for records under section 36(1), whichever is later.
- Ans. (d) One year after the final disposal of such appeal or revision or proceeding, or the period specified for records under section 36(1), whichever is later.