ISSUES IN FORM GSTR-9 and GSTR-9C

- **CA Jinit Shah & CA Prerana Shah**

1. Confusion Ltd., at the time of preparing Annual Return in April 2019, while reconciling the ITC taken in GSTR-3B with GSTR-2A for the FY 2017-18 realised the following –
   1.1. ITC amounting to Rs. 4,00,000/- taken in its GSTR-3B was not reflecting in GSTR-2A and on enquiring with its vendor they realised that the vendor had, though paid all its taxes and filed its returns, erroneously disclosed the said transaction as B2C.
   1.2. An another amount of Rs. 2,00,000/- taken in its GSTR-3B was also not reflected in GSTR-2A and on enquiry they found out that the vendor had erroneously punched Confusion's another concern Double Confusion Ltd. GSTIN.

   Now, Confusion Ltd. wants to know:

   (A) Whether they would be required to reverse the ITC in both or any of the cases above?

   (B) If the ITC is available then how the same would impact form GSTR-9 and GSTR-9C.

   (C) Confusion Ltd. also want to know as to how Double Confusion Ltd. should report the said ITC which may help Confusion Ltd. to avoid litigation.

2. Newbie Tours & Travels is in the business of booking Air Tickets for both domestic and international sectors. It had newly started its business in 2017-18 and was apprehensive as to whether it would be required to get its accounts audited under GST. The following are its financials –
   - ✓ Sale of tickets booked on behalf of its clients – Rs. 7 Cr.
   - ✓ Agency Fees – Rs. 1.50 Cr.
   - ✓ Commission from Airlines – Rs. 0.75 Cr.
   - ✓ Basic Fare of the international tickets sold – Rs. 3 Cr., value thereon @ 10% - Rs. 30,00,000.
   - ✓ Basic Fare of the domestic tickets sold – Rs. 2 Cr., value thereon @ 5% - Rs. 10,00,000.

Newbie would like to know whether it would be required to submit GSTR-9C based on the fact that it has opted to pay GST on the Basic Fare model i.e. GST on Rs. 40,00,000/. Would it make a difference if it had opted to pay GST on the Commission model?

3. Default Ltd. has issued various Credit Notes against the supplies made by it in FY 2017-18. The various situations for which Credit Notes were issued are as under –

   3.1. It had erroneously booked single tax invoice under B2C twice in both GST Returns and Books of Accounts, however in year end it realised the mistake and raised the Credit Note equivalent to the amount of one invoice.

   3.2. Credit Notes are issued for the discounts, however the said discounts are not as per Section 15(3).

   3.3. Credit Note was issued to correct the tax position from 18% to 12% i.e. it had charged GST @ 18% and realised that the rate should have been 12%.

   3.4. Credit Notes were issued to only correct the position in GST Returns though not having any impact in the Books of Accounts like single invoice booked twice in the GSTRs but correctly booked in the Books of Accounts and it realised the same and issued the Credit Note or for changing the nature of client from B2B to B2C or vice-versa.

   Default Ltd. wants to know how the aforesaid credit notes would be disclosed in form GSTR-9 and form GSTR-9C and whether any observations need to be reported in form GSTR-9C.

4. In view of first year of GST implementation, Smart Pvt. Ltd. has made certain errors. During preparation of GSTR-9 and GSTR-9C, Smart Pvt. Ltd. and CA certifying GSTR-9C, have following queries:

   4.1. Royalty income is reflected in GSTR-3B of March, 2018. However, the same is not yet reflected in GSTR-1. Please discuss disclosure requirement in GST-9 and GSTR-9C. Also, please discuss whether the recipient would be able to avail ITC thereof now i.e. in FY 2019-20?

   4.2. Mistakenly, Smart Pvt. Ltd. has paid GST twice on one invoice under GSTR-3B and wishes to claim refund thereof in GSTR-9.

   4.3. Whether additional liability, if any, needs to be discharged under DRC-03 in cash only?

4.4. It has not paid GST under reverse charge mechanism on import of services in FY 2017-18. However, it discharged liability in April, 2018 through GSTR-3B. Where should the liability and ITC be reflected in GSTR-9 and GSTR-9C?

4.5. In case, it pays GST under reverse charge mechanism for FY 2017-18 right now i.e. in FY 2019-20? Whether Smart Pvt. Ltd. would be eligible to avail ITC thereof?

4.6. Goods are imported on 26th March, 2018 and Customs Duties including GST is paid on 28th March, 2018. However, goods are cleared for home consumption on 2nd April, 2018. Whether such transaction should be reflected in FY 2017-18?

4.7. Smart Pvt. Ltd. has taken ITC erroneously in FY 2017-18 and wishes to reverse the same. Where would such ITC reversal be reflected in GSTR-9? What if reversal was already done in GSTR-3B of April, 2018?

4.8. One vendor of Smart Pvt. Ltd. has reflected his outward supply in GSTR-1 of March, 2019, Smart Pvt. Ltd. intends to know if ITC thereof should reported in FY 2017-18 or in FY 2018-19.

5. Pralaynath Gendaswamy, a Chartered Accountant has income from profession from its proprietary concern. He is also a partner in another firm and is receiving share of profit, remuneration and interest on capital from the said firm. He is also trading in shares and has income from said activity. He has interest income from its saving bank account.

He wants to know as to whether he is required to submit GSTR-9C and all his income shall be required to be reported in the GSTR-9 and GSTR-9C and if yes, how the same will be disclosed. Further, whether any specific observations will have to be made in the certification part based on the reporting requirements of its various incomes. Kindly guide Gendaswamy and Muthuswamy, the Chartered Accountant certifying GSTR-9C of Gendaswamy.

6. Discounts Ltd. gives various discounts to its customers in the form of trade discount, cash discount and turnover discounts.

Trade discounts are given on the catalogue list to induce the buyers to buy more, cash discounts are given to induce buyers to make early payments and turnover discounts are given to bulk buyers who achieve some targeted turnover in the quarters.

In various situations conditions of section 15(3) on discounts are not fulfilled and thus the credit notes issued to the extent of such discounts are not permissible under GST.

Due to the above situations following scenarios occur with respect to Trade, Cash and Turnover discounts:

- ✓ Few credit notes are only issued towards the value of supply and not for GST amount.
- ✓ Few credit notes are issued even towards the GST amount alongwith value of supply.

Under both the above scenarios, please discuss reporting requirement in GSTR-9 and GSTR-9C if:

6.1. Credit notes issued for FY 2017-18 till 25th October, 2018

6.2. Credit notes issued for FY 2017-18 after 25th October, 2018 till 31st March, 2019

Also, please discuss if any observations or qualifications are required to be given in GSTR-9C.

7. Chota Trader is a partnership firm, situated at Kerala, migrated to GST from VAT and CST laws. Assuming that it would not cross the threshold limit, it had opted to pay tax under composition scheme (under Section 10 of CGST Act). However, in view of business dynamics, Chota Trader had to opt out of composition scheme with effect from 1st November, 2017. The details of turnover and ITC are tabulated hereunder:

Particulars	**Amount (In Rs.)**
Turnover from April, 2017 to June, 2017	30,00,000
Outward supplies from July, 2017 to October, 2017 (while under composition scheme)	50,00,000
Taxable supplies from November, 2017 to March, 2018 (opted out of composition scheme)	2,00,00,000
Total Input tax credit availed on inputs and input services	20,00,000
Total Input tax credit availed on capital goods (Capital goods are purchased on 1st August, 2017)	5,00,000

Considering the above, please discuss if Chota Trader should submit GSTR-9 or GSTR-9A and how the turnover and ITC should be reflected in GSTR-9 and GSTR-9C.

Due to flood in Kerala in August, 2018, the books of accounts including invoices of Chota Traders are damaged/not available. Chota Traders is seeking your advice if it is mandatorily required to provide HSN wise data of inward supplies for preparation of

GSTR-9. What are the consequences of such non-compliance under GST law? Please discuss the reporting requirement for CA certifying GSTR-9C of Chota Traders.

8. Conservative LLP has GST registrations at different States and it has its HO in Maharashtra. Its Maharashtra registered unit has incurred various expenditure which are common for its units in other States also. The expenditures are in the nature of Legal Expenses, HR Expenses, IT Expenses and few of its employees in HO also cater to its units in other States.

   Conservative LLP has cross charged various expenses to its units in other States and has conveyed to the GST Auditors that all its other units are making taxable supplies and are fully eligible for ITC of the GST charged by its Maharashtra unit. It has also done cross charge of its employees costs (salaries).

   ABC is the Auditor of the Conservative LLP, whether any specific precaution has to be taken in **reporting and certification** with respect to the cross charge of various expenses and employees costs (salaries).

   ABC is also the Auditor of Aggressive LLP (with similar facts) and in its case Aggressive Ltd. is of the view that cross charge of employees costs (Salaries) is not required as the employees are the employees of the entity per se and hence cross charge is not required. M/s. ABC is now concerned that he has to certify the Audit of two entities and for each entity which has taken separate views so whether it wants any qualification.

9. Please discuss the following from the perspective of reporting and disclosure in GSTR-9 and GSTR-9C:

   9.1. Reporting and disclosure aspects with respect to:

      9.1.1. Out and Out Supply

      9.1.2. High Seas Sales

      9.1.3. Custom Bonded Warehouse Supply

      9.1.4. Receipt of services from SEZ

   9.2. In case of export of goods, GST invoice is issued as per customs rate and in books of accounts, export sale is booked as per Indian accounting standards. Also, in books of accounts, ‘foreign exchange fluctuation gain’ is reported as income.

   9.3. A merchant exporter has supplied goods to exporter in December, 2017 and charged GST @ 0.1%. Now, in May, 2019, in view of departmental enquiry, it was known that exporter had not complied with the requirements of Notification No. 41/2017-IGST (Rate) dated 23rd October, 2017 in FY 2017-18.

9.4. Imports are done under advance authorization without payment of IGST in December, 2017. However, export obligation could not be fulfilled by December, 2018. Consequently, IGST is paid against BOE pertaining to FY 2017-18 which is reflected in ICEGATE website as paid in FY 2018-19. Where should ITC thereof be reflected in GSTR-9 and GSTR-9C and in which FY?

10. Discuss the reporting of following details in Table 14 of Form GSTR-9C –

10.1. Total ITC is Rs. 1 Crore out of which Rs. 20,00,000/- is towards exempted supplies made during the FY 2017-18. Which amounts are to be reported in column 3 and 4 of table 14?

10.2. Goods are imported worth Rs. 1,00,000/- (CIF value) on which IGST applicable @ 18% is paid and ITC on the same is disclosed in Table 14 clause D. Simultaneously, GST is also paid @ 5% towards ocean freight on 10% of the CIF value of goods imported. Where the said amount of GST paid on ocean freight (no expenses towards freight are actually incurred by the party in India) has to be reported in Table 14?

11. In the Certification part in format I there are two different clauses for reporting. They are as under –

11.1. Clause 3(a) in Format I – Reporting for observations / comments / discrepancies / inconsistencies; if any

11.2. Clause 5 in Format I – In our opinion and to the best of my information and according to explanations given to me, the particulars given in Form GSTR-9C are true and correct subject to observations / qualifications, if any.

What type of observations, etc. will have to be reported in clause 3(a) and clause 5 of the said Certification format.

12. Whether extended period can be invoked under Section 74, in following cases, where the Audit under section 35(5) has been conducted of the Books of Accounts of the person?

12.1. If additional liability is accepted but not paid by the assessee.

12.2. If additional liability is not accepted by the assessee.