

Half Day Seminar on GST Annual  
Return and GST Audit for CA  
Students

CTC jointly with WIRC OF ICAI  
On 18<sup>th</sup> December 2019  
@ St. Xavier's College.

**CA. SACHIN MAHER**

ANNUAL  
RETURN



# **Legal Provisions – GST Annual Return**

## **Section 44 – CGST Act, 2017**

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- **Every registered person, shall furnish an annual return for every financial year electronically in such form and manner as may be prescribed except**
  - Input Service Distributor,
  - Person paying tax under section 51 or section 52,
  - Casual taxable person and
  - Non-resident taxable person
  
- **Every registered person who is required to get his accounts audited shall furnish, electronically, the annual return along with a copy of the audited annual accounts and a reconciliation statement.**

## Rule 80 – CGST Rules, 2017

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- **Prescribes the Forms in which Annual Return needs to be filed:**
  - Form 9 – Every Registered Person other than specified earlier
  - Form 9A – Composition Suppliers
  - Form 9B – Electronic Commerce Operators (Effective from 01.10.2018 and accordingly not applicable for F.Y. 2017 – 18)
- Which Annual return is to be filed by taxable person if he was earlier registered as composition taxpayer and switched over to a regular taxpayer?
  - GSTR 9A for the period he was registered as composition taxpayer and for the remaining financial year, he shall be required to file GSTR-9.

## **Time Limit for Filing Annual Return & Consequences of Non-Filing / Late Filing of Form 9**

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- **Due Date of Filing Annual Return – 31st December following the end of the Financial Year**
  - Removal of Difficulty Order 7/2019 dated 26/08/2019 – Extended till 30th November 2019 for F.Y. 2017 – 18
  - Additional relaxation by non-filing of Annual Return for assessee having turnover below 2 crores
- Section 47(2) of the CGST Act provides for levy of a late fee of Rs. 100/- per day (each under CGST Act and under SGST Act) for delay in furnishing annual return in FORM GSTR-9, subject to a maximum amount of quarter percent (0.25%) of the turnover in the State or Union Territory.

# Certain Pointers

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- **Whether Annual Return is required to be filed even in cases where assessee has cancelled his registration?**
  - Yes, since as per Section 44(1) of CGST Act, every registered person shall be required to file GSTR-9
- **Whether Annual Return needs to be filed at an entity level in cases where the assessee is having more than one GSTIN**
  - Annual Return is required to be filed on each GSTIN basis and not on entity level

# Certain Pointers

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- **Whether GST Annual Return is applicable to non-filers?**
  - Yes, Annual Return needs to be filed by all Registered Person.
  - However, all returns (GSTR – 1 and GSTR – 3B) to be filed before filing of GSTR – 9 & 9C
  
- **Is there any provision of filing the revised FORM GSTR – 9?**
  - No, There is no provision for Revising of Form GSTR – 9.
  
- **What shall be the implications for non-reporting of liability in GSTR – 9?**
  - Suppression can be alleged by Department

# Certain Pointers

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- **Whether transactions for the period April-17 to June-17 are also to be included in GSTR-9 for FY 2017-18?**
  - No, only details for the period July 2017 to March 2018 are to be provided in GSTR-9
- **Who can file NIL Annual Return? if you have: -**
  - NOT made any outward supply (commonly known as sale);
  - NOT received any goods/services (commonly known as purchase);
  - NOT claimed any credit; AND
  - NOT claimed any refund; AND
  - NO other liability to report; AND
  - NOT received any order creating demand; AND
  - There is no late fee to be paid etc.

# Form GSTR – 9

## Structure of Form 9

Point No	Details to be provided
Point I	Basic Details
Point II	Details of Outward Supplies and Inward Supplies made during the Financial Year
Point III	Details of ITC for the Financial Year
Point IV	Details of Tax paid as declared in returns filed during the Financial Year
Point V	Particulars of the transactions for the previous Financial Year declared in returns of April to March 2019
Point VI	Other Information

## Modification of Form 9

Particulars	Earlier Form	New Form
Point II – Taxable Supplies	Supplies as <b><u>declared in returns</u></b> filed in FY 17-18	Supplies as <b><u>made during the FY</u></b> 17-18
Point II – Non Taxable Supplies	Did not include transaction covered by Schedule III	Specific inclusion made to disclose transaction as No Supply
Payment of additional liability	No provision	Additional liability can be paid in Form DRC-03

# Certain Pointers

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- **Is there any consolidated details provided by GSTN to help in filing Annual Return?**
  - Consolidated summary of Form GSTR-1
  - Consolidated summary of Form GSTR-3B
  - System computed values of Form GSTR-9
  - Preview of Draft Form GSTR-9 in PDF and Excel format
  
- **What are the methods in which the Annual Return can be uploaded?**
  - Online as well as Offline method

# **Point wise analysis of FORM – 9**

# Basic Details

## Structure of Form 9

Point No	Details to be provided
Point I	Basic Details
Point II	Details of Outward Supplies and Inward Supplies made during the Financial Year
Point III	Details of ITC for the Financial Year
Point IV	Details of Tax paid as declared in returns filed during the Financial Year
Point V	Particulars of the transactions for the previous Financial Year declared in returns of April to March 2019
Point VI	Other Information

## Point I – Basic Details

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Pt I	Basic Details	Details to be provided
1	Financial Year	
2	GSTIN	
3A	Legal Name	
3B	Trade Name (If any)	

# **Liability calculation and reporting**

## Structure of Form 9

Point No	Details to be provided
Point I	Basic Details
Point II	Details of Outward Supplies and Inward Supplies made during the Financial Year
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Point V	Particulars of the transactions for the previous Financial Year declared in returns of April to March 2019
Point VI	Other Information

## Point II – Details of Outward and Inward Supplies

Pt II	Particulars	Instruction and Issues
4	<p>Details of Advances /inward supplies and outward supplies made during the financial year on which tax is payable</p> <p>Most of the figures shall be auto-populated from GSTR-1 but shall be editable</p>	<p><b>OUTWARD SUPPLIES/ INWARD SUPPLIES MADE DURING THE FINANCIAL YEAR</b></p> <ul style="list-style-type: none"><li>▪ Basis for deriving outward supplies (<b>GSTR – 1 Vs GSTR – 3B Vs Sales Register</b>)</li><li>▪ Breakup of Taxable Turnover to be provided as per below:<ul style="list-style-type: none"><li>▪ B2B, B2C, Export with payment of tax, SEZ supplies with payment of tax, Deemed Export, Advances*** <b>Unadjusted and relating to services</b></li><li>▪ Inward Supplies on which RCM is applicable</li><li>▪ Debit Notes, Credit Notes, Supplies/tax declared through amendments (+/-)</li></ul></li></ul>

## Point II – Details of Outward and Inward Supplies

Pt II	Particulars	Instruction and Issues
5	Details of Outward Supplies made during the financial year on which tax is not payable  <div data-bbox="206 712 652 891" style="background-color: black; color: white; padding: 5px; border-radius: 10px;">Most of the figures shall be auto-populated from GSTR-1 but shall be editable</div>	<b>OUTWARD SUPPLIES MADE DURING THE FINANCIAL YEAR</b> <ul style="list-style-type: none"><li>▪ Breakup of Non - Taxable Turnover to be provided as per below:<ul style="list-style-type: none"><li>▪ Export without payment of tax, SEZ supplies without payment of tax, Exempted Supplies, Nil Rated</li><li>▪ Outward Supplies on which RCM is applicable</li><li>▪ Non-GST Supplies (including no supply)</li></ul></li></ul>

## Structure of Form 9

Point No	Details to be provided
Point I	Basic Details
Point II	Details of Outward Supplies and Inward Supplies made during the Financial Year
Point III	Details of ITC for the Financial Year
Point IV	Details of Tax paid as declared in returns filed during the Financial Year
Point V	Particulars of the transactions for the previous Financial Year declared in returns of April to March 2019
Point VI	Other Information

## Point IV – Details of Tax Paid

Pt IV	Particulars	Instruction and Issues
9	Details of Tax paid as declared in returns filed during the Financial Year	<b>TAX PAID AS DECLARED DURING THE FINANCIAL YEAR</b> <ul style="list-style-type: none"><li>▪ Details of Tax payable and paid figures to be reflected here</li><li>▪ Tax payment through Electronic Cash Ledger</li><li>▪ Tax payment through Electronic Credit Ledger</li></ul>

These figures shall be auto-populated from GSTR-3B and cannot be edited

## Point V – Particulars of Tax paid in 2018-19

Pt V	Particulars	Instruction and Issues
10	Supplies / Tax declared through amendments (+) (Net of Debit Notes)	Part V consists of particulars of transactions of 2017-18 which have been paid GSTR – 3B of financial year 2018-19
11	Supplies / Tax declared through amendments (-) (Net of Credit Notes)	
14	Differential Tax payable and paid on account of Point 10 & 11 above	The tax payable and paid on account of above disclosure shall be reported here

## Structure of Form 9

Point No	Details to be provided
Point I	Basic Details
Point II	Details of Outward Supplies and Inward Supplies made during the Financial Year
Point III	Details of ITC for the Financial Year
Point IV	Details of Tax paid as declared in returns filed during the Financial Year
Point V	Particulars of the transactions for the previous Financial Year declared in returns of April to March 2019
Point VI	Other Information

## Interplay of Point no II, IV and V

Sr No	Particulars	Instruction and Issues
Pt II	Sr No 4	Taxable supplies made during the FY
	Sr No 5	Non Taxable supplies made during the FY
Pt IV	Sr No 9	Tax payable as per Sr No 4 above and Tax paid in GSTR – 3B
Pt V	Sr No 10	Supplies/tax declared in FY 2018-19 (Additions)
	Sr No 11	Supplies/tax declared in FY 2018-19 (Deletion)
	Sr No 14	Differential Tax payable and paid in respect of Sr No 10 & 11 above

## Interplay of Point no II, IV and V

Sr No	Particulars	Instruction and Issues
Pt II	Sr No 4	<ul style="list-style-type: none"><li>▪ Details of Taxable Supplies made in FY 2017-18 and reported in GSTR – 3B in FY 2017-18</li><li>▪ Details of Taxable Supplies made in FY 2017-18 but unreported in any GSTR – 3B till March 2019</li></ul>
	Sr No 5	<ul style="list-style-type: none"><li>▪ Details of Non-Taxable Supplies made in FY 2017-18 and reported in GSTR – 3B in FY 2017-18</li><li>▪ Details of Non-Taxable Supplies made in FY 2017-18 but unreported in any GSTR – 3B till March 2019</li></ul>
Pt IV	Sr No 9	<ul style="list-style-type: none"><li>▪ Tax payable as per Sr No 4 above and Tax paid in GSTR – 3B</li><li>▪ Any differential tax payable as per above shall be paid in FORM “<b>DRC – 03</b>”</li></ul>

## Interplay of Point no II, IV and V

Sr No	Particulars	Instruction and Issues
Pt V	Sr No 10	<ul style="list-style-type: none"><li>▪ Details of Taxable Supplies made in FY 2017-18 and reported in GSTR – 3B in FY 2018-19 (Increase in turnover / liability)</li></ul>
	Sr No 11	<ul style="list-style-type: none"><li>▪ Details of Taxable Supplies made in FY 2017-18 and reported in GSTR – 3B in FY 2018-19 (Reduction in turnover / liability)</li></ul>
	Sr No 14	<ul style="list-style-type: none"><li>▪ Differential Tax payable and paid in respect of Sr No 10 &amp; 11 above</li><li>▪ This is merely disclosure and no additional payment can be made on this account</li></ul>

## Interplay of Point no II, IV and V

Description	Disclosure in Annual Return	Remark
Taxable Supplies as per books for which payment has been made in 3B of July 17 to March 18	Point No 4	Payment already made through GSTR – 3B in FY 17-18
Taxable Supplies as per books for which payment has been made / recovered in 3B of April 18 to March 19	Point No 10/11	Payment already made through GSTR – 3B in FY 18-19
Taxable supplies as per books for which reporting was not made in 3B of FY 17-18 and FY 18-19	Point No 4	Payment to be made via “ <b>DRC – 03</b> ”

# Practical Case Studies

# Example: 1

Period under Review	GSTR – 3B		GSTR – 1		Books of Accounts	
	Turnover	Tax	Turnover	Tax	Turnover	Tax
FY 2017 – 18	1,00,000	18,000	1,00,000	18,000	1,00,000	18,000
FY 2018 – 19	-	-	-	-	-	-

## Disclosure in Annual Return

Reporting Table	Turnover	Tax
Point 4	1,00,000	18,000
Point 9	-	18,000
Point 10	-	-
Point 11	-	-
Point 14	-	-

## Example: 2

Period under Review	GSTR – 3B		GSTR – 1		Books of Accounts	
	Turnover	Tax	Turnover	Tax	Turnover	Tax
FY 2017 – 18	80,000	14,400	80,000	14,400	1,00,000	18,000
FY 2018 – 19	20,000	3,600	20,000	3,600	-	-

### Disclosure in Annual Return

Reporting Table	Turnover	Tax
Point 4	80,000	14,400
Point 9	-	14,400
Point 10	20,000	3,600
Point 11	-	-
Point 14	-	3,600

Impact of Interest u/s 50

## Example: 3

Period under Review	GSTR – 3B		GSTR – 1		Books of Accounts	
	Turnover	Tax	Turnover	Tax	Turnover	Tax
FY 2017 – 18	80,000	14,400	90,000	16,200	1,00,000	18,000
FY 2018 – 19	20,000	3,600	10,000	1,800	-	-

### Disclosure in Annual Return

Reporting Table	Turnover	Tax
Point 4	80,000	14,400
Point 9	-	14,400
Point 10	20,000	3,600
Point 11	-	-
Point 14	-	3,600

Impact of Interest u/s 50

## Example: 4

Period under Review	GSTR – 3B		GSTR – 1		Books of Accounts	
	Turnover	Tax	Turnover	Tax	Turnover	Tax
FY 2017 – 18	1,20,000	21,600	90,000	16,200	1,00,000	18,000
FY 2018 – 19	(20,000)	(3,600)	10,000	1,800	-	-

### Disclosure in Annual Return

Reporting Table	Turnover	Tax
Point 4	1,20,000	21,600
Point 9	-	21,600
Point 10	-	-
Point 11	(20,000)	(3,600)
Point 14	-	(3,600)

## Example: 5

Period under Review	GSTR – 3B		GSTR – 1		Books of Accounts	
	Turnover	Tax	Turnover	Tax	Turnover	Tax
FY 2017 – 18	80,000	14,400	1,00,000	18,000	1,00,000	18,000
FY 2018 – 19	-	-	-	-	-	-

### Disclosure in Annual Return

Reporting Table	Turnover	Tax
Point 4	1,00,000	18,000
Point 9	-	14,400
Point 10	-	-
Point 11	-	-
Point 14	-	-

Differential Tax to be paid in Form  
“DRC – 03” along with Interest

## Example: 6

Period under Review	GSTR – 3B		GSTR – 1		Books of Accounts	
	Turnover	Tax	Turnover	Tax	Turnover	Tax
FY 2017 – 18	1,00,000	18,000	90,000	16,200	1,00,000	18,000
FY 2018 – 19	-	-	-	-	-	-

### Disclosure in Annual Return

Reporting Table	Turnover	Tax
Point 4	1,00,000	18,000
Point 9	-	18,000
Point 10	-	-
Point 11	-	-
Point 14	-	-

Corresponding Credit in respect of Rs. 10,000 not reported in GSTR – 1 will be a dispute

## Example: 7

Period under Review	GSTR – 3B		GSTR – 1		Books of Accounts	
	Turnover	Tax	Turnover	Tax	Turnover	Tax
FY 2017 – 18	1,00,000	18,000	1,10,000	19,800	1,00,000	18,000
FY 2018 – 19	-	-	-	-	-	-

### Disclosure in Annual Return

Reporting Table	Turnover	Tax
Point 4	1,00,000	18,000
Point 9	-	18,000
Point 10	-	-
Point 11	-	-
Point 14	-	-

Reconciliation should be kept ready before hand since Mis-Match to be generated

# **Input Tax Credit**

# Structure of Form 9

Point No	Details to be provided
Point I	Basic Details
Point II	Details of Outward Supplies and Inward Supplies made during the Financial Year
Point III	Details of ITC for the Financial Year
Point IV	Details of Tax paid as declared in returns filed during the Financial Year
Point V	Particulars of the transactions for the previous Financial Year declared in returns of April to March 2019
Point VI	Other Information

## Point III – Details of Input Tax Credit

Pt III	Particulars	Instruction and Issues
6	Details of ITC availed in GSTR – 3B  <div data-bbox="206 712 654 891" style="background-color: black; color: white; padding: 10px; border-radius: 15px; width: fit-content; margin: 10px auto;">The figures shall be auto-populated from GSTR–3B and are not editable</div>	<b>INPUT TAX CREDIT AVAILED IN GSTR – 3B</b> <ul style="list-style-type: none"><li>▪ Break-up of credit into Inputs, Input Services, Capital Goods</li><li>▪ Transaction of RCM, Imports also to be segregated</li><li>▪ Problems with respect to differences in GSTR – 3B Vs Actual ITC</li></ul>

## Point III – Details of Input Tax Credit

Pt III	Particulars	Instruction and Issues
7	Details of Reversal of ITC  <div data-bbox="206 664 655 891" style="background-color: black; color: white; padding: 10px; border-radius: 15px; width: fit-content; margin: 10px auto;">The figures should had been auto-populated from GSTR-3B but the same is not happening and are editable</div>	<b>INPUT TAX CREDIT REVERSALS</b> <ul style="list-style-type: none"><li>▪ Rule 37 – Reversal on account of Non payment within 180 days</li><li>▪ Rule 42 – Reversal of input and input services on account of Taxable Vs exempted services</li><li>▪ Rule 43 - Reversal of Capital Goods on account of Taxable Vs exempted services</li><li>▪ Section 17(5) – Blocked Credits</li></ul>

## Point III – Details of Input Tax Credit

Pt III	Particulars	Instruction and Issues
8	Matching with GSTR – 2A  <div data-bbox="206 664 650 891" data-label="Text"><p>The figures should had been auto-populated from GSTR–3B but the same is not happening and are editable</p></div>	<b>MATCHING WITH GSTR – 2A</b> <ul style="list-style-type: none"><li>▪ Invoices appearing in 2A but not in Books</li><li>▪ Invoices appearing in Books but not in 2A</li><li>▪ Invoices appearing in both but value is higher in 2A as compared to Books</li><li>▪ Invoices appearing in both but value is higher in Books as compared to 2A</li></ul> <div data-bbox="684 757 1567 860" data-label="Text"><p>Only reporting is relevant and no implication of tax liability</p></div>

## Point V – Particulars of Tax paid in 2018-19

Pt V	Particulars	Instruction and Issues
12	Input Tax Credit Reversal	Part V consists of particulars of Input Tax Credit of 2017-18 which have been claimed or reversed in GSTR – 3B of financial year 2018-19
13	Input Tax Credit claim	

## Interplay of Point no III and V

Sr No	Particulars	Instruction and Issues
Pt III	Sr No 6	Input Tax Credit claimed during the FY
	Sr No 7	Input Tax Credit claimed during the FY
Pt V	Sr No 12	Input Tax Credit reversed in FY 2018-19 but pertaining to FY 2017-18
	Sr No 13	Input Tax Credit availed in FY 2018-19 but pertaining to FY 2017-18

## Interplay of Point no III and V

Description	Disclosure in Annual Return	Remark
Input Tax Credit as per books claimed in GSTR 3B of July 17 to March 18	Point No 6	
Input Tax Credit as per books claimed in GSTR 3B of April 18 to March 19	Point No 13	
Input Tax Credit as per books not claimed till March 2019	No reporting	Credit lapsed
Input Tax Credit reversed in GSTR 3B of July 17 to March 18	Point No 7	
Input Tax Credit reversed in GSTR 3B of April 18 to March 19	Point No 12	
Input Tax Credit not reversed till date	Point No 7	<b>Liability to be paid by DRC - 03</b>

# Other Information

## Structure of Form 9

Point No	Details to be provided
Point I	Basic Details
Point II	Details of Outward Supplies and Inward Supplies made during the Financial Year
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Point V	Particulars of the transactions for the previous Financial Year declared in returns of April to March 2019
Point VI	Other Information

## Point VI – Other Information

Pt VI	Particulars	Instruction and Issues
15 (A to D)	Particulars Refunds filed during the year	Aggregate value of refunds claimed, sanctioned, rejected and pending for processing shall be declared here. Refund claimed will be the aggregate value of all the refund claims filed in the financial year and will include refunds which have been sanctioned, rejected or are pending for processing
15 (E to G)	Particulars of Demand of Taxes during the year	Aggregate value of demands of taxes for which an order confirming the demand has been issued by the adjudicating authority shall be declared here

## Point VI – Other Information

Pt VI	Particulars	Instruction and Issues
16A	Supplies received from Composition Dealers	Aggregate value of supplies received from composition taxpayers shall be declared here. Table 5 of FORM GSTR-3B may be used for filling up these details.
16B	Deemed Supply under section 143	Aggregate value of all deemed supplies from the principal to the job-worker in terms of sub-section (3) and sub-section (4) of Section 143 of the CGST Act shall be declared here.
16C	Goods sent on approval basis but not returned	Aggregate value of all deemed supplies for goods which were sent on approval basis but were not returned to the principal supplier within one eighty days of such supply shall be declared here.

## Point VI – Other Information

Pt VI	Particulars	Instruction and Issues
17	HSN Wise Summary of Outward Supplies	<ul style="list-style-type: none"><li>▪ Summary of supplies effected and received against a particular HSN code to be reported</li><li>▪ It will be optional for taxpayers having annual turnover upto Rs. 1.50 Cr</li></ul>
18	HSN Wise Summary of Inward Supplies	<ul style="list-style-type: none"><li>▪ Taxpayers having annual turnover in the preceding year above Rs 1.50 Cr but upto Rs 5.00 Cr and at four digits' level</li><li>▪ UQC details to be furnished only for supply of goods. Quantity is to be reported net of returns</li><li>▪ Declaration only for those inward supplies which in value independently account for 10 % or more of the total value of inward supplies</li></ul>

## Point VI – Other Information

Pt VI	Particulars	Instruction and Issues
19	Late Fee payable and paid	Late fee will be payable if annual return is filed after the due date



# Reconciliation of GSTR 3B vs. 2A-Practical Challenges

## ITC Mismatch –GSTR-3B v. 2A

- Supplier has not filed GST returns and does not respond
- Supplier has uploaded invoice as B2C instead of B2B
- Supplier has filed the return but invoice is not appearing.
- Supplier uploaded the invoice on different GSTIN number.
- Supplier has saved the GSTR-1 and not submitted.

## Whether credit can be denied if not reflected in GSTR-2A?

- **Commissioner of Trade and Taxes Delhi vs. Arise India Limited (2018-VIL-01- SC)** – Held that Section 9(2)(g) of Delhi VAT Act held to be extent it disallows ITC to purchaser due to default of selling dealer in depositing tax is violative of Article 14 and 19(1)(g) of the Constitution of India.
- **Bombay High Court in Mahalaxmi Cotton Ginning Pressing and Oil Industries vs. State of Maharashtra [2012 (051) VST 0001 BOM]** – Upheld validity of granting credit only after payment by other person.
- **Section 155 - Where any person claims that he is eligible for input tax credit under this Act, the burden of proving such claim shall lie on such person.**
- **Bharti Telemedia Ltd. Writ Petition No. 6293/2019 – Delhi High Court – Listed on 18.09.2019**

## **Whether credit can be denied if not reflected in GSTR-2A?**

### **Section 9 (2) (g) of the DVAT Act**

“(g) to the dealers or class of dealers unless the tax paid by the purchasing dealer has actually been deposited by the selling dealer with the Government or has been lawfully adjusted against output tax liability and correctly reflected in the return filed for the respective tax period.”

### **Section 48 (5) of the MVAT Act**

“(5) For the removal of doubt it is hereby declared that, in no case the amount of set off or refund on any purchase of goods shall exceed the amount of tax in respect of the same goods, actually paid, if any, under this Act or any earlier law, into the Government Treasury except to the extent where purchase tax is payable by the Claimant dealer on the purchase of the said goods effected by him.”

## **GSTR – 3B is return under section 39?**

16. (4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.

Provided that the registered person shall be entitled to take input tax credit after the due date of furnishing of the return under section 39 for the month of September, 2018 till the due date of furnishing of the return under the said section for the month of March, 2019 in respect of any invoice or invoice relating to such debit note for supply of goods or services or both made during the financial year 2017-18, the details of which have been uploaded by the supplier under sub-section (1) of section 37 till the due date for furnishing the details under sub-section (1) of said section for the month of March, 2019.”

## **GSTR – 3B is return under section 39?**

- **Notification No.10/2017 – Central Tax dated 28th June, 2017**

“61. (5) Where the time limit for furnishing of details in FORM GSTR-1 under section 37 and in FORM GSTR-2 under section 38 has been extended and the circumstances so warrant, return in FORM GSTR-3B, in lieu of FORM GSTR-3, may be furnished in such manner and subject to such conditions as may be notified by the Commissioner.”

- **Notification No.17/2017-Central Tax dated 27th July, 2017**

“61. (5) Where the time limit for furnishing of details in FORM GSTR-1 under section 37 and in FORM GSTR-2 under section 38 has been extended and the circumstances so warrant, the Commissioner may, by notification, specify that return shall be furnished in FORM GSTR-3B electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner.”

## **GSTR–3B is return under section 39?**

- **Press Release dated 18.10.2018**

3. With taxpayers self-assessing and availing ITC through return in FORM GSTR- 3B, the last date for availing ITC in relation to the said invoices issued by the corresponding supplier(s) during the period from July, 2017 to March, 2018 is the last date for the filing of such return for the month of September, 2018 i.e. 20th October, 2018.

- **AAP and Co. Chartered Accountants (2019-VIL-35-GUJ)**

Gujarat HC held that FORM GSTR-3B is not in lieu of FORM GSTR-3. It is not a return under section 39 and is applicable only in the circumstances stipulated under sub-rule (5) of rule 61 of the rules. Press Release dated 18.10.2018 is illegal to the extent that its para-3 purports to clarify that the last date for availing input tax credit relating to the invoices issued during the period from July 2017 to March 2018 is the last date for the filing of return in Form GSTR-3B.

***Extract of sub-rule (4) of 36 areas***

*“Input tax credit to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub-section (1) of section 37, shall not exceed 20 percent. of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37.”*

Particulars	Amount	Particulars	Amount
GST Liability on Outward Supply	10,00,000/-	ITC for the Month (Tax Invoice available)	7,00,000/-
GST Liability on RCM	1,00,000/-	Date of filing GSTR3B for Oct	18 Nov 2019
Total Liability for the Month	11,00,000/-	ITC showing in 2A for Oct Month	5,00,000

#### BEFORE RULE 36(4)



#### AFTER RULE 36(4)







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