01st August 2018

GST UPDATE - 11/2018

GST aspects in Tax Audit for AY 2018-2019

- **By CA Vinay Gandhi Billapati**

30th September is around 60 days to go. Audit under Section 44AB of Income Tax Act, 1961 (Commonly called as 'Tax audit') season will commence soon. Central Board of Direct Taxes (CBDT) has issued Notification No. 33 dated 20.07.2018 amended Form 3CD with effect from 20.08.2018. With introduction of GST in India with effect from 01.07.2017, tax audit for Assessment year 2018-19 poses new challenges. Some of the major challenges being

- 3 months (01.04.2017 to 30.06.2017) Pre-GST period and balance 9 months (01.07.2017 onwards) post introduction of GST;
- Wrong classifications leading to adoption of wrong GST rate in initial months of introduction of GST;
- Lack of clarity on ITC issues;
- Frequent changes in GST rates;
- Technical glitches of GST portal;
- Errors in GST returns;
- No option of amendment of GST return and many more.

In this write up, I tried to discuss on major challenges that may come up during the tax audit and probable solutions as on date for those challenges. Many more challenges may come up once the actual audit starts and I will try to address those issues too in subsequent articles.

Regarding GST Identification Number (GSTIN) – TIN under VAT, STC under Service Tax, ECC under Central Excise were now replaced with GST identification Number (GSTIN). It is also important to note that GSTIN is state based. Tax audit is conducted for a PAN and hence, various GSTIN needs to be reported if the assesses has different branches/offices in various states. Also, there is an option of multiple business registration in GST even if the offices/branches are in same state. In case of multiple business verticals, one has to ensure that all registration numbers are disclosed.

Challenges with respect to GSTIN are during introduction of GST or during migration process, some assesses whose details as per VAT/Service Tax/Central Excise are improper have obtained new GSTIN without mentioning the old registration numbers for which auditor should ensure that the turnover declared in the old registration numbers have been carried forward to new GSTIN.

Turnover Reconciliation – Turnover as per VAT/Service Tax/Central Excise returns for period from 01.04.2017 to 30.06.2017 and turnover as per GST returns for period from 01.07.2017 to 31.03.2018 needs to be reconciled with books of accounts. Reasons for differences in the turnover after introduction of GST may be on account of

- ➔ Transaction between branches located in different states which are included in Outward Supplies as per GST returns.
- ➔ GST on Advances to be paid at time of receipt and included as ‘Outward Taxable Supplies’ in GSTR 3B but may not be adjusted against invoice by 31.03.2018 and hence not included in turnover as per Books.
- ➔ Non-Filing of GSTR1
- ➔ Exempted turnover not declared in GST returns
- ➔ Wrong turnover declared in GST returns but not rectified

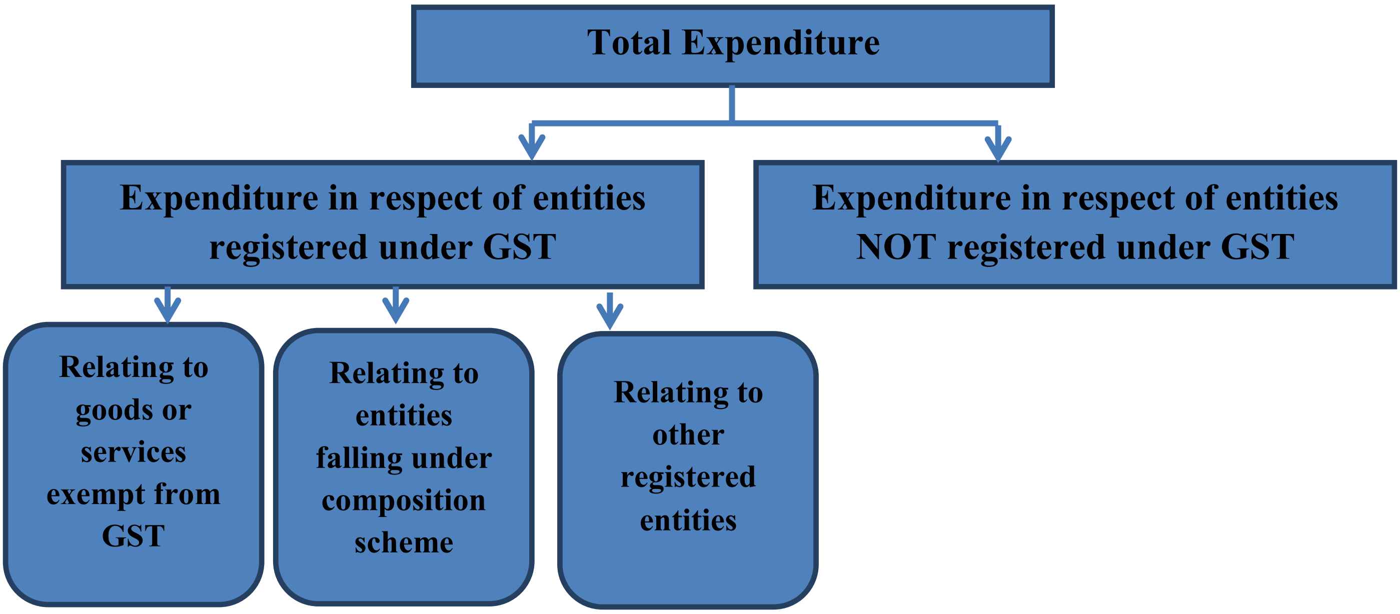
- Turnover as per GST return rectified in returns of subsequent months in FY 2018-19 since the GST act provides for rectification of any errors of a financial year before filing of return for month of September of subsequent financial year.
- Credit notes not considered in GST returns
- Non-GST credit notes not declared in GST returns
- Mismatch between GSTR 3B and GSTR 1
- Transactions of B2B declared as B2C and later rectified in subsequent months GSTR 1

Input Tax Credit - One of the objectives of introduction of GST in India is to eliminate cascading effect of taxes. The prime tool to reduce/eliminate cascading is Input Tax Credit (ITC). Before GST, cross- utilisation of taxes paid is not available i.e. taxes paid on services (Service tax) is not available as ITC to traders (i.e. VAT registrants) and vice-versa. With the introduction of GST, tax paid on goods or services or capital goods which are used in the course or furtherance of business is available as ITC which can be set off against output tax liability except for certain cases mentioned in Section 17 of CGST Act, 2017 and subject to certain conditions and procedures.

Auditor needs to ensure that the balance in Electronic Credit ledger as on 31.03.2018 needs to be matched with ITC ledgers in the books. Though GSTR 2A provides a proof of receipt of good or service from supplier, the same may undergo updation till the September month return of suppliers are filed. Hence, Reconciliation for the same also needs to be prepared or obtained from the client. Major items of reconciliation may be

- Non-Availment of ITC on invoices
- ITC may not be reflected in GSTR 2A due to non-filing of return by Supplier
- Wrong accounting of Transition credits
- Wrong availment of ITC in GST return though the same is not availed in Books
- Errors in GST returns

New clause 44 of Form 3CD effective from 20.08.2018 requires the auditor to give break-up of expenditure into following categories.



Clause 44 of Form 3CD appears to be an ITC audit. One have to report whether the expenditure is from registered or from unregistered person which can be used by GST officer to ascertain whether the required disclosures are made in GST returns or required tax payable is paid or not. Total expenditure incurred during the year shall be reported bifurcating the same into 2 broad categories which have sub-categories.

Category I - Expenditure in respect of entities registered under GST

Expenditure incurred towards goods purchased/ services procured in a financial year from GST registered persons i.e. from a person who possess a GSTIN, whether a regular dealer or a composition dealer needs to be reported here. Under this category, there are 3 broad sub-categories which are discussed in detail. Tables 4 & 5 of GSTR 3B contains the majority of details to be reported in this clause but GSTR 3B captures only tax amount and not gross expenditure incurred.

Relating to goods or services exempt from GST – The details of all goods or services which are exempt under GST purchased from a GST registered person needs to be reported. Here, it is appropriate to recollect definition of 'Exempt Supplies' under CGST Act, 2017. In simple words, Exempt Supply = Nil rated supplies + Exempted supplies + Non-Taxable Supply (Term used in GST return as 'Non-GST supply'). Some examples of such expenditure to be reported under this category are Interest expense (If bank is registered), Petrol & Diesel Expenses (If Supplier is registered), Lodging expenses where declared tariff of that room is less than Rs. 1,000 (If Supplier is registered), any exempted goods purchased or services received (If Supplier is registered). Identifying such expenditure is a big challenge given the general nomenclature used in books such as 'Miscellaneous Expenditure' , 'Sadar', 'General Expenses', 'Office Expenses'. Each entry needs to be analysed and grouped in respective category. Table 5 of GSTR 3B captures this data but many assesses missed reporting the same in GSTR 3B.

Relating to entities falling under composition scheme – Details of Goods procured or Services received from entities which are under composition scheme needs to be reported here. This is a bigger challenge which can be a laborious job of verification of each and every invoice relating to purchases/expenditure. Only way to identify such expenditure is the invoices/bill of supply contains GSTIN of supplier but who doesn't collect GST on invoice pertains to the category of purchases from dealers under composition scheme. Table 5 of GSTR 3B captures this data but many assesses missed reporting the same in GSTR 3B.

Relating to other registered entities – Expenditure pertaining to taxable inward supplies of goods or services from a GST registered person needs to be reported here. In simple words, Total Purchases from Registered persons – Exempt purchases from registered persons – Purchases from dealers under Composition scheme needs to be reported here. Challenges in reporting under this clause is that this may not (need not) match with actual ITC availed or eligible as per GST return. Some major reasons for the same are non-availment of ITC, Purchased from registered person but recipient's GSTIN not mentioned on Invoice, Section 17(5) supplies i.e. supplies on which ITC is restricted, Supplies from registered person but CGST+SGST of another state is charged based on place of supply rules, non-filing of returns by supplier, Supplier filed returns but missed adding the recipient's GSTIN in his GSTR 1, ITC as per GSTR 3B includes ITC on assets too but amounts to be reported here are and so on. This clause also includes expenditure on which assesse is liable to pay under reverse charge as per provisions of Section 9(3) of CGST Act, 2017 i.e. Payments to GTA who are registered under GST, Sponsorship Services, etc. Table 4 of GSTR 3B captures the data reported in this clause.

Category II - Expenditure in respect of entities NOT registered under GST

Total expenditure incurred towards Goods purchased/ Services procured from a person who doesn't have a GSTIN needs to be reported here. Section 9(4) of CGST Act, 2017 mandates the registered person to pay tax under Reverse Charge at rate applicable on goods or services procured/received by him from an unregistered person. This provision is effective from 01.04.2017 to 12.10.2017 and later Government suspended the applicability of the same till 30.09.2019. The tax paid under reverse charge is eligible to be availed as ITC subject to provisions of Section 17 of CGST Act, 2017. Many assesses missed to pay tax under RCM under section 9(4) of CGST Act, 2017. Reporting under this clause gives data to GST authorities to verify whether assesse has paid tax under RCM under Section 9(4) of CGST Act, 2017. It is advisable to pay tax under RCM now along with interest and claim the tax paid as ITC in the month in which it is paid.

To conclude, this year, GST aspects in tax audit may pose a new challenge to chartered accountants such as first year of introduction of GST; revision in Form 3CD with effect from 20.08.2018 notified on 20.07.2018, just 72 days prior to due date of completing tax audits; time limit upto filing of return for month of September under GST to amend the particulars of FY 2017-18. Better late than never. Let us educate the clients and accountants to provide accurate and required data as per requirements of law and also to rectify any errors in GST returns before finalisation of books for tax audit purposes. Happy Tax Audit season.