

Annual Return under GST

CA Vinay Gandhi Billapati

ca.vinaygandhi@gmail.com

GST compliance has been a point of discussion among all business men and professionals since past 1.5 years. Now, it is the time for another compliance requirement, Annual return. When an error crept up in any of the GST returns filed, many assesses and also many professionals have suggested rectifying the errors in annual return. Can the errors be rectified in annual return is again a debatable question till the formats are released. Now, the answer is clear. Section 44 of CGST Act, 2017 mandates every registered person (with some exceptions) to file Annual return for every financial year on or before 31st December following end of financial year. Every registered person whose aggregate turnover during a financial year exceeds Rs. 2 Crores shall get his accounts audited and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in FORM GSTR-9C. Government has notified the formats of Annual return amending CGST rules, 2017 vide Notification No. 39/2018 – Central Tax dated 04.09.2018. This article discusses the salient features and challenges of Annual return.

Persons who are required to file Annual Return:

Every registered person EXCEPT

- Input Service Distributor,
- A person paying tax under section 51 or section 52,
- A casual taxable person and
- A non-resident taxable person

Format for Annual Return

As already mentioned, Government notified **Form GSTR 9** for registered persons and **GSTR 9A** for persons opting composition scheme.

Details to be furnished in Annual Return

Details of Outward Supplies (Part II) :-

Details of advances, inward and outward supplies on which tax is payable as declared in returns filed during the financial year (Table 4)	B2C + B2B + Export on payment of IGST + SEZ supplies on payment of IGST + Deemed Exports + Tax paid on Advances + Inward supplies on which RCM is payable – Credit Notes + Debit Notes + Amended Supplies
Details of Outward supplies on which tax is not payable as declared in returns filed during the financial year (Table 5)	Exports under Bond/LUT + SEZ supplies under Bond/LUT + Outward supplies on which tax is payable under reverse charge by the recipient + Exempted + Nil rated + Non-GST Supply – Credit Notes + Debit Notes +/- Amended supplies

It is important to note that annual return contains details whichever are already declared in the returns + Supplies which are amended in the same financial year + Supplies pertaining to FY amended through returns filed during April 2018 to September 2018.

There is a misconception among many taxpayers and consultants that any errors or mistakes committed in the returns of FY 2017-18 can be rectified in the Annual return. Form GSTR 9 made it clear that any errors in the filed returns CANNOT be corrected/ rectified in annual return but should be corrected in the return for the month of September 2018.

Details of Inward Supplies (Part III):-

ITC plays a prominent role in GST era which is a key to success of implementation of GST. The concept of matching as proposed by GST law has not been implemented till date. At present, the way to avail ITC is only in GSTR 3B and that too on self-assessment basis and not on matching basis. However, GSTR 9 prescribes more details than asked for in GSTR 3B regarding ITC. In GSTR 3B, assessee is required to give only the ITC availed tax wise i.e. IGST, CGST, SGST and Cess but GSTR 9 prescribes breakup of details of ITC availed in GSTR 3B. Also, GSTR 2 is extended till any further notification but GSTR 9 asks for reconciliation between GSTR 3B Vs GSTR 2A. Though the form is asking for details

already declared in the returns during the year, the fields in the GSTR 9 is asking for more detailed information than those required in GSTR 3B.

Details of ITC availed in GSTR 3B (Tables 6 & 7 of Part III)

Categorisation of ITC availed into Inputs, Input Services and Capital Goods is asked for in the Form GSTR 9 which is not required in GSTR 3B. This will be a hectic task since it requires review of all the inward supplies on which ITC is availed and have to be categorised into 3 categories. Other details asked for in the form are:-

Inward supplies received from unregistered persons liable to reverse charge on which tax is paid & ITC availed	<ul style="list-style-type: none"> ▪ Transactions attracting reverse charge under section 9(4) of CGST Act, 2017 ▪ Transactions attracting RCM under section 9(3) of CGST Act, 2017. For example, advocates, GTA service providers, etc. who need not register as per Sec. 23 of CGST Act, 2017.
Inward supplies received from registered persons liable to reverse charge on which tax is paid and ITC availed	This constitutes supplies attracting reverse charge under section 9(3) of CGST Act, 2017 and received from persons possessing GSTIN.
Import of Goods & Services	<ul style="list-style-type: none"> ▪ Import of goods (including supplies from SEZs) ▪ Import of services (excluding inward supplies from SEZs)
ITC received from Input Service Distributor (ISD)	ITC availed when ISD files GSTR 6
Amount of ITC reclaimed	Rule 37 of CGST rules, 2017 mandates reversal of ITC in the case of non-payment of consideration within 180 days from date of Invoice and also allows reclaim ITC as soon as payment is made.
Inward Supplies on which ITC has been availed	All other ITC claimed in GSTR 3B for the year 2017-18. For example, ITC availed from Form GST ITC 01 & Form GST ITC 02 needs to be shown here.

	<ul style="list-style-type: none"> ▪ ITC 01 form is for cases specified in Section 18(1) of CGST Act, 2017 i.e. <ul style="list-style-type: none"> ○ ITC to be availed in case of new registration ○ ITC to be availed in case of voluntary registration ○ ITC to be availed when a person opts for regular levy from composition levy ○ ITC to be availed when exempt supply becomes taxable. ▪ ITC 02 form is to be filed in case of change in constitution of business.
Details of ITC reversed	<ul style="list-style-type: none"> ▪ Rule 37 – Reversal of ITC if amount & tax not paid to supplier within 180 days ▪ Rule 39 – Reversal of ITC in case of excess distribution of ITC by Input Service Distributor (ISD) ▪ Rule 42 – Reversal of ITC availed on common Inputs or input services where both taxable and non-taxable supplies are being made by the Supplier. ▪ Rule 43 – Reversal of ITC availed on capital goods where both taxable and non-taxable supplies are being made by the Supplier. ▪ Other Reversals – Reversal on account of filing ITC 03 i.e. when registered person opts for composition and reverses the ITC as on date of opting for composition.

There is no specific table in GSTR 3B for showing reversals under Rule 37 & 39 of CGST Rules, 2017 but GSTR 9 asks specifically for these details.

Transition Credit - ITC availed and reversed in TRAN 1 and TRAN 2 +/- Amendments in the same needs to be disclosed.

Reconciliation of ITC availed in GSTR 3B with details in GSTR 2A (Table 8)

Point 8 of Part III of GSTR 9 prescribes for reconciliation of ITC availed in GSTR 3B with details available in GSTR 2A.

S.No.	Particulars
1	ITC as per GSTR 2A
2	Less: ITC availed in GSTR 3B
3	Less: ITC pertaining to FY 2017-18 but availed during April to September 2018
4	Difference <ul style="list-style-type: none">• ITC available but not availed• ITC available but ineligible
5	IGST paid on import of Goods Less: IGST ITC availed on import of Goods
6	ITC to be lapsed in current FY (4+5)

It is not clear whether the difference amount (as computed in row 4 of above table) can be a negative amount i.e. can one avail ITC which is more than the details available in GSTR 2A? Also, there is no provision in the current Form GSTR 9 to mention

➔ ITC availed during FY 2017-18 but not appearing in GSTR 2A

➔ ITC pertaining to FY 2017-18 availed in April to September 2018 but not appearing in GSTR 2A

In my view, though the invoice is not appearing in GSTR 2A, the assessee cannot be made deprived of the eligible ITC and he is to be allowed ITC if he is in possession of proper invoice; has received goods or services; filed his GSTR 3B and the supplier files his GSTR 3B i.e. if supplier has paid tax to government which are the 4 conditions specified in Section 16 of CGST Act, 2017.

Details of Tax Paid (Part IV and Table 9):-

Details of tax/Interest/Late Fee/Penalty/Any other amount payable and paid needs to be given in this table. This part should actually be an auto populated table based on details in Electronic cash ledger, Electronic Credit Ledger and Electronic Liability ledgers of an assessee.

Particulars of Transactions of FY 2017-18 declared in returns of April to September 2018 (Part V):-

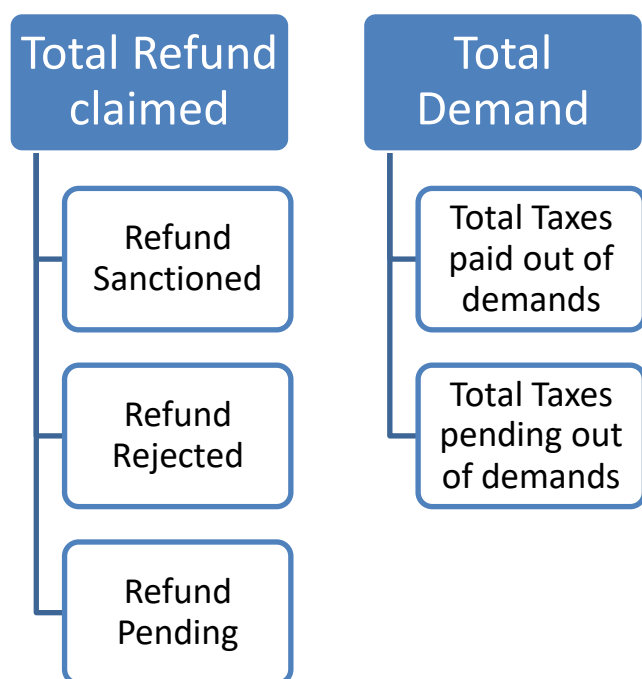
- ✧ Tables 10 & 11 specifically deals with any additions or changes made in Outward supplies pertaining to FY 2017-18 but declared through amendments in returns of April to September 2018 needs to be declared net of debit/credit notes.
- ✧ Tables 12 & 13 deals with any changes to ITC of FY 2017-18 availed/reversed during April to September 2018. It is appropriate to mention here that any reversal mentioned in Table 12 may attract interest @ 18% per annum from date of availment till date of reversal.
- ✧ Table 14 contains details of differential tax paid on account of declaration in Tables 10 & 11

There may be situations where details of outward supplies pertaining to FY 2017-18 have been amended in returns filed during April to September 2018 that doesn't affect tax or value of taxable supply, for example, GSTIN of a party is modified or changes in invoice number, etc. need not be disclosed in Table 10 & 11 since it specifically asks for any change in supplies or tax declared through amendments. Table 14 contains details of differential tax paid on account of declaration in Tables 10 & 11 only but doesn't contain details of interest on reversal of ITC as disclosed in Table 12.

Other Information (Part VI):-

While all other parts require information that have already been disclosed in the returns filed during FY 2017-18, only part VI requires extra information.

- Particulars of demands and refunds in Table 15



- Table 16 –

- Information on supplies received from composition taxpayers
- Deemed supply under section 143 – Where inputs sent for job work not received back by principal within 1 year, it is deemed that such inputs are supplies by principal to job worker on the day inputs are sent to job worker. Similar is the case with capital goods but time limit is 3 years instead of 1 year.
- Goods sent on approval basis but not returned but were not returned within 180 days from date of invoice

- HSN wise summary of outward supplies in Table 17

- HSN wise summary of inward supplies in Table 18

- Table 19 asks for information on Late fee payable and paid on late filing of GSTR 9

Though the due date of filing annual return is 31st of December, the details asked for in the form GSTR 9 is far beyond the details in the returns already filed though the headings of the various parts of GSTR 9 contain the phrase 'as declared in the returns already filed during the financial year'. Compilation of details for filing GSTR 9 is going to be a time consuming exercise with the break up asked for in case of ITC, reconciliation between GSTR 3B and GSTR 2A, HSN wise summary of Inward supplies, etc. As soon as the tax audit season is done, there will be no time for relaxation unlike the previous years and one has to start compiling the required details for GSTR 9 and for those whose turnover exceeds Rs. 2 Crores, reconciliation between Annual Financial Statements and GSTR 9 is also to be done. To conclude, Outward supplies in GSTR 9 is to be obtained from GSTR 1 filed for FY 2017-18 and ITC details in GSTR 9 to be obtained from GSTR 3B and beyond.