



# BHILAI BRANCH OF CIRC OF ICAI

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30th June 2019. Also make generous contributions for CABF.



Dear Esteemed Colleagues,

The much awaited project of Self Service Portal of ICAI is going to be operational. This will make ICAI progress on the path of digitalization. Members can click on “eservices” link on [www.icai.org](http://www.icai.org) home page to access the Self Service Portal.

The Government of India initiative for Digital Storage of Documents such as PAN, Driving Licence, Vehicle RC, Educational Qualification certificates through its website [www.digilocker.gov.in](http://www.digilocker.gov.in) is gaining momentum. I request the members to utilize the facility and encourage others too. It will help to preserve the valuable documents in digital platform. Driving licence can be shown through digilocker app if physical document is not available. For complete details you can visit [www.digilocker.gov.in](http://www.digilocker.gov.in).

I urge all the members to pay their membership fees to the ICAI by

Institute of Chartered Accountants of India has come into existence on 1st July 1949 and we celebrate and recognize the day as CA Day. We rededicate ourselves to the profession. With its humble start the profession has now grown in leaps and bounds and ICAI has achieved recognition as a Premier Accounting Body not only in the country but also globally. On the eve of CA day, we are organizing games for children and ladies of our fraternity, we are organizing Blood Donation camp on 30th June and 1st July. ICAI is completing 70 years and it is a proud moment for each one of us to be part of this successful journey. I request all the members to actively participate in events for CA Day.

With Best wishes and warm regards,

CA. NITIN RUNGTA

Chairman

Bhilai Branch of CIRC of ICAI

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## “Reconciliation in Form – GSTR 9C”

Background:

The due date for filing the very first GST Annual return & GST Audit with Reconciliation Statement is fast approaching. The Annual Return in GSTR-9/9A/9B is a “factual presentation or Compilation” of already presented facts in GSTR-3B & GSTR-1 during the reporting year and later with respect to FY 2017-18. It also presents the head-wise taxes payable and paid and allows the assessee to pay any differential tax. Whereas GST Audits primary aim is to “True & Correct” statement of particulars providing a scope for rectification wrt outward supplies. This is a different challenge being not a Tax Audit conducted under GST audit, to verify books as per the Form-9C bringing forthwith the Correct Turnover, Correct Claim of ITC which paves a path for Correct discharge of Tax Liability.

A. GSTR Audit in Framework of Form-9C: (Reconciliation Statement & Certification- Filing, Format & Rules):

Section 35(5) commences with the expression “every registered person whose turnover during a financial year exceeds the prescribed limit” whereas the relevant Rule 80(3) uses the expression “every registered person whose aggregate turnover during a financial year exceeds two crore rupees”. It must be noted that the word turnover has not been defined whereas the expressions “aggregate turnover” has been defined. One may note that the expression “turnover in State or turnover in Union territory” is also defined. GSTR-9C is the GST reconciliation Statement for a particular FY to be filed by taxpayers on or before 30th June’2019 extended from 31st December after being certified by CA’s. It must be filed along with the GSTR-9 (Annual Returns) and the Audited Financial Statements on the GST Portal or be filed through the facilitation centre.

B. Features of GSTR- 9C:

GSTR-9C is a statement of reconciliation between:

Ø The Annual returns in GSTR-9 filed for an FY, first being 2017-18 and

Ø The figures as per Audited Annual Financial statements of the taxpayer.

v It is certified by the CA. It can be considered to be similar to that of a tax audit report furnished under the Income tax act. It will consist of gross and taxable turnover as per the Books reconciled with the respective figures as per the consolidation of all the GST returns for an FY. Hence, any differences arising from this reconciliation exercise will be reported here along with the reasons for the same.

v The certified statement shall be issued for every GSTIN. Hence, for a PAN there can be several reports of GSTR-9C.



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C. Pictorial presentation of GST Audit in 9C for easy understanding:

Part-A is Reconciliation Statement and  
Part-B is Certificate to be issued by GST auditor

This Consists of 2 Parts containing. Part -A consists of 4 sub Parts & 16 Tables with Reasons for unreconciled figures and Part- B consist of 1 sub part for Auditors recommendation of Liability due to non-reconciliation ratewise.

D. Issues & Resolutions in Form 9C:

1. Turnover - includes all forms of supply:

Section 35(5) commences with the expression “every registered person whose turnover during a financial year exceeds the prescribed limit” whereas the relevant Rule 80(3) uses the expression “every registered person whose aggregate turnover during a financial year exceeds two crore rupees”. It must be noted that the word turnover has not been defined whereas the expressions “aggregate turnover” has been defined. One may note that the expression “turnover in State or turnover in Union territory” is also defined.

In this backdrop the following understanding is relevant: a) Aggregate turnover is PAN based while turnover in a State/ UT is similarly worded except to the extent that turnover in a State/ UT is limited to a State; b) It is therefore, reasonable to interpret that the word turnover used in section 35(5) ought to be understood as aggregate turnover (PAN level). c) For the financial year 2017-18, the GST period comprises of 9 months whereas the relevant section 35(5) uses the expression financial year; Therefore, in the absence of clarification from Government and to avoid any cases of default, it is reasonable to reckon the turnover limit prescribed for audit i.e., Rs. 2 crores for the whole of the financial year which would also include the first quarter of the financial year 2017-18.



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## 2. “Aggregate Turnover” :

- A. Taxable value of stock transfers while examining this threshold limit: The expression aggregate turnover (PAN level) is considered, please consider the taxable value under section 15 and not the amount as accounted in the books of accounts. E.g. do not ignore taxable value of stock transfers while examining this threshold limit.
  - B. Turnover as Books or GSTR-1 /3B which is to be considered: Turnover to be declared under this Sl. No. 5A must purely flow from the ‘audited annual financial statements’ even if such turnover consists of adjustments/ revenue recognition on account of a requirement of an Accounting Standard (E.g.: AS-7 in case of ‘Construction Contracts’).
  - C. Supply of alcohol for human consumption be included in determining the threshold limit of Rs. 2 crore by a person registered under GST: The definition of aggregate turnover includes exempt turnover. Exempt turnover is defined under CGST Act to mean supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act and includes non-taxable supply.
  - D. ‘Aggregate turnover’ shall whether include stock transfers: Section 2(6) of CGST/ SGST Act defines aggregate turnover to include ‘inter-State supplies of person having same PAN’. The ‘aggregate turnover’ shall not include stock transfers effected within the same State having single GSTIN for the purpose of determining the threshold limit. However, where more than one GSTINs has been taken for branches located in the same State or located in another state, then such branch transfers shall be included for computing threshold limit of Rs.2 crore to identify applicability of this audit requirement.
3. “Period” to be covered for Audit: It is reasonable to take TO for a period of 9 months only (even as per ICAI Hand book) though it is better to take turnover of 12months. A word caution if they interpret the provisions in their favour as 12months, the assessee will be in soup. Also CA. Jatin Christopher in CA Journal said that it is suggested to carry out 12 months even if Turnover is “Nil” in July’17-Mar’18 and Turnover is more than 2Cr. In Apr’17-June’18. We have to take a call and presume safely and take MRL’s mentioning the same.



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4. Deemed supplies in sl. No. 5A: It must not include “Deemed supplies under Schedule I” in 5A as Sl. No. 5D separately covers such adjustments.
5. a) Whether to include Advance received for providing exempted services for Adjustment in sl no. 5C: No, don’t adjust the Advance received for providing exempted services as on 31st March, 2018 ( on which no GST is payable) b) Financial advances received which are to be adjustable against any services – No, don’t adjust the supply not being a financial transaction.
6. Whether to declare Credit notes issued in relation to exempt supplies, zero rated supplies and non-GST outward supplies: Credit notes related to zero-rated supplies are already reported in FORM GSTR-1, in FORM GSTR-9 as well as in books of accounts, such credit notes may not be declared in this Sl. No. 5J.
7. Issuance of financial credit notes: the value of financial credit notes is to be reduced from the financial statements and not the GST Annual return, it is required to be adjusted in Sl. No. 5J of FORM GSTR-9C.
8. Incentives/ rebate received from supplier: Where the taxable person has reduced the incentive/ rebate received from the cost of purchase in the books of accounts, the said amount will be added under Sl. No. 5O (“Reasons not listed above” category) so as to reconcile with value declared in FORM GSTR9.
9. Whether Refunds of Late fees or Refund of erstwhile law received are Refunds u/s 54 (to be reported in Table-15B): No, The said refunds are not refunds as per provisions of sec 54, hence shall not disclosed in the form anywhere. No reported at all.
10. Taxpayer has received a notice from its jurisdiction range office that there is a tax difference between GSTR-1 vs GSTR-3B / GSTR-3B vs GSTR-2A. Whether such tax differences are to be reported in total demand of tax in Table-15E? No, demand of tax for which an order confirming the demand has been issued by adjudicating authority shall be reported in Table-15E. Only notice received asking for reasons / reconciliation of tax differences between returns filed cannot be said to be an order confirming demand of tax. So, the same will not be reported in Table-15E.



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11. Chartered Accountant required to be registered as a GST practitioner for the purpose of certifying FORM GSTR-9C:
12. The GST Act/ Rules do not vest a GST practitioner with the power to audit under section 35(5)
13. Related party Transaction w.r.t Sch I : It is very difficult to capture such transaction unless we carryout a deep investigation into the affairs of the company, hence it is suggested that Mgt representation letter (MRL) disclosing the transactions may be useful being one of the alternatives.
14. Whether any documents for Cross charge between distinct persons not available - Separate invoice(s) has to be raised mandatorily as per act & rules. If they are not available, then disclosure is a must in the audit report.
15. Rate / Classification issues: Table no. 11 makes Life difficult, a lot of planning is required to derive ratewise Liability, i.e. Additional amount payable but not paid. Better to inform through audit report in case of Liability could not be crystalised ratewise. A word of Caution, GST officer may adopt the Higher rate assessing the Tax Liability. Note that No rate-wise breakup is required in Table 16 with regard to the additional tax payable. due to the non-reconciliation of the input tax credit as per Table 13 and 15.
16. Re-Reversal of ITC u/s 37 : It is to be noted that time limit of 180 days specified in 16(4) is not applicable to claim for re-availing of any credit, that has been reversed earlier (notified wef 13/06/ 18).
17. UDIN No. for Certification: UDIN is Mandatory for all certifications under IT act and GST act 1st April'2019, and hence mandatory for GST Audit.
18. GSTR-9 and FORM GSTR-9C be filed separately: Section 44(2) of the CGST/ SGST Act, 2017 provides a registered person to file annual return in FORM GSTR-9 along with a copy of the reconciliation statement in FORM GSTR-9C. Thus, FORM GSTR-9C has to be filed along with FORM GSTR-9.
19. Few Illustrations may be useful while carrying out the Audit:



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Consequences for not filing the AR:

1. Notice to defaulters who have not filed the 9C within the due dates.
2. Penalty or Late fees for delayed filing is Rs 100/- per day per Act subject to a maximum limit of 0.25% of the “turnover” in the state as stated in GSTR-9 may be levied.
3. Besides, the defaulter may be required to pay a general penalty for contravening the provisions of the Act which may extend upto Rs 25,000 under each Act.

## D. Mechanism of payment

There are no provisions under the law which prescribes the mechanism of payment of the additional tax liability that may arise out of reconciliation. However, upon the analysis of the form it can be seen that it requires mandatory payment of the differential tax liability in cash.

The Following may be useful to note as per :

- i. It does not permit utilization of the balance in electronic credit ledger for such payments.
- ii. Where the tax paid is incorrectly shown on the lower side in Form GSTR 3B, then Table 9 of Form GSTR 9 would show a higher tax payable (which would be as per the consolidated figures of outward supplies in Form GSTR 1 and inward reverse charge supplies in Form GSTR 3B) than total tax paid in cash and ITC (actual tax paid in Form GSTR 3B). In this situation, the differential tax payable can be paid through Form DRC-03.
- iii. One should be careful here that if such differential tax is already paid through Form DRC-03 while reconciling Form GSTR 9, the same difference arising in Form GSTR 9C should not be subjected to additional liability as per the Auditor’s recommendations in Part V of Form GSTR 9C.



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## E. RESPONSIBILITY OF AUDITOR GST AUDIT :

The Audit is conducted by same auditor or different auditor has no impact as long as it is certified. There is huge responsibility as the words prescribe “True & Fair” which calls for a “Reasonable assurance” (and not a “High Level assurance”). The Audit starts with the following in depth analysis,

- i. Verification thoroughly the Registration whether properly categorised wrt “Nature of Business” and “HSN Codes”.
- ii. Types of “Supply” u/s 7 and sch I,II & III.
- iii. Identifying “Time of Supply” and “Place of Supply”
- iv. Measuring Valuation as per sec 15 and reconsidering the word “Sole” Consideration
- v. Claimed ITC as per sec 16 (eligible credit) while restricting it u/s 17 (Ineligible credit)
- vi. Maintaining records as per the provisions of sec 35 while electronic cash & credit ledger electronically.
- vii. Reconciliation of Turnover of that Entity and not that of Registered person (the word used is “Derived Turnover”)
- viii. Computing the Non-GST, Exempted, NIL rated transactions separately including “No Supply” in Table 7.
- ix. The Classification and Understanding of HSN codes
- x. Delimiting any overlapping transactions with earlier Regime wrt Apr17 to Jun17
- xi. Recalculating Tax demands or Refunds
- xii. Most difficult part that ITC Declared in GSTR-9 with ITC availed on expenses as per Books of account audited.





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## F. Conclusions:

There are few difficulties having large impact like HSN Codes /classification, Interpretation of Law, Valuation as per books of account vs. Valuation as per sec 15, “No Supply” category, ratewise classification for unreconciled turnover, same last date for GSTR-9 etc a hindrance to audit. Therefore, Let us equip ourselves and Plan our time for completion of the GST audit in time. There is always huge risks associated while carrying out the audit to understand the “Supplies” and Certifying “True & Fair” without a bias sitting on quasijudicial authority. We are likely to be exposed off with notices soon after filing due to wrong understanding of law or lack of time to analyse wrt a transaction. Assesee’s if tagged in with warnings with the challenge what we have, always saves us to some extent. Therefore, go ahead with MRL for both forms 9 & 9C separately, Though assessee files GSTR-9 & 9C. Note that MRL and working papers is a must for 9C which will be saviour.



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## UPCOMING EVENTS OF BHILAI BRANCH OF CIRC OF ICAI

- 01.07.2019 : CA DAY CELEBRATION
- 02.07.2019 : LIVE WEBCAST ON ISSUES ON GST & A WAY FORWARD
- 05.07.2019 : LIVE WEBCAST ON UNION BUDGET 2019-20
- 06.07.2019 : STUDY CIRCLE ON UNION BUDGET-2019 & INCOME TAX
- 13.07.2019 : ONE DAY PEER REVIEW TRAINING PROGRAM
- 26.07.2019 : LIVE WEBCAST ON "UNDERSTANDING & E-FILING ITR FORMS"