

GST DEPARTMENT AUDIT - FAQs



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As all my professional colleagues are aware, GST certification in Form GSTR 9C by a Chartered Accountant was scrapped from FY 2020-21 onwards. Thus, it seems that the GST Authorities shall rely on tons of data and information generated through GSTR 1, GSTR 2B, E-way bills, E-Invoice etc. while assessing a taxpayer.

Further, under Section 65 of CGST Act 2017, departmental authorities can carry out GST Audit of a taxpayer.

As Section 65 of the said Act, departmental authorities can conduct the audit by visiting the place of business of a taxpayer. The authorities can visit the premises only after informing at least 15 days before the visit in Form GST ADT-01. The audit has to be completed within three months of commencement of audit

The expression "commencement of audit" shall mean the date on which the records and other documents, called for by the tax authorities, are made available by the registered person or the actual institution of audit at the place of business, whichever is later.

It is mandatory to provide the authorities books of accounts and other documents and information in a time bound manner.

If on conclusion of such audit results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may issue Show Cause Notice under section 73 or section 74 of CGST Act.

In view of the above background, let us understand GST department Audit under CGST Act in the form of Q&A

Q. Whether concept of Audit carried out by departmental authorities by visiting place of business new?

A. No. This is not a new concept. Similar concept was already in existence under Excise and Service Tax laws in erstwhile Indirect tax regime

Q. Do the departmental authorities visit the premises to conduct said audit?

A. Yes, the authorities visit the premises to conduct said audit

Q. Since departmental authorities visit the premises, can they seize any books of accounts or other such information?

A. The department does not have the authority to search and seize any books of accounts or information during this process of GST Audit.

Q. What is period of Audit?

A. As per Rule 101 of CGST Rules, the period of audit to be conducted shall be a financial year or multiples thereof.

Q. What is the scope of Audit?

A. The authorities who conduct audit of the records and the books of account of the registered person shall, with the assistance of the team of officers and accompanying officials shall verify:

- the documents on the basis of which the books of account are maintained
- the returns and statements furnished
- the correctness of the turnover, exemptions and deductions claimed,
- the rate of tax applied in respect of the supply of goods or services or both,
- the input tax credit availed and utilised,
- refund claimed,
- other relevant issues

Q. What is the duty of the taxpayer undergoing said audit?

A. Following are some of the duties of a taxpayer undergoing audit:

- [i] To Comply in time to GST-ADT-01 notice and all necessary correspondence from audit officer with respect to the audit proceeding,
- [ii] To make available all necessary books of accounts i.e. physical record as well as accounting system access/electronic record as per necessity to audit team and any other document/ information required to complete the audit
- [iii] To provide the necessary facility to verify the books of account/other documents as required,
- [iv] To ensure presence of either the Registered Person or his authorised representative at the place of business where audit is being conducted during audit activity so that he can explain the books and the business activity properly
- [v] To extend necessary cooperation to the audit team during Place of Business audit visit for timely completion of audit,
- [vi] To follow the statutory timelines in case of making payment if audit results are accepted and / or to comply with notice under section 73 /74 of GST Act in case audit finding are not accepted.

Q. Whether taxpayer shall have an opportunity to explain any discrepancies, if any, noticed during the time of audit?

A. The authorities inform the taxpayer of the preliminary discrepancies noticed, if any, as observed in the audit and the said person may file his reply. The authorities finalise the findings of the audit after due consideration of the reply furnished by the taxpayer.

Q. Whether final audit findings are informed to the taxpayer?

A. Yes, final audit findings are informed to the taxpayer in Form GST ADT-02

Q. Are there any parameters set by the department to identify taxpayers for selection of audit?

A. We understand that the selection of audit is random in nature. Any taxpayer can face such audit by the department. However, some of the Risk parameters which are considered while selecting a taxpayer for audit are:

- [i] Volume of the Taxpayer's turnover/net profit,
- [ii] Variation in the Taxpayer's turnover/net profit as compared to previous years,
- [iii] Huge Exemptions claimed by the taxpayer,
- [iv] Higher incidence of supplies without issuance of E-Way Bills,
- [v] Taxpayer who does not file periodical return but issues E-Way Bills
- [vi] Financial ratio analysis and if any major variations observations,
- [vii] Volume of Tax Refund claimed by the taxpayer's year wise comparison and if any variations observations,
- [viii] Multitude of the taxpayer's legal relationships with other entities,[ix] Taxpayer has multiple branches,
- [x] Taxpayer who has requested waiver or is bankrupt,
- [xi] Taxpayer categorized as High Risk,
- [xii] Taxpayer's return was previously investigated for evasion,
- [xiii] Taxpayer who has not been audited in the pre-GST era for a long period i.e. 4 to 5 years under VAT or Service Tax,
- [xiv] Any specific information received from other Government authorities i.e. Income Tax, ROC, RBI, Local tax authorities or any written compliant received from the person.
- [xv] Difference in the turnover as declared in Form GSTR-1 and GSTR-3B returns for multiple period,
- [xvi] Difference in ITC availed and utilized as per GSTR-3B and ITC available as per GSTR-2A,
- [xvii] Wrong classification of goods or services provide, effecting wrong levy of tax,
- [xviii] Mismatch in the details of Export reported under GSTR-1 and information lodged on ICEGATE
- [xix] and inconsistency in the data declared in GSTR-1 and E-way Bills generated

Q. What are the consequences if the notice in Form GST ADT-01 has not been replied in time bound manner?

A. It is suggested to reply to said notice within timelines mentioned in said notice. If no reply / information / documents are furnished, then, it may lead to prosecution

- Q. Generally, the timelines mentioned in the notices are too short. What to do in such scenario?**
- A. It is suggested to furnish information which is readily available in reply to that letter. For balance information, additional time can be sought to furnish balance information
- Q. If an audit is carried out under Section 65 by a State Authority for a particular financial year, then said audit can be carried out by Central Authority for same financial year?**
- A. No. Dual jurisdiction for same matter is not allowed under GST Act and Rules.
- Q. What are the information/ documents/ books of accounts verified by the authorities during the course of the audit?**
- A. Following is the illustrative list of information that can be sought by departmental authorities
- [i] All such Books of accounts mentioned as per Section 35 of the CGST Act read with Rule 56
 - [ii] Tax Invoices, Bill of Supply, Delivery Challans, Credit Notes, Debit Notes, receipt Vouchers, payment vouchers and refund etc., like the details in the invoices should be subject to specific rules,
 - [iii] If the taxpayer is having multiple branches, stock transfers amongst branches must also be reconciled. Stock Register reflecting opening balance, receipts, supply and goods lost, stole Destroyed and the closing stock,
 - [iv] If the taxpayer is a manufacturer, production records including break up of raw Materials, finished goods, scrap etc,
 - [v] Details of Advances received and paid during the audit period,
 - [vi] Records pertaining to Input Tax Credit availed and utilized. Input Tax Credit should be reversed for non-payment within 180 days and this should be checked by the auditor,
 - [vii] If the taxpayer has maintained electronic records, log of all the entries modified or Deleted etc
 - [viii] Reconciliation of all the information with GST returns
 - [ix] Details of E-Way Bills register as per GSTN data,
 - [x] Copies of GST Returns like GSTR-1, GSTR-2A, GSTR-2B, GSTR-3B, GSTR 9/9C etc. along with copies of tax payment challan etc., for the audit periods.
 - [xi] Audited financial Statements including Audit Report etc., for the audit period,
 - [xii] Copy of Income Tax Return for the audit periods,
 - [xiii] Copy of Form 26AS provided by I.T. Department for the audit period.
 - [xiv] Copies of Inward and Outward Ledgers,
 - [xv] Copy of the GST registration certificates of Principal Place of Business and branch and other place of details whether incorporate or not

Note: The above views of the author are personal and are based on the laws prevailing as on the date of article.

