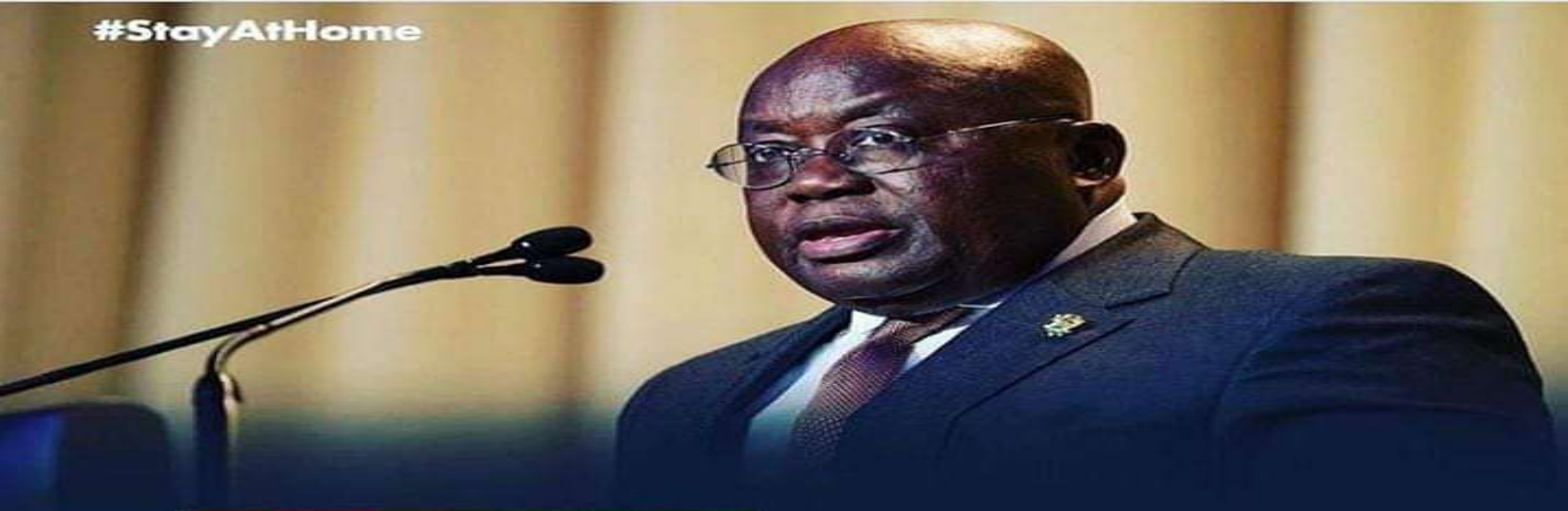


#StayAtHome



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**"We know how to bring  
the economy back to life.  
What we do not know is how  
to bring people back to life"**

- President Akufo-Addo



# GST ANNUAL RETURN & AUDIT FOR 18-19

What has experienced of F.Y. 17-18 taught us?



## Some Learnings

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- The Form 9 & 9C were filed in a customized manner
- The Accounts and Records in respect of outward supply were fairly maintained at the end
- The records in respect of ITC were comparatively weak
- GSTR 2A reconciliation (Table 8) was perceived to have orchestral value
- RCM liabilities were not discharged properly. Invariably taxes were paid on that front
- Part V of Form 9C was used by the Auditor's wherever tax was agreed to be paid by auditee
- Department Audit started instantly.



# COMPLIANCE DATES AND REQUIREMENTS



# Date Extension for Filing of GSTR 9 & 9C

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## **Notification No. 15/2020- CT dated 23.03.2020**

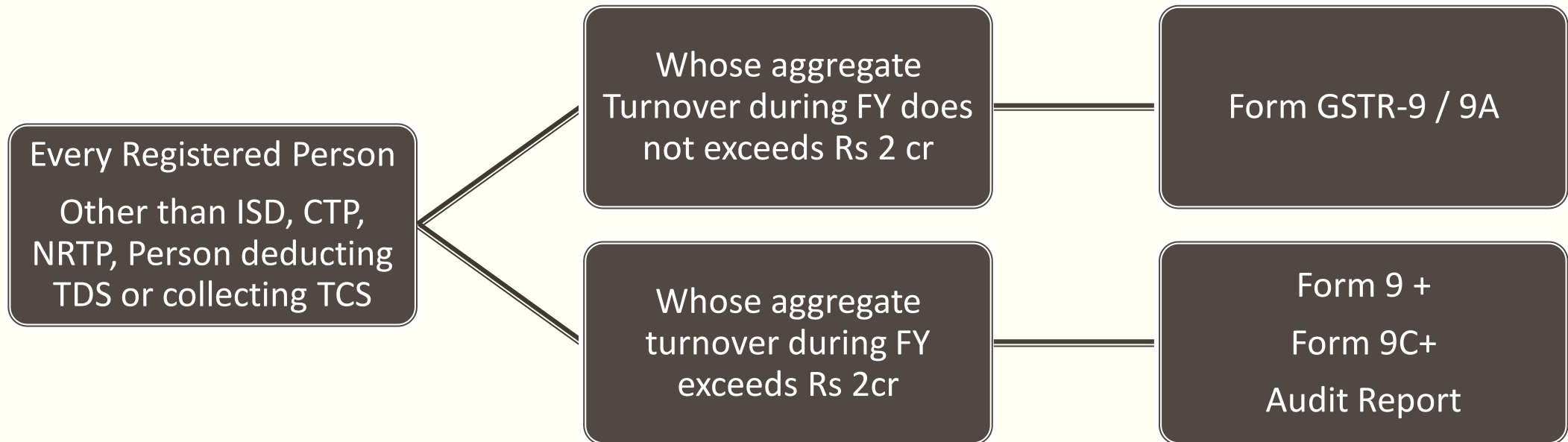
- Time Limit for filing of Annual Return in Form-9 &
- Time Limit for filing of Reconciliation Statement in Form-9C along Audit Report
- Extended up to **30.06.2020**.



# Who is required to file Annual Return under Sec 44 of CGST Act

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## Section 44 read with Rule 80





# Relaxation - Optional Filing of the Annual Return

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- **Notification NO. 47/2019- CT dated 09.10.2019**
- In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act), the Central Government, on the recommendations of the Council, hereby notifies **those registered persons whose aggregate turnover in a financial year does not exceed two crore rupees** and who have not furnished the annual return under sub-section (1) of section 44 of the said Act read with sub-rule (1) of rule 80 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules) before the due date, as the **class of registered persons who shall, in respect of financial years 2017-18 and 2018-19**, follow the special procedure such that the said persons **shall have the option to furnish** the annual return under sub-section (1) of section 44 of the said Act read with sub-rule (1) of rule 80 of the said rules :
- ***Provided that the said return shall be deemed to be furnished on the due date if it has not been furnished before the due date.***





# Relaxation - Optional Filing of the Annual Return

---

- **Circular No. 124/43/2019 – GST**
- It is provided that the annual return shall be deemed to be furnished on the due date if it has not been furnished before the due date for the financial year 2017-18 and 2018-19, in respect of those registered persons. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the said Act, hereby clarifies the issues raised as below:–
- *After the due date of furnishing the annual return for the year 2017-18 and 2018-19, the common portal **shall not permit** furnishing of FORM GSTR-9/9A for the said period.*
- *If any registered tax payer, during course of reconciliation of his accounts, notices any short payment of tax or ineligible availment of input tax credit, he may pay the same through FORM GST DRC-03.*



# Increase in Limit of Aggregate Turnover for GST Audit

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- Notification No. 16/2020- CT dated 23.03.2020
- Insertion of Proviso to Rule 80(3) of CGST Act 2017
- Provided that **every registered person whose aggregate turnover during the financial year 2018-2019 exceeds five crore rupees shall get his accounts audited** as specified under sub-section (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in FORM GSTR-9C **for the financial year 2018-2019**, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.

For the year 2018-19, the aggregate turnover limit for purpose of getting GST Audit done and filing Form GSTR-9C has been increased to Rs 5 cr.



## Rule 80(3) along with Proviso?

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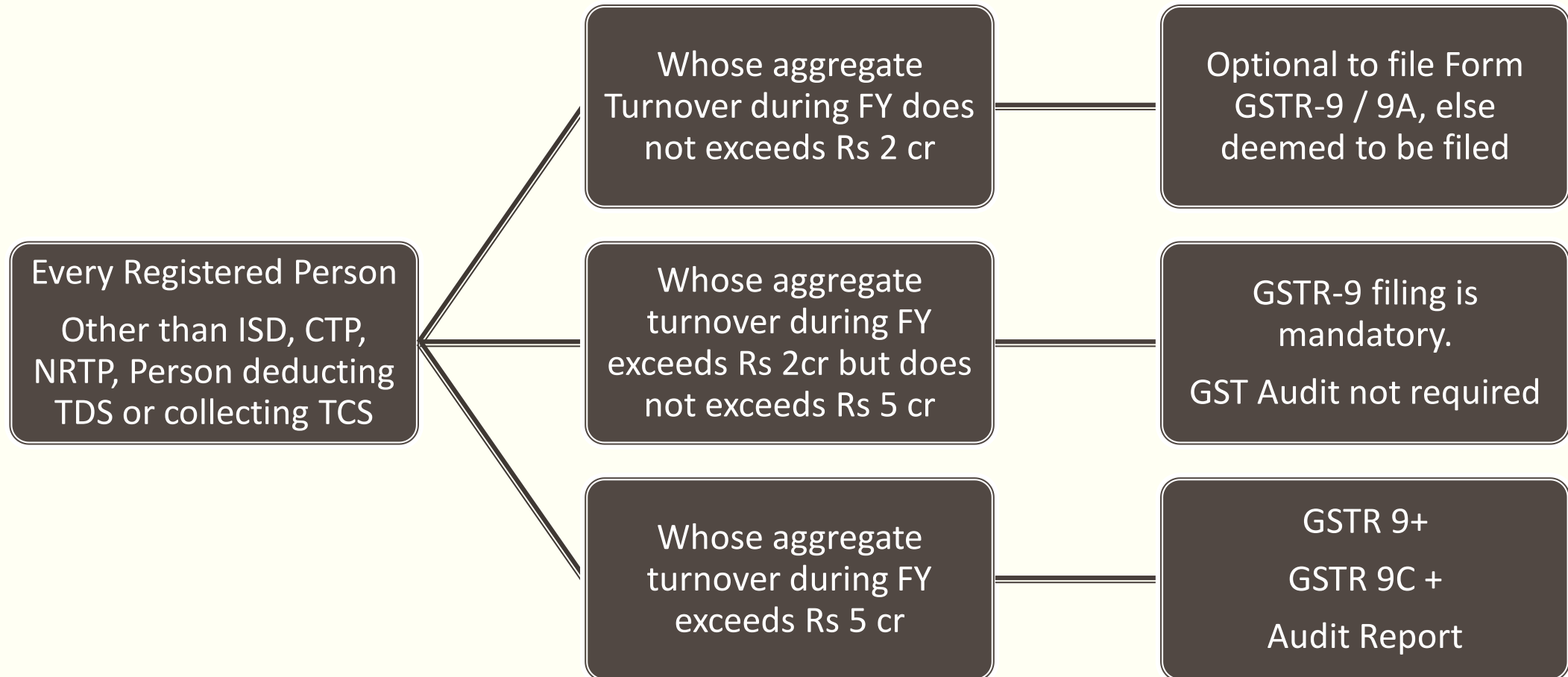
- (3) **Every registered person** [other than those referred to in the proviso to sub-section (5) of section 35,] **whose aggregate turnover during a financial year exceeds two crore rupees shall get his accounts audited** as specified under sub-section (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in FORM GSTR-9C\*, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.
- Provided that **every registered person whose aggregate turnover during the financial year 2018-2019 exceeds five crore rupees shall get his accounts audited** as specified under sub-section (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in FORM GSTR-9C **for the financial year 2018-2019**, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.

Registered Person whose turnover is between 2 cr to 5 cr are excluded ?



# What is the Current Scenario for FY 18-19?

N.N. 47/2019 CT read with N.N. 16/2020





## What if Annual Return is not filed?

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- **Explanation 2.to Section 74 —**
- For the purposes of this Act, the expression “suppression” shall mean
- *non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder,*
- or failure to furnish any information on being asked for, in writing, by the proper officer.



# Relaxations in Information Punching in Form GSTR 9

---

- **Notification No 56/2019- Central Tax dated 14.11.2019**
- Reporting of C/N or D/N separately made optional. Can be reported in consolidated manner
- Reporting of Exempted, Nil Rated, Non –GST, No Supply in consolidated manner
- Bifurcation of Inputs/ Input Services / Capital Goods not required in ITC
- Reversals can be reported in consolidated manner
- Table 8 can be filed separately and can be attached in PDF with Audit Report
- Filing of Table 12, 13, 15, 16 & 18 made optional.



# Relaxations in Information Punching in Form GSTR-9C

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- **Notification No 56/2019- Central Tax dated 14.11.2019**
- Reporting about “True and Fair” to be done instead of “True and Correct”
- Cash Flow Statement made Optional
- Consolidated reporting of all adjustments from 5B to 5N can be done in Row 50
- Reporting in Table 12 & 14 made Optional



# OUTWARD SUPPLY-ANNUAL RETURN





## Press Release dated 03.07.2019

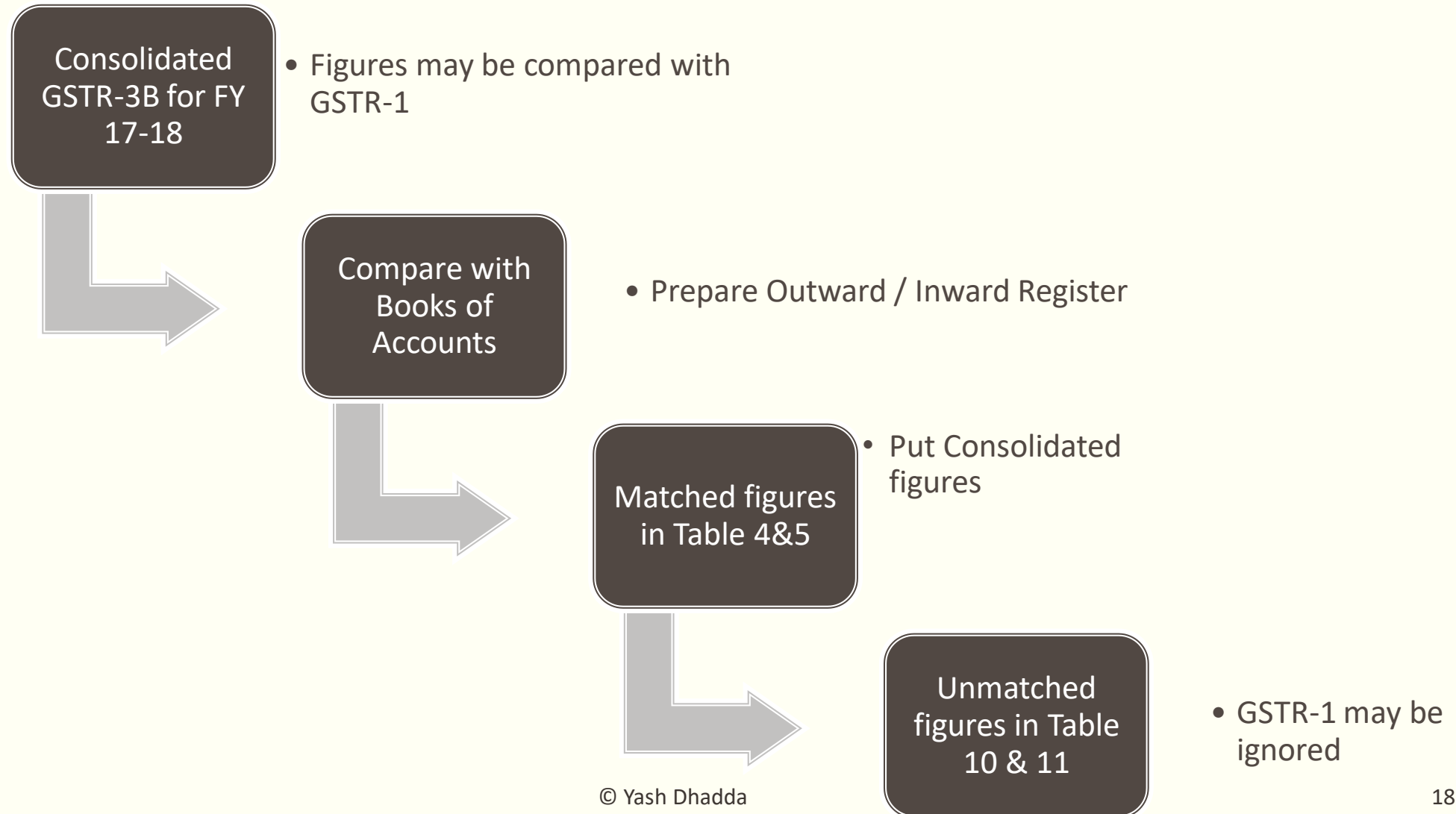
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### Primary data source for declaration in annual return:

- There has been some **confusion** over using **FORM GSTR-1, FORM GSTR-3B** or books of accounts as the primary source of information. It is important to note that both **FORM GSTR-1** and **FORM GSTR-3B** **serve different purposes.**
- While, **FORM GSTR-1** is an account of **details of outward supplies**, **FORM GSTR-3B** is where the summaries of **all transactions are declared and payments are made.**
- **Ideally**, information in **FORM GSTR-1, FORM GSTR-3B** and books of accounts should be synchronous and the values should match across different forms and the books of accounts.
- If the same does not match, there can be broadly **two scenarios**, either tax was not paid to the Government or tax was paid in excess.
- In the first case, the same shall be declared in the annual return and **tax should be paid** and in the latter all information may be declared in the annual return and **refund (if eligible) may be applied** through **FORM GST RFD-01A.**
- Further, **no input tax credit can be reversed or availed through the annual return.** If taxpayers find themselves liable for reversing any input tax credit, they may do the same through **FORM GST DRC-03** separately.



# Steps adopted for Filing Annual Return





# NEW CHALLENGES IN FY 2018-19



## Figures in GSTR-9 on basis of Consolidated GSTR-3B?

- Table 4 is read as under:

Pt. II	Details of Outward and inward supplies made during the financial year					
			(Amount in ₹ in all tables)			
	Nature of Supplies	Taxable Value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
	1	2	3	4	5	6
<b>4</b>	<b>Details of advances, inward and outward supplies made during the financial year on which tax is payable</b>					



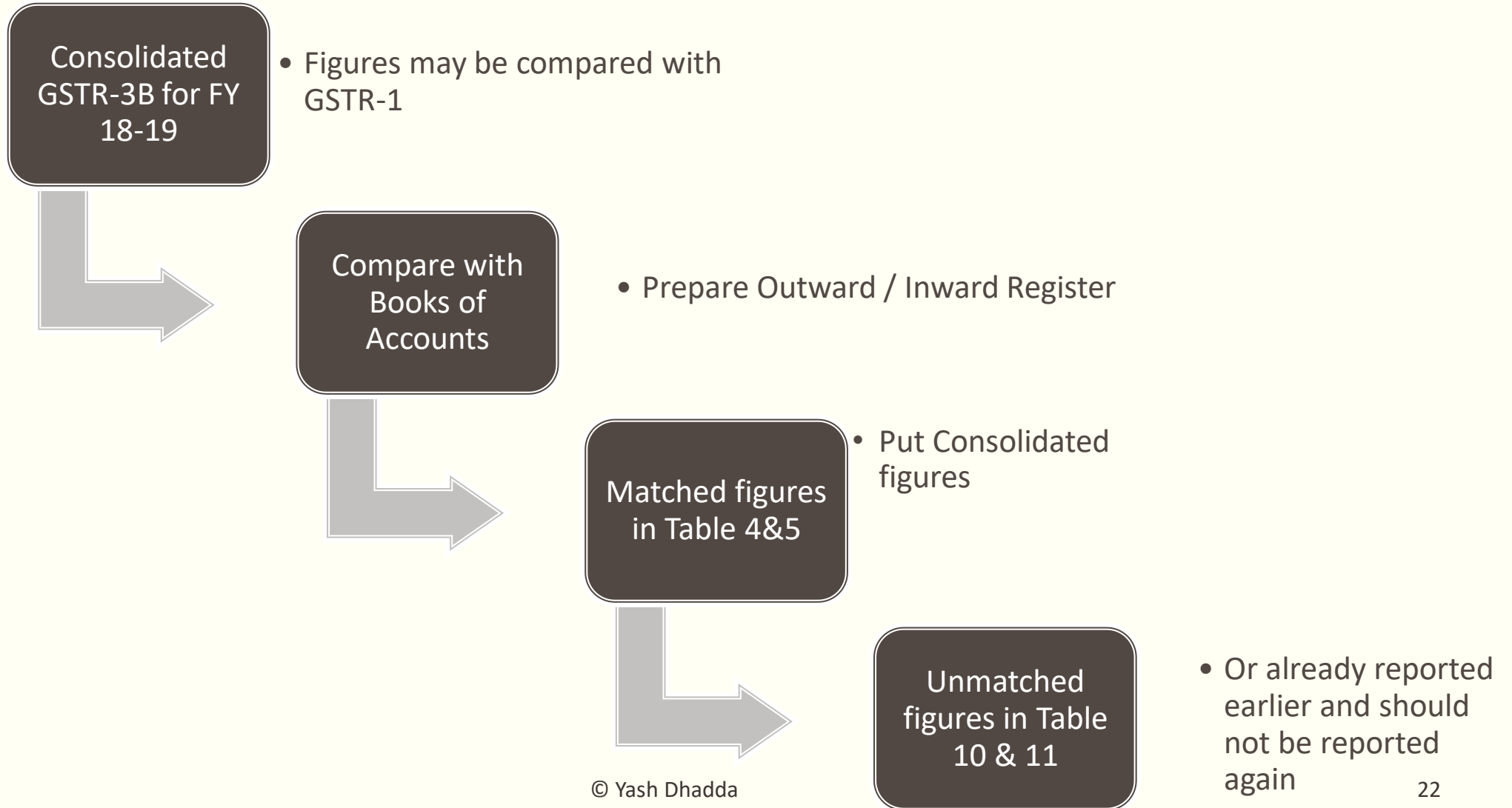
## TABLE – 10 & 11 of GSTR-9

Pt. V	[For FY 2017-18] <sup>39</sup> Particulars of the transactions for the [FY 2017-18 declared in returns between April 2018 till March 2019] <sup>40</sup>					
	[For FY 2018-19 , Particulars of the transactions for the FY 2018-19 declared in returns between April 2019 till September 2019] <sup>41</sup>					
	Description	Taxable Value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
	1	2	3	4	5	6
<b>10</b>	Supplies / tax declared through Amendments (+) (net of debit notes)					
<b>11</b>	Supplies / tax reduced through Amendments (-) (net of credit notes)					



# Steps adopted for Filing Annual Return

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## Excess Tax Paid in FY 17-18- Spill Over Effect

Particulars	Taxable Value	Tax Payable	Tax Paid	Action Taken
Case 1	1000	100	110	Refund Claimed

Table No	Taxable Value	Tax Payable	Tax Paid
T4	1000	100	N.A.
T9	N.A.	100	110
T10	--	--	--
Total	1000	100	110



## Excess Tax Paid in FY 17-18- Spill Over Effect

---

- Reporting in GSTR-9 of 18-19 (Assuming CY Taxable Value is 1200, Tax Payable & Paid is 120)

Table No	Taxable Value	Tax Payable	Tax Paid
T4	1200	120	N.A.
T9	N.A.	120	120
T10	--	--	--
Total	1200	120	120





## Excess Tax Paid in FY 17-18- Spill Over Effect

Particulars	Taxable Value	Tax Payable	Tax Paid	Action Taken
Case 2	1000	100	110	Subsequently Adjusted

### Option 1

Table No	Taxable Value	Tax Payable	Tax Paid
T4	1000	100	N.A.
T9	N.A.	100	110
T11	--	--	--
Total	1000	100	110

### Option 2

Table No	Taxable Value	Tax Payable	Tax Paid
T4	1000	110	N.A.
T9	N.A.	110	110
T11	--	(10)	--
Total	1000	100	110



## Excess Tax Paid in FY 17-18- Spill Over Effect

---

- Reporting in GSTR-9 of 18-19 (Assuming CY Taxable Value is 1200, Tax Payable & Paid is 120)

Table No	Taxable Value	Tax Payable	Tax Paid
T4	1200	120	N.A.
T9	N.A.	120	110
T10	--	--	--
Total	1200	120	110

### 3 Options for Reporting:

- Do no report transaction of tax of Rs 10 in Annual Return of 18-19
- Show in Table 14 (Tax paid) as amount of Rs 10 and mention in Note as Annexure to Audit Report
- Do not Report anywhere and mention a note about it in Audit Report i.e. to read this with AR of 17-18



## Short Tax Paid in FY 17-18- Spill Over Effect

Particulars	Taxable Value	Tax Payable	Tax Paid	Action Taken
Case 3	1000	100	90	Subsequently Paid

### Option 1

Table No	Taxable Value	Tax Payable	Tax Paid
T4	1000	100	N.A.
T9	N.A.	100	90
T10	--	--	--
T14	--	--	10

### Option 2

Table No	Taxable Value	Tax Payable	Tax Paid
T4	1000	90	N.A.
T9	N.A.	90	90
T10	--	10	--
T14	--	10	10



## Excess Tax Paid in FY 17-18- Spill Over Effect

---

- Reporting in GSTR-9 of 18-19 (Assuming CY Taxable Value is 1200, Tax Payable & Paid is 120)

Table No	Taxable Value	Tax Payable	Tax Paid
T4	1200	120	N.A.
T9	N.A.	120	130
T11	--	--	--
T12	--	--	--

### 2 Options for Reporting:

- Increase the Tax Payable in T4 in AR of 2018-19 to match Tax Payable and Tax Paid.
- Let the data remain as it is and mention a note about it in Audit Report i.e. to read this with AR of 17-18.



## Reconciliation of Tax Payable & Tax Paid

S.No.	Particulars	Amount
1.	Total Tax paid through GSTR-3B in FY 18-19	<b>XXXX (Reported in Table 9)</b>
2.	Tax Short paid in FY 17-18, paid through GSTR-3B of FY 18-19	Reduce
3.	Extra Tax relating to 19-20, paid through GSTR-3B of FY 18-19	Reduce
4.	Excess Tax paid in 17-18, now adjusted for liability of 18-19	Add
5.	Tax of 18-19 paid in GSTR-3B of FY 19-20	Add
6.	Total	XXXXX
7.	Tax Payable for FY 18-19 (Reconciled with Books)	<b>YYYYY (Should be reported in T9)</b>
8.	Difference	Zero (0) Ideally

### If Difference is not Zero (0), the possible reasons can be:

- Tax paid through DRC-03
- Additional Tax paid by mistake (to be claimed as refund)
- ITC reversed in cash



## RCM Reporting in GSTR-9

---

G	Inward supplies on which tax is to be paid on reverse charge basis					
---	--	--	--	--	--	--

### INSTRUCTIONS:

Aggregate value of all inward supplies (including advances and net of credit and debit notes) ***on which tax is to be paid by the recipient*** (i.e. by the person filing the annual return) on reverse charge basis.

Table 4G to include all RCM related liabilities and no Impact of same should be given in Table 10 or 11.



# INPUT TAX CREDIT- ANNUAL RETURN



# Background of ITC Reporting

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- No additional ITC can be claimed through GSTR-9
- In Table-6 & 7 no ITC as such could be reversed also.
- Table 6&7 are reconciliation tables
- Reporting in Table 12 & 13 was optional.
- Data of Table 13 should reconcile with Table 8C of GSTR-9 and Table 12C of GSTR-9C
- Data of Table 12 was treated as an unreconciled item in Table 12 & 14 of GSTR-9C.





## Spill Over Effect- Table 12 & 13 of GSTR-9 of FY 17-18

Pt. V	[For FY 2017-18] <sup>39</sup> Particulars of the transactions for the [FY 2017-18 declared in returns between April 2018 till March 2019] <sup>40</sup> [For FY 2018-19 , Particulars of the transactions for the FY 2018-19 declared in returns between April 2019 till September 2019] <sup>41</sup>					
12	Reversal of ITC availed during previous financial year					
13	ITC <b>availed</b> for the previous financial year					



## Spill Over Effect- Table 6 & 7 of GSTR-9 of FY 18-19

6	Details of ITC <b>availed</b> during the financial year					
A	Total amount of input tax credit availed through FORM GSTR-3B (sum total of Table 4A of FORM GSTR-3B)		<Auto >	<Auto >	<Auto>	<Auto >
B	Inward supplies (other than imports and inward supplies liable to reverse charge but includes services received from SEZs)	Inputs				
		Capital Goods				
		Input Services				

5. Part III consists of the details of all input tax credit availed and reversed in the financial year for which the annual return is filed.



## Spill Over Effect- Should data of 13 – Reported again?

---

Particulars	ITC in Books in 17-18	ITC shown in 3B in 17-18	ITC shown in 3B in 18-19
Case 1	100	80	20

### Reporting in GSTR-9 of 2017-18

Table No	ITC
T 6A	80
T 6B	80
T 13	20



# Spill Over Effect- Should data of 13 – Reported again?

Reporting in GSTR-9 of 18-19 (Assuming CY ITC in GSTR 3B is 150, including ITC of 17-18 Rs 20)

Table No	ITC
T 6A	150
T 6B	150
T 6J (Difference)	NIL
T 7J (carried forward to GSTR-9C)	150

Reporting in Table 12 of GSTR-9C

Table No	ITC
T 12 A ITC as per books	130
T 12 B ITC booked in earlier FY but claimed in current FY	20
T 12 C ITC booked in current FY but claimed in subsequent FY	NIL
T 12D Total ITC claimed	150
T 12E ITC claimed in Annual Return	150



## Spill Over Effect- Should data of 12 – Reported again?

---

Particulars	ITC in Books in 17-18	ITC shown in 3B in 17-18	ITC shown in 3B in 18-19
Case 2	100	120	-20 (shown in Reversal)

### Reporting in GSTR-9 of 2017-18

Table No	ITC
T 6A	120
T 6B	120
T 12	-20



## Table 7 of GSTR-9

<b>7</b>	<b>Details of ITC Reversed and Ineligible ITC for the financial year</b>			
A	As per Rule 37			
B	As per Rule 39			
C	As per Rule 42			
D	As per Rule 43			
E	As per section 17(5)			
F	Reversal of TRAN-I credit			
G	Reversal of TRAN-II credit			
H	Other reversals (pl. specify)			
I	Total ITC Reversed (Sum of A to H above)			
J	Net ITC Available for Utilization (6O - 7I)			

Details of input tax credit reversed due to ineligibility or reversals required under rule 37, 39, 42 and 43 of the CGST Rules, 2017 shall be declared here



## Spill Over Effect- Should data of 12 – Reported again?

Reporting in GSTR-9 of 18-19 (Assuming CY ITC in GSTR 3B is 150, and reversal for ITC of 17-18 Rs 20 shown separately)

Table No	ITC
T 6A	150
T 6B	150
T 6J (Difference)	NIL
T 7H (other reversal)	20
T 7J (carried forward to GSTR-9C)	130

Reporting in Table 12 of GSTR-9C

Table No	ITC
T 12 A ITC as per books	130
T 12 B ITC booked in earlier FY but claimed in current FY	NIL
T 12 C ITC booked in current FY but claimed in subsequent FY	NIL
T 12D Total ITC claimed	130
T 12E ITC claimed in Annual Return	130



## Spill Over Effect- Should data of 12 – Reported again?

Particulars	ITC in Books in 17-18	ITC shown in 3B in 17-18	ITC shown in 3B in 18-19
Case 3	100	120	-20 (short declared in 4A)

### Reporting in GSTR-9 of 2017-18

Table No	ITC
T 6A	120
T 6B	120
T 12	-20





## Spill Over Effect- Should data of 12 – Reported again?

Reporting in GSTR-9 of 18-19 (Assuming CY ITC in GSTR 3B is 130, Actual ITC of 18-19 is Rs 150 and reversal for ITC of 17-18 netted of in Table 4A only)

Table No	ITC
T 6A	130
T 6B	150
T 6J (Difference)	-20
T 7H (other reversal)	-20
T 7J (carried forward to GSTR-9C)	130

Reporting in Table 12 of GSTR-9C

Table No	ITC
T 12 A ITC as per books	130
T 12 B ITC booked in earlier FY but claimed in current FY	NIL
T 12 C ITC booked in current FY but claimed in subsequent FY	NIL
T 12D Total ITC claimed	130
T 12E ITC claimed in Annual Return	130



## Table 8- Reconciliation with GSTR-2A

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- It has been clarified to be an informational Table
- However can be used to issue Scrutiny Notices u/s 61.
- However after insertion of Rule 36(4), the relevance of 2A matching is diluted for 18-19
- Option to upload PDF with Audit Report has been given.
- In case the figures of Table 6B and 6H are complicated, it is better to put your own Table
- Figures need not be punched in 8E and 8F
- Figures in 8C should match with Table 13 except for ITC of RCM which can be mentioned in Table 13 but not in Table 8C.



## Table-8 Mismatch- Mirage or Real?

Particulars	ITC in Books in 17-18	ITC shown in 3B in 17-18	ITC shown in 3B in 18-19
Case 1	100	80	150 (inc 20 of 17-18)

8	Other ITC related information	Scenario 1	Scenario 2
A	ITC as per GSTR-2A (Table 3 & 5 thereof)	150	130
B	ITC as per sum total 6(B) and 6(H) above	150	150
C	ITC on inward supplies (other than imports and inward supplies liable to reverse charge but includes services received from SEZs) received during 2017-18 but availed during April to September 2018	NIL	NIL
D	Difference [A-(B+C)]	0.00	-20
E	ITC available but not availed		
F	ITC available but ineligible		



# Impact of DRC-03

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- Payment of Taxes have been made through DRC-03 in 2018-19 for
  - ITC reversal
  - Payment of Additional Tax in pursuance to a Notice
  - E-Way Bill related Notices
  
- To be checked and at appropriate Tables should be reported.
  - If related to a supply,
    - Report in Table 4,
    - It shall increase Tax Payable in Table 9
    - Tax Paid shall not change
    - Difference to be disclosed through a note to be attached with GSTR-9C

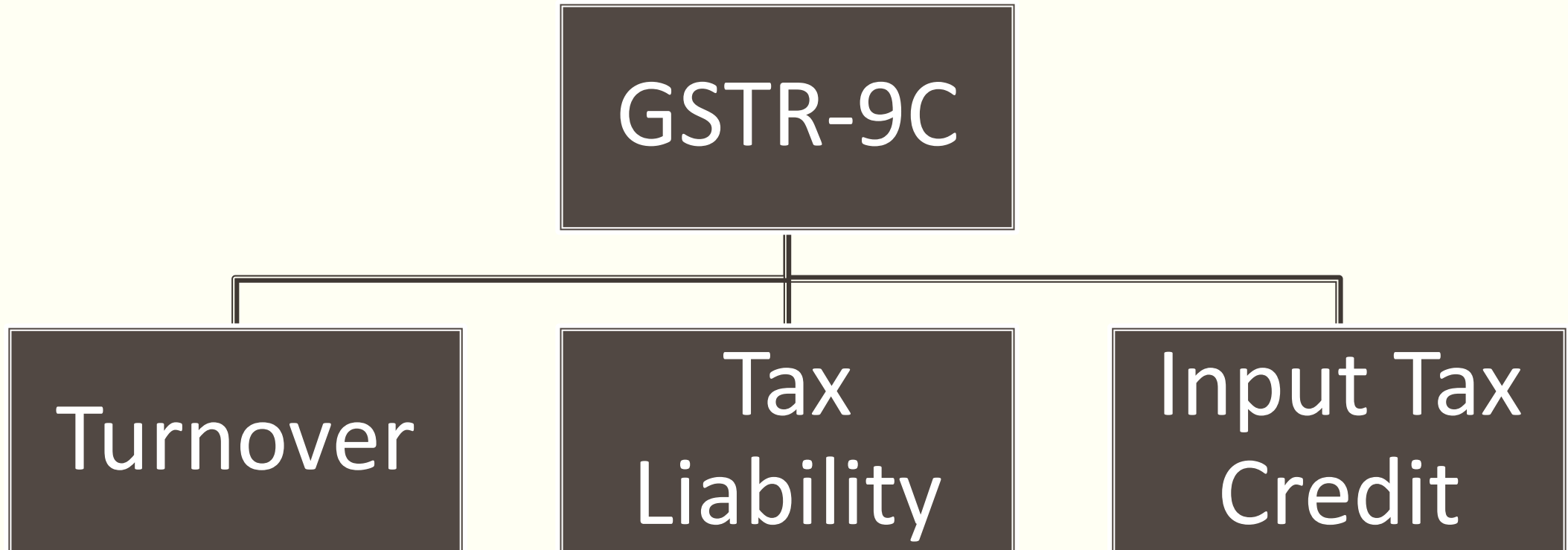


# GSTR-9C



## Parts of GSTR-9C

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# Matching of Tax Liability

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## TDS & TCS

- The TDS and TCS were made applicable from 1-10-2018
- The same gets credited to Electronic Cash Ledger
- Can be used for payment of tax like balance in Cash Ledger can be used
- However they shall not impact reconciliation as payable is matched
- For proper maintenance of books it is necessary to reconcile GSTR TDS and GST TCS as appearing on GST portal



## Other Cross Head Taxes?

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Scenario	Possible Outcome
Correct IGST charged in invoice and collected from customers. Tax wrongly paid as CGST + SGST	Circular no 26/26/2017- Pay Correct Tax and adjust the excess tax paid wrongly paid
Wrong CGST+SGST charged on invoice instead of IGST. However, while paying correct type of taxes IGST paid.	Issue Credit Note for C+S and Issue D/N for IGST.
Wrong CGST + SGST charged from Customer and paid instead of IGST	Follow Mechanism under Sec 77 of CGST and 19 of IGST. Else wait for assessment.





# Matching of ITC

---

- Table 12 B & C and Table 14 are Optional
- However same should be filled.
- Else Purpose of GSTR-9C Reconciliation gets diluted



## Reversal of ITC due to wrong Place of Supply?

---

- IGST Credit claimed by a company located in Maharashtra claimed in which the invoice issued by Supplier had mentioned POS as Rajasthan? Should ITC be reversed?
  - Table 8A of GSTR-9 does not auto populates it?
  - Legal Backing?
- CGST & SGST credit claimed by a company located in Maharashtra, where the invoice was issued by a vendor located in Rajasthan?



# E-WAY BILL VIS-À-VIS GST AUDIT



# Impact of E-Way Bill in GST Audit of F.Y. 2018-19

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- E-Way Bill was made applicable with effect from 1-4-2018.
- To be prepared by person causing the movement.
- Not mandatory for movement of goods having consignment value less than Rs 50,000/-.
- States had their own variations for requirement of E-Way Bill on Types of Movement
- Reconciliation of E-Way Bill data with GST Inward and Outward details helps to understand
  - Outward Supply Pattern
  - Time Lag between Invoice made and Goods Dispatched
  - Data reported in GST Returns and Data reported on E-Way Bill Portal



## Possible Reasons for Non-Reconciliation of E-Way Bill Data

Particulars	E-Way Bill	GST Returns & Records
Who prepares?	Person who causes Movement	Person who makes supplies
Monetary Value?	Rs 50000/- with exception	Starting from Rs 1
Not required	When No Movement	When no Supply
Documents	Invoice, DC, Credit Note	Invoice
From	Ship From	Bill From
Bill to Ship To	1 E-Way Bill	2 Invoices
Supply of Services	Not applicable generally	Applicable
Invoice No	Multiple Times E-Way Bill	1 Invoice for 1 Supply
Type of Transaction	Supply, Non Supply, Job Work	Only Supply



# E-Way Bill Report- 5 days to 1 year

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## Outward Supplies

EWB No & Date	Supply Type	Doc No & Date	Other Party GSTIN	Transporter Details	No of Items	HSN Code	Description	Value	Valid Till
---------------	-------------	---------------	-------------------	---------------------	-------------	----------	-------------	-------	------------

## Assigned to Transporter

EWB No & Date	Supply Type	Doc No & Date	Other Party GSTIN	Transporter Details	No of Items	HSN Code	Description	Value	Validity
---------------	-------------	---------------	-------------------	---------------------	-------------	----------	-------------	-------	----------

## Generated by others

EWB No & Date	Supply Type	Doc No & Date	Other Party GSTIN	Transporter Details	No of Items	HSN Code	Description	Value	Validity
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## What E-Way Bill Report does not reflect?

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- Rate Credit Notes / Debit Notes
- Supplies not involving movement
- Bill to Ship to Supplies
- Valuation Issues
- Wrong Punching of Data on E-Way Bill Portal since it does not affect tax liability



# E-Way Bill and Inward Supplies?

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- Receipt of Goods under Section 16(2) not linked with E-Way Bill
- Receipt can be proved through other documents
  - Material Receipt Note (MRN / GRN)
  - Transport Bilty
  - Stock Records
- If variation in Transport Details are explained, Credit should be allowed-
  - Mittal Appliances Limited – 2018 (12) GSTL 297 (M.P.)
- However if data of E-Way Bill is not matching, then auditor should deep dive to get reasonable assurance (apply SA -200)





# GST AUDIT REPORT



# Definition of Audit

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## . 2(31): Audit

### ⊕ Examination of –

- ⊕ Records
- ⊕ Returns
- ⊕ Other documents

Furnished by the taxable person

Under this Act or Rules made there under or under any other law for the time being in force

### ⊕ To verify, interalia

- ⊕ The correctness of the turnover declared
- ⊕ Taxes paid
- ⊕ Refund claimed
- ⊕ Input Tax Credit availed

### ⊕ **To assess his compliance with the provisions of this Act or Rules made there under**



# Part V of the Reconciliation Statement

Pt. V	Auditor's recommendation on additional Liability due to non-reconciliation					
	Description	Value	To be paid through Cash			Cess, if applicable
			Central tax	State tax / UT tax	Integrated tax	
1	2	3	4	5	6	
5%						
12%						
18%						
28%						
3%						
0.25%						
0.10%						
Input Tax Credit						
Interest						
Late Fee						
Penalty						
Any other amount paid for supplies not included in Annual						

- Recommend the additional liability payable due to non-reconciliation of turnover or non-reconciliation of ITC.
- Any amount payable for supplies not included in GSTR 9.
- Any refund wrongly availed and to be paid back to Govt.
- Other outstanding demands to be settled.



## Press Release

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h) **Role of chartered accountant or a cost accountant in certifying reconciliation statement:** There are apprehensions that the chartered accountant or cost accountant may go beyond the books of account in their recommendations under **FORM GSTR-9C**. The GST Act is clear in this regard. With respect to the reconciliation statement, their role is limited to reconciling the values declared in annual return (**FORM GSTR-9**) with the audited annual accounts of the taxpayer.



# Meaning

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- The auditor is not certifying the correctness of GST liability or ITC eligibility.
- The Auditor is not certifying the compliance of the GST provisions.
- As per the provisions of section 35(5) an audit of specified person is to be conducted to **ensure the maintenance of proper accounts and records.**
- As per the provisions of section 44(2) a **reconciliation statement is to be drawn up comparing the figures of the annual return and that in the books of accounts** and the difference if any and the liability thereon is to be reported in the reconciliation statement



# CERTAIN ISSUES AND POSSIBLE APPROACHES



# Recommendation for Interest Liability?

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- **For delayed payment of tax?**
- Retrospective Amendment has still not been made applicable to Sec 50(1)
- Madras High Court Judgement- Refex Industries in favour of assessee
- Department is accepting payment of interest on net basis
- Section 50(2)- should prescribe method of calculating interest, not prescribed yet
- GST Council Minutes explains the intention of the Council for levy of Interest.

## For wrong availment of ITC?

- No express mechanism in the law.



## ITC related Issues

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- **Does auditor need to recommend liability in cases wherein payment to vendor is not made beyond 180 days ?**
- Check “Failure to pay”
- Mechanism to reverse is given in Rule 37 which needs to be done through GSTR-2.
- On a conservative side, if reversal is recommended, then interest should be recommended





# ITC related Issues

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- **If some ITC is discovered to be not availed, can the tax-payer claim now?**
- Restriction of Sec 16(4): Uses the word “Entitled to Take”
- ITC is not taken in return but it is disclosed in Return.
- If ITC is taken through returns, then whole system of GST records shall collapse
- Non filing of return cannot be basis of rejection of CENVAT
  - Ceolric Services vs Commissioner of Service Tax, Bangalore reported in 2011 (23) STR 369 (Tri-Bang)
  - Jagdama Polymers Ltd vs Commissioner of C. Ex Ahmedabad reported in 2010 (253) ELT 626 (Tri-Ahmd)
  - M/s Bharat Petroleum Corporation Ltd vs Commr of C. Ex, Mumbai reported in 2019 (365) ELT 536 (Tri-Mumbai)
  - Svizera Labs Pvt. Ltd. Versus Commissioner Of Central Excise, Belapur reported in 2018 (363) E.L.T. 1186 (Tri. - Mumbai)
- Claim/Taken vs Availed are two separate events
  - Section 18(1)(a) to Section 18(1)(d)- Claimed Used
  - Section 18(4)- For reversal- Word availed has been used



# ITC related Issues

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- **ITC claimed as IGST instead of CGST/SGST or vice versa? Reversal should be done?**

(62) “input tax” in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes —

- (a) the integrated goods and services tax charged on import of goods;
- (b) the tax payable under the provisions of sub-sections (3) and (4) of section 9;
- (c) the tax payable under the provisions of sub-sections (3) and (4) of section 5 of the Integrated Goods and Services Tax Act;
- (d) the tax payable under the provisions of sub-sections (3) and (4) of section 9 of the respective State Goods and Services Tax Act; or
- (e) the tax payable under the provisions of sub-sections (3) and (4) of section 7 of the Union Territory Goods and Services Tax Act,

but does not include the tax paid under the composition levy;

- Revenue Neutral and need be reversed



## RCM Related Issues?

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### **Tax under RCM Payable as IGST, paid as CGST + SGST?**

- Revenue Neutral or pay tax and adjust subsequently.

### **Is it required to discharge RCM on import ocean freight after considering Gujarat High Court decision in case of Mohit Minerals?**

- The liability to pay tax under RCM has been treated as Ultra-Virus.
- Once treated Ultra-Virus- in light of M/s Kusum Ingots & Alloys Ltd vs Union of India as reported in 2004 (168) ELT 3 (S.C.) it has territorial nexus across India.
- Hence the liability to pay tax does not arise.



### **Consequence of failure to submit the annual return and not getting the accounts audited**

Section 47(2) provides that in case of failure to submit the annual return within the specified time, a late fee shall be leviable. The said late fee will be Rs. 100 per day during which such failure continues subject to a maximum of a quarter percent of the turnover in the State/UT. There will be equal late fee under the respective State/UT GST law.

However, there is no specific penalty prescribed in the GST Law for not getting the accounts audited by a Chartered Accountant or a Cost Accountant. Therefore, in terms of Section 125 of CGST Act he shall be subjected to penalty up to 25,000/-. This section deals with general penalty and gets attracted where any person, who contravenes any of the provisions this Act, or any rules made thereunder for which no penalty is separately provided. Similar provision also exists under State/UT GST law as well.



FINALLY...



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# Thank You

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