



GST AUDIT BY DEPARTMENT & ISSUES THERE UNDER A T C T C

Presented by:
Monarch Bhatt - Advocate

FAIRLAW
ASSOCIATE
Expert & Timely legal solutions

Mahendra M. Bhatt & Co.
Advocate



**The Chamber of
Tax Consultants**

GST AUDIT BY DEPARTMENT

FAIRLAW
ASSOCIATE
Expert & Timely legal solutions

Mahendra M. Bhatt & Co.
Advocate

AUDIT

❖ SECTION 2 (13)

“audit” means the **examination** of records, returns and other documents maintained or furnished by the registered person under this act or the rules made thereunder or under any other law for the time being in force **to verify the correctness** of turnover declared, taxes paid, refund claimed and input tax credit availed, and to assess his compliance with the provisions of this act or the rules made thereunder;

TYPES OF “AUDIT” & AUTHORIZED PERSON

Annual Accounts & Reconciliations Section 35

Chartered Accountant or Cost Accountant shall submit a copy of the audited annual accounts and the reconciliation statement.

Audit by Tax Authorities Section 65

The Commissioner or any officer authorised by him may conduct such audit at the place of business of the registered person or in their office.

Special Audit Section 66

Assistant Comm or any higher rank officer with Chartered Accountant or Cost Accountant as nominated by the comm can conduct such audit with prior approval of comm.

RELEVANT STATUTORY PROVISIONS

Section 65 – Audit by Tax Authority

Rule 101 - Audit

Form GST ADT – 01

Notice for Conducting Audit

Form GST ADT – 02

Audit Report u/s 65 (6)

GST Audit Manual

Issued by Directorate General of Audit

Trade Circular 13T/2020 by MH State Comm

Intimation of Audit – GST ADT 01

Walk through by department

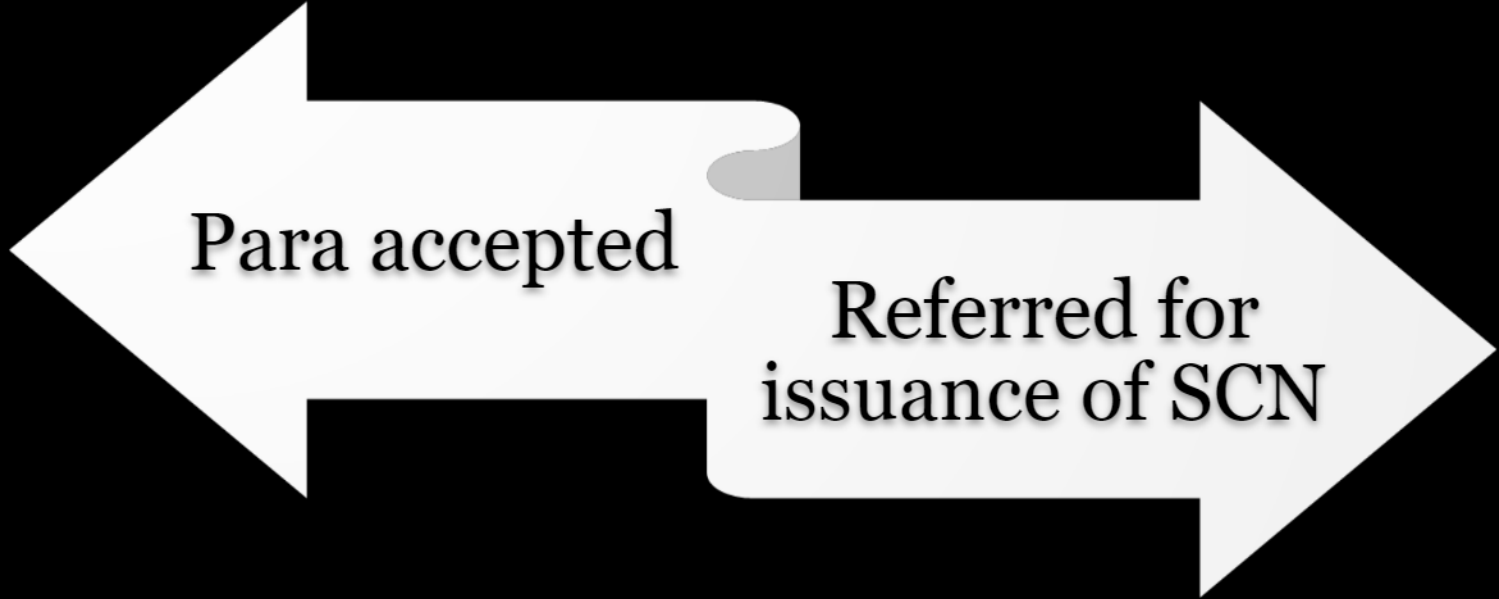
Verification by Department

Audit Findings – GST ADT 1A

Updating Reply – GST ADT 1B

Discussion of Audit Para in MCM

Audit Report under Form GST ADT 02



Para accepted

Referred for
issuance of SCN

RELEVANT STATUTORY PROVISIONS

Section 66 – Special Audit

Rule 102 – Special Audit

Form GST ADT – 03

Communication of Conducting Special Audit

Form GST ADT – 04

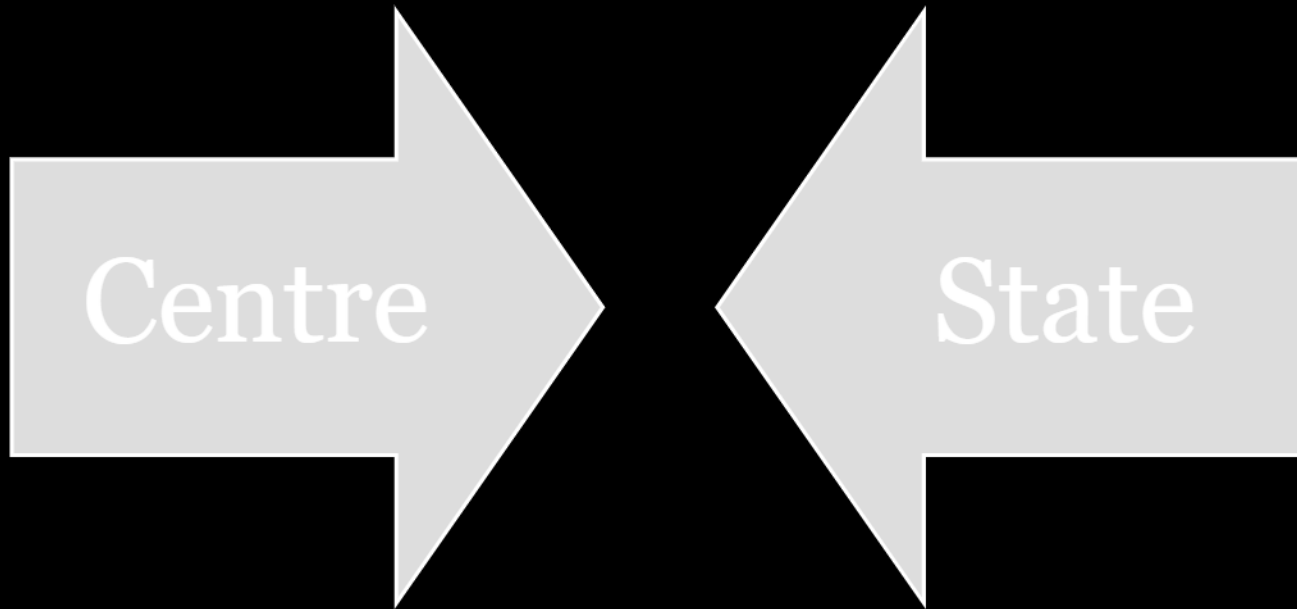
Information upon findings of Special Audit

1. WHO WILL BE CONDUCTING AUDIT?

❖ SECTION 65 (1)

(1) **The Commissioner or any officer authorised by him**, by way of a general or a specific order, may undertake audit of any registered person for such period, at such frequency and in such manner as may be prescribed.

Jurisdiction ?????



2. WHAT IS THE PERIOD FOR WHICH AUDIT CAN BE CONDUCTED ?

❖ **RULE 101 (1)**

(1) The period of audit to be conducted under sub-section (1) of section 65 shall be a financial year [or part thereof] or multiples thereof.

3. WHERE AUDIT WILL BE CONDUCTED?

❖ SECTION 65 (2)

(2) The officers referred to in sub-section (1) may conduct audit at the place of business of the registered person or in their office.

4. WHAT IS THE PERMITTED TIME FOR PREPARATION OF AUDIT DETAILS?

❖ SECTION 65 (3)

(3) The registered person shall be informed by way of a notice **not less than fifteen working days** prior to the conduct of audit in such manner as may be prescribed.

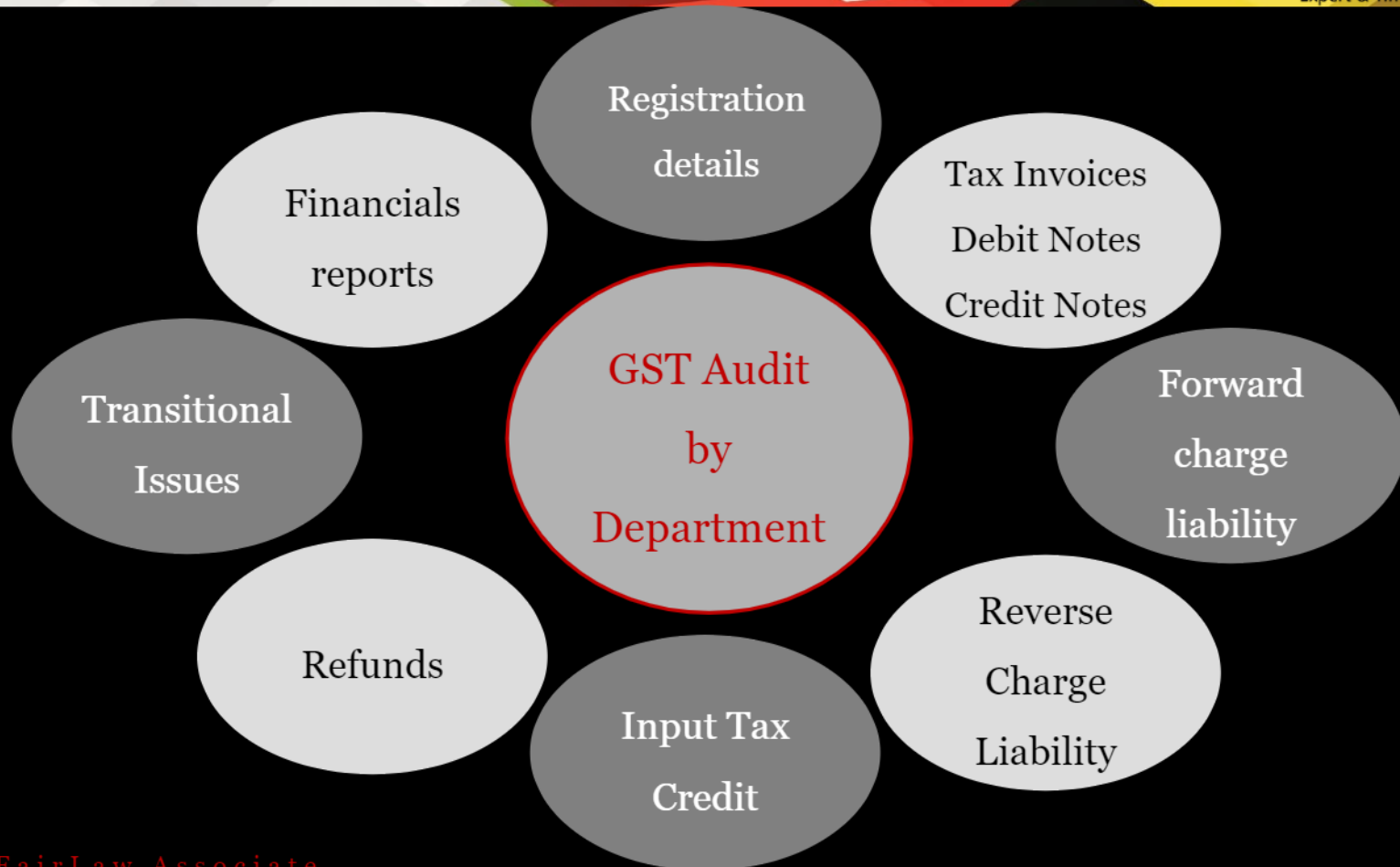
❖ Rule 101 (3)

(2) Where it is decided to undertake the audit of a registered person in accordance with the provisions of section 65, the proper officer shall issue a notice in **FORM GST ADT-01** in accordance with the provisions of sub-section (3) of the said section.

5. WHAT ARE THE DETAILS TO BE KEPT READY ?

❖ **RULE 101 (3)**

- (3) The proper officer authorised to conduct audit of the records and the books of account of the registered person shall, with the assistance of the team of officers and officials accompanying him, verify the documents on the basis of which the books of account are maintained and the returns and statements furnished under the provisions of the Act and the rules made thereunder, 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, and other relevant issues and record the observations in his audit notes.



TENTATIVE LIST OF DETAILS TO BE KEPT READY

Sr. No.	Particulars of Details to be kept ready
1	Financial statements and reports – Balance Sheet, Tax Audit Report, Annual Financial Statement, Cost Audit Report, Trial Balance
2	Inward - Outward supply summary statement
3	RCM ledger and supportive documents
4	Inward - Outward supply invoices
5	Cancelled invoices due to any reason

TENTATIVE LIST OF DETAILS TO BE KEPT READY | Continue.....

Sr. No.	Particulars of Details to be kept ready
6	Goods return (inward and outward supply) register along with credit note / debit note details
7	Inward supply register (soft copy)
8	Outward supply register (soft copy)
9	Zero rated supply register and supportive documents (commercial invoice, shipping bill, bill of lading, EGM, Bank realization certificate or inward remittance certificate etc)

TENTATIVE LIST OF DETAILS TO BE KEPT READY | Continue.....

Sr. No.	Particulars of Details to be kept ready
10	Details of Exempted supply / Supply to SEZ dealer
11	Refund claim / availment details if any (export of goods and services, inverted duty structure etc. any type of refund claimed by dealer)
12	TDS payment transactions if any
13	TRAN-1 details (details regarding credit carried forwarded from previous Act to GST Act)
14	GSTR-2A mismatch, unmatched transactions details

TENTATIVE LIST OF DETAILS TO BE KEPT READY | Continue.....

Sr. No.	Particulars of Details to be kept ready
15	E-way bill transactions month wise summary statement and corresponding register
16	In case of services, FIRC (Foreign Inward Remittances), Corresponding agreements, invoices, Annual Maintenance Contract copies and corresponding invoices if any
17	Details of advances received and tax payment for the same
18	Other Income / Misc. income

TENTATIVE LIST OF DETAILS TO BE KEPT READY | Continue.....

Sr. No.	Particulars of Details to eb kept ready
19	Reversal / reduction of ITC
20	Scrap sales
21	Details of Exempted outward supply
22	Details of Zero rated supply
23	Non-GST Supply
24	Job work details (inward and outward side)

TENTATIVE LIST OF DETAILS TO BE KEPT READY | Continue.....

Sr. No.	Particulars of Details to be kept ready
25	Credit ledger / input tax credit availment summary (for Capital asset, liability, Refund claim, any other deduction)
26	Cash ledger availment summary (for liability, RCM, any other deduction)
27	Reversal of ITC within 180 days due to non-payment in 180 days

ISSUES

Internal Audit reports ?

Seizing the goods ?

Cash ?

Physical verification of stock ?

Walk through of the factory ?

Software access ?



6. What is the time limit for completion of audit?

❖ SECTION 65 (4)

(4) The audit under sub-section (1) shall be completed within a period of three months from the date of commencement of the audit :

Provided that where the Commissioner is satisfied that audit in respect of such registered person cannot be completed within three months, he may, for the reasons to be recorded in writing, extend the period by a further period not exceeding six months.

❖ SECTION 65 (4)

Explanation. — For the purposes of this sub-section, 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.

ISSUES

The liability detected during the audit is payable only in cash or can be paid by utilisation of ITC?

Any liability paid under the audit can be recovered from the receiver?

Any amount paid by the receiver to the supplier where supplier is recovering such amount on account of liability detected during the audit is eligible as ITC to the receiver?



ISSUES

On completion of GST Audit, audit team has determined certain tax liability and ineligible ITC. Assessee accepted the claim of audit team and decided to make the payment with interest. Audit team is also asking the assessee to pay penalty on 15% of the demand.

Whether assessee is liable for the payment of penalty in such cases?

❖ **SECTION 73**

(11) Notwithstanding anything contained in sub-section (6) or sub-section (8), penalty under sub-section (9) shall be payable where any amount of self-assessed tax or any amount collected as tax has not been paid within a period of thirty days from the due date of payment of such tax.

❖ **SECTION 73**

(6) The proper officer, on receipt of such information, shall not serve any notice under sub-section (1) or, as the case may be, the statement under sub-section (3), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.

(8) Where any person chargeable with tax under sub-section (1) or sub-section (3) pays the said tax along with interest payable under section 50 within thirty days of issue of show cause notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded.

❖ **SECTION 73**

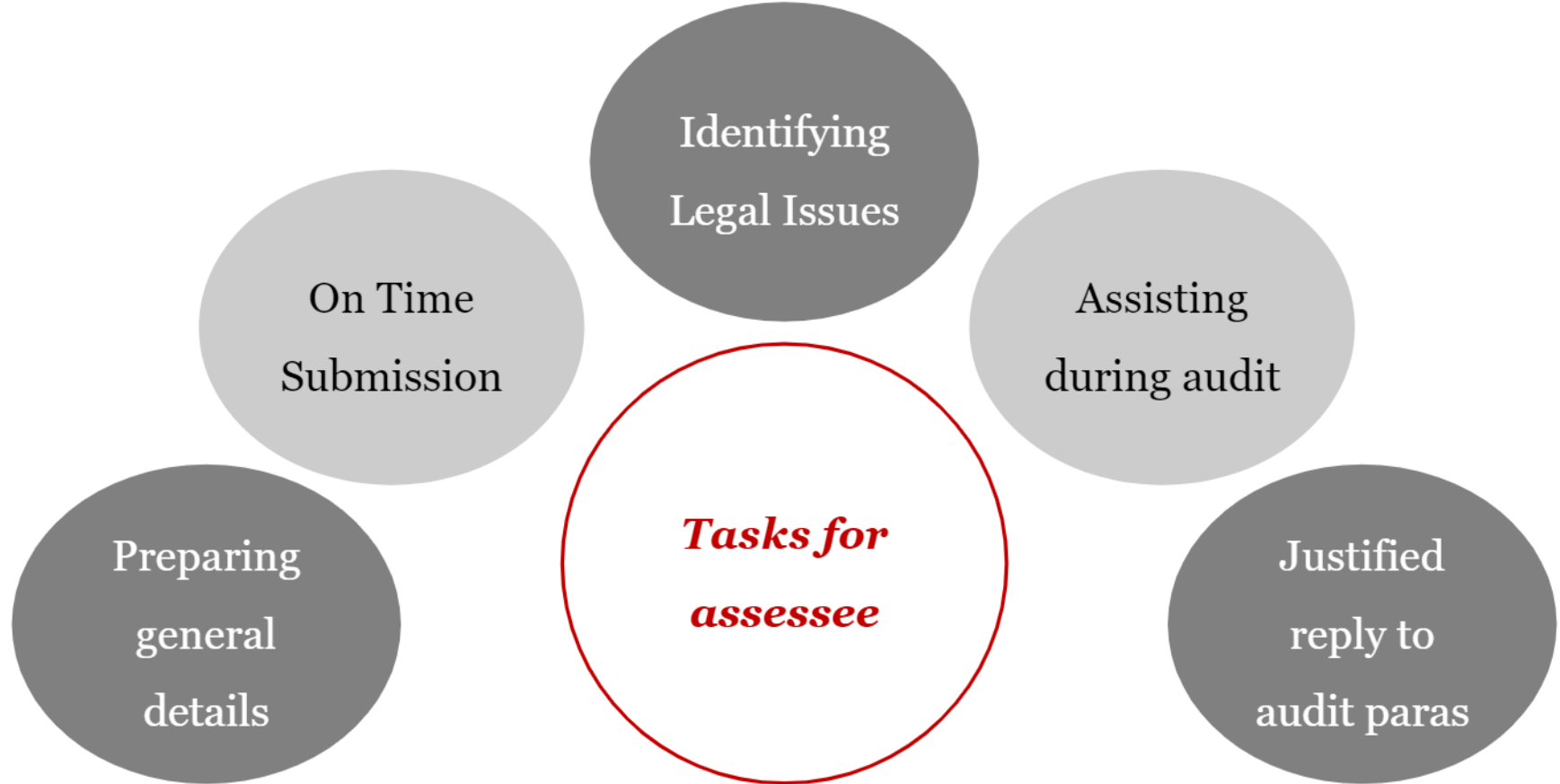
(9) The proper officer shall, after considering the representation, if any, made by person chargeable with tax, determine the amount of tax, interest and a penalty equivalent to ten per cent. of tax or ten thousand rupees, whichever is higher, due from such person and issue an order.

ISSUES

Assessee has taken ITC and assessee is in possession of the following:

- a) Tax Invoice and agreement.
- b) Invoice is reflected in GSTR 2A report.
- c) Payment has been made within the period of 180 days.

Department is forcing the assessee to reverse such ITC stating that it is bogus ITC and asking the assessee to make spot payment with 24% interest.



Thank You

Balanced View presented by
Team FairLaw & Monarch Bhatt, Advocate

022 – 2864 5572  +91-9930401601

info@fairlawlpo.com | monarchbhatt@gmail.com

4B, Devdarshan, Ground Fl, Carter Rd No. 05, Borivali (East), Mum -66.

103, Fortune House, Baner-Pashan Link Road, Pashan, Pune – 411021.



GST ki Pathshala
@legalgst



GST by Monarch Bhatt



Monarch Bhatt
@MonarchGST

Monarch Bhatt is practicing into indirect taxes since last 14 years. His expertise includes **advisory, litigation and compliances of indirect taxes in the areas of GST, Service Tax and Excise.**

Monarch Bhatt is working on GST since 2009, when first discussion paper on GST was issued in the public domain.

Monarch has delivered many lectures on GST, where he has trained more than 10,000 people on GST including government officers, Chartered Accountant, Advocates, industrialist, etc.

Monarch has authored E-handbook on various GST topics. He is also columnist for various online portals and regularly contributing articles. He has also authored book on “Sabka Vishwas – Law and Procedure” published by Young Global Publications. Authored book on “GST Issues & A way Forward amidst COVID-19” published by GSTPAM.

He has been awarded by GSTPAM for writing articles on GST and recently he has also been nominated for TIOL award for fiscal columnist.



*Monarch Bhatt, Advocate
Partner - Indirect Tax*