

FAQ's on Form GSTR-9C

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Indirect Taxes Committee

Q 1. Are the accounts maintained by the registered taxable person required to be audited by a Chartered Accountant/ Cost Accountant under GST?

Ans. It has been stated in the law that every registered person whose aggregate turnover during a financial year exceeds the prescribed limit of Rs. 2 crore, shall get his accounts audited by a Chartered Accountant or a Cost Accountant. In all other cases, no audit is required to be conducted by the Chartered Accountant or Cost Accountant.

Q 2. What is the turnover that should be reckoned to determine the applicability of audit under GST?

Ans. 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.

Please also note that where 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.

Q 3. Should the supply of alcohol for human consumption be included in determining the threshold limit of Rs. 2 crore by a person registered under GST?

Ans. 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**.

Non-taxable supply is defined under section 2(78) of CGST Act to mean a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act.

Section 9(1) of CGST/ SGST Act and section 7(1) and 5(1) of UTGST and IGST Act respectively exclude alcoholic liquor for human consumption from the levy/ charge of GST. On a combined reading of the charging sections with the definitions of non-taxable supply and exempt supply, it becomes clear that alcoholic liquor for human consumption forms part of exempt turnover. Since aggregate turnover includes exempt turnover, value of alcoholic liquor for human

consumption is to be included while computing threshold limit of Rs. 2 crore.

Q 4. Will the term 'aggregate turnover' includes stock transfers/ cross charges effected between branches located in two different States?

Ans. Section 2(6) of CGST/ SGST Act defines aggregate turnover to include 'inter-State supplies of person having same PAN'. Thus, stock transfers/ cross charges of services provided from a branch located in one State to a branch located in another State will be included in the aggregate turnover of the branch supplying the goods/ services.

Q 5. Will the term 'aggregate turnover' includes stock transfers effected within the State having same GSTIN for determining the threshold limit?

Ans. The term '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, then such branch transfers shall be included for computing threshold limit of Rs.2 crore to identify applicability of this audit requirement.

Q 6. Will a registered person who is exclusively having exempted supplies of goods or services exceeding Rs. 2 crore be required to file FORM GSTR-9C?

Ans. The definition of ‘aggregate turnover’ includes even exempted supplies. Therefore, even if a person is registered under GST and only provides exempted supplies, he will have to file FORM GSTR-9C.

Q 7. Is FORM GSTR-9C required to be filed for each registration obtained by a person in respect of each of the States?

Ans. Section 35(5) of SGST Act, also requires conduct of audit in addition to section 35(5) of CGST Act. Thus, audit is required State wise for compliance of section 35(5) of SGST Act. Therefore, a person having registration in Karnataka and Tamil Nadu is required to be audited under KGST Act, 2017 and TNGST Act, 2017. FORM GSTR-9C is required to be filed as per Rule 80(3) of KGST Rules, 2017 and TNGST Rules, 2017. Thus, a person having registration in more than one State is required to file FORM GSTR-9C registration wise, in each and every State. Also, in case of more than one registration in a State, GSTIN wise audit is required i.e. once the PAN based aggregate turnover exceeds Rs. 2 crore, every registered person having same PAN is required to get its accounts audited, e.g., a business vertical in State of Maharashtra is having turnover of Rs. 2.5 crore and another business vertical is having turnover of Rs. 0.50 crore, then both the GSTINs are required to get their accounts audited.

Q 8. Is a Chartered Accountant required to be registered as a GST practitioner for the purpose of certifying FORM GSTR-9C?

Ans. Section 48 of the CGST/ SGST Act read with Rule 83(8) of the CGST/ SGST Rules authorizes a GST practitioner to undertake the following activities:

- a) furnish the details of outward and inward supplies;
- b) furnish monthly, quarterly, annual or final return;
- c) make deposit for credit into the electronic cash ledger;
- d) file a claim for refund; and
- e) file an application for amendment or cancellation of registration:

The GST Act/ Rules do not vest a GST practitioner with the power to audit under section 35(5). The power to audit is granted only to a Chartered Accountant or Cost Accountant. Therefore, a Chartered Accountant is not required to be registered as a GST practitioner for the purpose of certifying FORM GSTR-9C.

Q 9. What are the documents to be enclosed along with FORM GSTR-9C?

Ans. As per section 35(5), a copy of audited accounts and such other documents in such form and manner 'as may be prescribed' ought to be submitted along with reconciliation statement (i.e. FORM GSTR9C). Prescription ought to be provided in the Rules as the Act employs the term 'as may be prescribed'. No documents other than audited annual accounts have been prescribed in Rule 80(3).

Part B of FORM GSTR-9C requires the GST auditor to enclose a copy of audit report of the entity, where the audit of the entity has been carried

out by another person under a statute other than GST Act. In the said case, documents declared by the said statute which forms a part of the audited financial statements must also be annexed to the audit report.

Q 10. Should FORM GSTR-9 and FORM GSTR-9C be filed separately?

Ans. 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 in cases where aggregate turnover exceeds Rs. 2 crore.

Q 11. What is the time limit to file FORM GSTR-9C?

Ans. Section 44(2) requires reconciliation statement in FORM GSTR-9C along with annual return in FORM GSTR-9. As per section 44(1), the due date to file annual return is on or before the thirty-first day of December following the end of such financial year for which annual return is being prepared. The same has been extended now up to 30th June 2019 for F.Y. 2017-18 (vide Order No.03/ 2018–Central Tax dated 31st December, 2018). Thus, it can be inferred that due date for filing reconciliation statement in FORM GSTR-9C is also on or before thirty-first day of December following the end of such financial year (30th June 2019 for F.Y. 2017-18) for which reconciliation statement is being prepared.

Q 12. What are the consequences of the failure in submitting the annual return and not getting the accounts audited?

Ans. The following are the consequences of the failure in submitting the annual return and not getting the accounts audited:

- a) Section 44(2) of the CGST Act and State/ Union Territory GST Act provides that every registered person shall file electronically an annual return in FORM GSTR-9 along with a reconciliation statement in FORM GSTR-9C, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement.
- b) Section 47(2) of the CGST Act provides for levy of a late fee of Rs. 100/- per day (each under CGST Act and under SGST Act) for delay in furnishing annual return in FORM GSTR-9, subject to a maximum amount of quarter percent (0.25%) of the turnover in the State or Union Territory. Similar provisions for levy of late fee exist under the State/ Union Territory GST Act.
- c) On a combined reading of section 47(2) and section 44(2) of the CGST Act and State/ Union Territory GST Act, a late fee of Rs. 200/- per day (Rs. 100 under CGST law + Rs. 100/- under State/ Union Territory GST law) can be levied which would be capped to a maximum amount of 0.50% (0.25% under the CGST Law + 0.25% under the SGST/ UTGST Law) of turnover in the State or Union Territory.

- d) In a situation where a registered person gets FORM GSTR-9C duly certified but fails to furnish both FORM GSTR-9 and FORM GSTR-9C on the common portal, the provisions of late fee cited in clause “a to c” supra would equally apply.
- e) In a situation where a registered person files only FORM GSTR-9, but fails to file FORM GSTR-9C, the filing of FORM GSTR-9 may be considered to have been defaulted, whereby the late fee cited in clause "a to c" supra would apply.

Q 13. Can the late fee be waived off in genuine cases?

Ans. The Government may, by notification, waive in part or full, any late fee referred to in section 47 for such class of taxpayers and under such mitigating circumstances as may be specified therein on the recommendations of the Council. However, no notification has been issued by the Central Government/ State Government as on date to waive off late fee applicable on Annual return.

Q 14. Is there any provision of filing the revised FORM GSTR-9C?

Ans. There is no provision enabling a registered person to file revised FORM GSTR-9C. Some experts opine that, the certificate once issued/ filed cannot be revised as no such revision is permitted to audited reports by an auditor.

Q 15. Will audit under section 35(5) be applicable to non-filers or unregistered persons liable to take registration?

Ans. The audit under section 35(5) of the CGST Act to be conducted by CA or CWA is applicable only to a **registered person**. A non-filer is still a registered person under section 25 of the CGST Act. Hence, he may be required to get the audit conducted under section 35(5) of the said Act. Also as per Instruction No. 2 appended to FORM GSTR-9C, it is mandatory to file all FORM GSTR-1, FORM GSTR-3B and FORM GSTR-9 for the financial year 2017-18 before filing this return.

However, unregistered person who is liable to take registration under section 25 of the CGST Act is a **taxable person**. But the said unregistered person is not a registered person as defined under section 2(94) of the CGST Act, 2017. Hence in terms of section 35(5) of the Act, an unregistered person who is liable to take registration is not required to get his accounts audited.

Q 16. What are the records to be reconciled in FORM GSTR-9C?

- **Ans.** The records to be reconciled in GSTR-9C are Books of accounts of registered person – if the registered person has multiple registrations, information needs to be derived from the Audited Annual Financial Statements of the entity, with Annual Return of registered person in FORM GSTR-9.

Q 17. What are the contents of FORM GSTR-9C?

Ans. FORM GSTR-9C consists of 2 parts. Part-A is Reconciliation Statement and Part B is Certificate to be issued by GST auditor.

Q 18. What is the turnover intended to be declared in Sl. No. 5A of FORM GSTR-9C?

Ans. Sl. No. 5A is intended to report the turnover as per the audited Annual Financial Statement for a GSTIN. There may be cases where multiple GSTINs (State-wise) registrations exist for the same PAN. This is common for persons/ entities with presence over multiple States or in respect of multiple registrations in a single State/ UT. The Government vide its instructions has indicated that such persons/ entities would have to internally derive their GSTIN wise turnover and provide the same to the auditors to verify and declare in this Sl. No. 5A.

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’). It cannot and must not include “Deemed supplies under Schedule I” as Sl. No. 5D separately covers such adjustments.

Q 19. What details are to be provided in Sl. No. 5B (Unbilled revenue at the beginning of financial year)?

Ans. Sl. No. 5B requires addition of unbilled revenue at the beginning of financial year. Unbilled revenue which was recorded in the books of accounts on the basis of accrual system of accounting in the earlier financial year (like WIP recorded as income last year based on

percentage of completion method) for which the invoice is issued under GST law is required to be declared here. In other words, when GST is payable during the financial year on such revenue (which was recognized as income in the earlier year), the value of such revenue is to be declared here. For the purposes of GST audit of the period 1-Jul-2017 to 31-Mar-2018, the beginning of the financial year shall mean 1-Jul-2017.

Q 20. What are the adjustments to be included/ excluded from Sl. No.5C of FORM GSTR-9C?

Ans. Advances received can be for various purposes. Therefore, the advances on which GST is liable should only be considered for the adjustment. The illustrations of advances to be included/ excluded are as follows:

(a) Include for Adjustment

Sl. No.	Particular's	Reason
1.	Advance received in respect of services for which the supply has not been made as on 31 st March, 2018	Revenue not recognized in books, but offered to tax for GST
2.	Advance received for goods before 15 th November, 2017 and the supply of goods not complete as on 31 st	Revenue not recognized in books, but offered to tax for GST

	March, 2018.	
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(b) Do not include for Adjustment

Sl. No.	Particular's	Reason
1.	Advance received for providing exempted services as on 31 st March, 2018	GST is not applicable
2.	Advance received against supply of goods after 15 th November, 2017	GST is not applicable
3.	Financial advances received which are not adjustable against any services	Not a GST transaction
4.	Advances received against which invoices are raised till 31 st March, 2018	Considered as revenue in books as well as for GST both

Q 21. Provide illustrations of transactions to be reported in Sl. No. 5D of FORM GSTR-9C (Deemed Supply under Schedule I)?

Ans. In Sl. No. 5D, deemed supply as mentioned in Schedule-I is to be reported. The illustrations of transactions to be reported in Sl. No. 5D of FORM GSTR-9C are as follows:

- (i) Transfer of machinery from Agra Branch to Bengaluru Branch without consideration for indefinite usage in production activity is a supply although there is no consideration involved.
- (ii) An Architect located in New Jersey, USA may provide architect services to say, his brother who is a builder in India and is a related taxable person.
- (iii) Foreign branch supplying manpower to Head Office located at Hyderabad.
- (iv) Cloud servers and data storage facilities are commonly shared by the group of entities. Each region is allocated its share of cost. In such instances, it is possible that due to difference in financial year closure in various other branches, the relevant cost of the Indian entity may not be recorded. The auditors needs to ensure that by year end, these costs are also reckoned - GST is paid and the relevant input tax credit is claimed.

Q 22. What is the methodology to extract turnover from April 2017 to June, 2017?

Ans. Adjustments are to be made based on the point of taxation under excise law, State level VAT law and service tax law to arrive at taxable values as per the erstwhile laws. The said value must be entered under this head.

It may be noted that tax is liable to be paid on removal in case of excise/ on sale under VAT law/ on provision of service or issue of invoice as the

case may be under service tax law provisions and not on accrual basis or cash basis (which is the basis of accounting and hence, basis of annual turnover as per financial statements). Thus, the criteria for reducing turnover for the period April 2017 to June 2017 from the total turnover would be based on taxability under the erstwhile laws as per point of taxation under the said laws but not when the revenue was recognised as per relevant accounting standards.

Amounts forming part of turnover relating to works contracts, where consideration was received during the period April 2017 to June 2017, but either supplies were effected or services were rendered after June 2017, needs to be deducted under this Sl. No. This is because the said consideration was liable to tax on receipt basis as per service tax law. However, the same value needs to be added back in Sl. No. 5(O), since the aforesaid supplies would be liable to tax under GST law also as per section 142(11)(c). At this juncture, it is important to note that the relevant service tax and value added tax paid on such advances for which supplies are effected during the GST regime would be available as CGST/ SGST credit as per section 142(11)(c) of the CGST Act.

Q 23. What is the effect of credit notes issued in relation to exempt supplies, zero-rated supplies and non-GST outward supplies?

Ans. Supply of exempt, zero-rated and non-GST outward supply of goods and/ or services are not liable to GST. In such a scenario, the credit notes issued for claiming reduction in the taxable value shall be recorded in the audited annual

financial statements. Such credit notes should be declared against Part II Sl. No. 5J of FORM GSTR-9C. Where 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.

Q 24. What are the implications upon issuance of financial credit notes?

Ans. Financial credit notes would not adjust the amount of GST involved in the original tax invoice issued at the time of supply of goods and/ or services. Accordingly, the transaction value of supply of goods and/ or services shall stand reduced although tax paid thereon remains the same. This may result in higher amount of GST being paid considering the adjusted value of original supply. Since, 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.

Q 25. Provide an illustration of reconciliation of turnover arising in FORM GSTR-9C due to the valuation provisions.

Ans. A suitable illustration can be taken in the case of construction contracts wherein the contractor is given a contract by a developer for construction of building and he is responsible for the procurement of all the materials required for such construction. However, the developer issues cement free of cost to such contractor in the given case.

Treatment in Books of;

Contractor: No Entry

Developer: Procurement of cement will be treated as an inward supply of cement and the issuance of the cement to contractor will form part of the cost of goods supplied.

Treatment for GST

Contractor: Add the value of cement so received for the computation of GST

Developer: Consider the supply of cement as an outward supply. The contractor's invoice (including cement) is an inward supply for construction.

Q 26. Should the registered person disclose details of “notice pay” recovery from employees in FORM GSTR-9C? If yes, where should it be reported?

Ans. If the registered person has considered the notice pay recovered from employees as a taxable supply but has not disclosed the same as an income in the Profit and Loss account, it would be reported under Sl. No. 50 of FORM GSTR-9C for the purpose of reconciliation. Data for such recoveries can be ascertained from credits in the Salary/ Wages ledger maintained in the books of accounts.

Q 27. Is there any transaction which appears under the expense head, but has an impact on the outward taxable supplies for the purpose of GST?

Ans. Yes, one of the cases can be incentives/ rebate received from supplier which is considered as a supply under GST. Incentives/ rebate received from the supplier can amount to a taxable supply under the GST. 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. 50 so as to reconcile with value declared in FORM GSTR-9.

Q 28. Is there any reconciliation required in FORM GSTR-9C in case of sale of capital goods?

Ans. In respect of sale of capital goods, only the profit/ loss arising on the sale of such capital goods is disclosed in the Profit and Loss account. Whereas, the GST on supply of capital goods is leviable on the transaction value or input tax credit is reversed as per the formula prescribed in section 18(6) of the CGST Act. In order to reconcile the difference, the profit/ loss arising on sale of such capital goods has to be adjusted along with the transaction value on which GST has been paid under Sl. No. 50 to reconcile with the amount disclosed in FORM GSTR-9. Data for such transactions can be ascertained from the deletions disclosed in the Fixed Asset Schedule / Fixed Assets Register.

Q 29. What is the effect of return of pre-GST inward supplies by a taxable person?

Ans. As per the transition provisions [Section 142(1)], taxable person is required to consider return of pre-GST inward supplies as an outward supply and raise a tax invoice for the same. However, for the purpose of accounts, the same would be considered as a purchase return and reduced from the total purchase value instead of being disclosed as revenue in the books of accounts. In such a situation, the aggregate value of the returns which has been considered as an outward supply under GST has to be adjusted in Sl. No. 50 for the purpose of reconciliation.

Q 30. What is the effect of inputs and capital goods which is sent to a job worker but is not returned within the prescribed period?

Ans. As per section 143(3) and 143(4) of the CGST Act, where inputs or capital goods are sent to job worker and such goods are not received within the prescribed period of one year or three years respectively, it will be deemed as a supply on the date when such goods were sent to the job worker. However, such supply may not be treated as an income in the audited Annual Financial Statements. In such a situation, the value on which GST is liable to be paid on the goods sent to the job worker is liable to be added under Sl. No. 50. Data for such transactions can be ascertained from the inventory records and FORM GST ITC-04.

Q 31. What is the effect of non-receipt of consideration in convertible foreign exchange within the prescribed time-limit for export of services and its effect on FORM GSTR-9C?

Ans. In terms of Rule 96A, it is specified that a registered person would be liable to pay applicable tax along with interest within fifteen days from the following date:

- In case of services – after the expiry of one year or such further period as may be allowed by the Commissioner from the date of issue of export invoice, if the payment is not received by the exporter in convertible foreign exchange.

If the tax is remitted in terms of Rule 96A of CGST/ SGST Rules, the relevant zero-rated supplies should not be declared against Sl. No. 7C since the tax on such supplies have been remitted. Being an inter-State supply that has failed the condition of repatriation of forex (only in case of services), output tax will become payable on transactions earlier considered as export of services.

Q 32. Provide a few illustrations of unreconciled differences to be reported in Sl. No.8 of FORM GSTR-9C.

Ans. Following illustrations can be considered for having the reconciliation differences to be reported in Sl. No.8 of FORM GSTR-9C:

- a) Zero-rated supply made by the registered person during the previous year. However, conditions relevant for the supply has not been complied by the registered person, can be construed to be a regular supply.
- b) Transaction reported through delivery challan during the financial year for supply on sale or approval basis beyond a period of six months shall be deemed to be a supply under GST. However, that may not be a sale for revenue recognition in the books of accounts for such transaction. Assuming GST returns carry the supply details and no revenue recognition has been done in the books of accounts, this shall call for the reconciliation.
- c) Exemption conditions not fulfilled by the registered person while exercising the option to make exempted supply shall be reported as regular supply.

Q 33. How to validate the details of gross turnover as per books of accounts?

Ans. Ideally the ledger accounts for outward tax liability in the books of accounts should be maintained GST rate wise. It minimizes the chances of errors in classification due to over-sight in the books of accounts and ensures that the data generated from books of accounts is correct and consistent. The rate of tax should also be mapped with HSN to ensure that errors of HSN classification is also minimized.

Generally, in various accounting softwares and ERPs, facility to generate report of GST rate wise outward tax liability along with taxable value or transaction value is available. The same can be relied upon as document. The total of said report should be matched with the total turnover declared in the books of accounts. Further, the amount of tax should also be matched with total credits in the GST Liability Register in the books of accounts.

In cases, where no report of rate wise GST liability along with taxable value can be generated or where the liability ledger is not maintained rate wise, the GST auditor should use substantive audit tools to check if the details of various invoices issued by the registered person have been consistently and accurately booked in the books of accounts. After applying substantive test, the auditor may become satisfied that proper recording of transactions has taken place and reports duly prepared by the registered person for rate wise amount of tax liability and taxable amount is made available to him. In such a case, the auditor can rely on the same with a separate disclosure that rate wise tax liability has not been maintained in the books of accounts.

In cases where no rate wise tax liability and taxable value is maintained in the books of accounts and registered person is engaged in making outward supplies of goods or services or both of different rates, then the auditor may consider making a disclosure. Due to the lack of availability of rate wise tax liability from the books of accounts, the auditor should state that he is not in a position to punch the details in the given table.

Q 34. How to validate details of deemed supplies and adjust the valuation amount?

Ans. In case of deemed supplies under Schedule-I, there can be a situation that tax amount in relation to the said deemed supplies is becoming part of the Tax Liability Register but may not be a part of overall turnover of the registered person in the books of accounts. In such cases, the rate wise taxable value of the said transactions should be calculated either on the basis of invoice issued under section 31 of the CGST Act, or can be calculated by reverse method. (i.e. calculating the value of taxable supply from the rate of tax). Same shall be applicable in case where the adjustments of section 15 or Valuation Rules is made for tax purpose.

Q 35. Registered person has classified EPC Contract of Solar Power Plants as supply of goods classifiable under Chapter 85 and has reflected it under 5% GST rate. However, throughout country in various advance rulings, the EPC of Solar Power Plant has been treated as a supply of Works Contract Service leviable to GST at the rate of 18%. Auditor is also of the view that it is a works contract service. What should an auditor do?

Ans. In case registered person agrees with the contention of the auditor: The EPC of Solar Power Plant should be shown as Works Contract Service under 18% rate. It shall lead to non-reconciliation and disclosure within the auditor recommendation which will lead to payment of additional tax.

In case registered person does not agree with the contention of the auditor: The rate classification should be 5% under Table 9 as understood by the management and the auditor should consider a suitable disclosure by way of a qualification in the main certificate under the opinion paragraph that according to him the rate of GST should be 18% and classification should be Works Contract Service with reasoning thereof.

Q 36. Due to the nature of business of a registered person, types of supply, complexities of transactions and size of operations, the auditor is unable to identify or comment upon each and every classification of outward and inward supplies. How should auditor approach to punch data in Table 9?

Ans. The auditor in such a case, may put in his comments in the main Certificate under opinion paragraph (4 or 5, as the case may be). He can state that the classification aspect has been considered as noticed during audit and is subject to the information and declaration or management representation as provided by the registered person. It should be clearly specified that all aspects of classification have not been considered.

Q 37. Provide some illustrations where non-reconciliation is reported in Table 6 in Form GSTR 9C but shall not require any additional tax payment.

Ans. Few illustrations where non-reconciliation is reported in Table 6 in FORM GSTR-9C but shall not require any additional tax payment are as under:

- Where the difference is on account of exempt/ non-taxable/ no supply turnover
- Where the entry passed in the books of accounts is incorrect and the GST returns have been filed correctly
- Where the amount of tax paid as per the GST returns is higher than the taxes paid as per the books of accounts

In the given cases, no reporting is required to be done in Table 11.

Q 38. What is the source of information for filling Sl. No. 12B of FORM GSTR-9C (ITC booked in earlier financial years claimed in current financial year)?

Ans. The details for filling Sl. No. 12B of FORM GSTR-9C shall be drawn from the claims of FORM GST TRAN-I which were booked in earlier periods. This will contain closing balance of Cenvat Credit and VAT credit which is carried forward as per section 140(1) of the CGST and SGST Acts. Other TRAN-1 credits which are not booked during the earlier period should not be reflected in Sl. No. 12B of FORM GSTR-9C.

From FY 2018-19 and onwards, this column would be the same amount as reported in Sl. No. 12C of FORM GSTR-9C of previous financial year.

Q 39. Is there a separate reporting to be made in FORM GSTR-9C of ITC accounted in books in the current financial year (i.e. 1-July 2017 to 31-Mar-2018) and not claimed in return in FORM GSTR-3B in 2017-18 but claimed in the next financial year 2018-19 ?

Ans. Separate disclosure should be made in Part IV, Sl. No. 12 C of FORM GSTR-9C in respect of all such supplies. This credit can also relate to goods which are in transit as at the close of financial year and which are received in the next year. Thereby, it is to be availed as a *bona fide* credit in the next financial year.

Q 40. What can be the reasons for difference in ITC in FORM GSTR-9C being reported in Part IV Sl. No. 12D 'ITC availed as per audited financial statements or books of accounts' and ITC reported in Part IV Sl. No. 12E 'ITC claimed in Annual Return (FORM GSTR-9)'?

Ans. The reasons for difference in ITC in FORM GSTR-9C being reported in Part IV Sl. No. 12D & 12E could be as follows:

a) Duplicate ITC incorrectly availed in returns.

- b) Differences in the ITC treatment of certain inward supplies as per books of accounts and FORM GSTR-3B (e.g. claimed as credit in books and taken as an ineligible credit in FORM GSTR-3B)
- c) ITC claimed in FORM GSTR-3B but recorded as expenses in the books of accounts.

Q 41. Where should the ineligible ITC identified by an auditor which are claimed as eligible ITC by the registered person in FORM GSTR-3B and in FORM GSTR-9 be reported in FORM GSTR-9C?

Ans. Total amount of ITC availed by the registered person will have to be reported in Column 3 of Sl. No. 14 of FORM GSTR-9C and eligible ITC as determined by the auditor will have to be reported in Column 4 of Sl. No. 14 of FORM GSTR-9C. Thus, the difference between Column 3 of Sl. No. 14 and Column 4 of Sl. No. 14 of FORM GSTR-9C will be ineligible ITC identified by the auditor. Suitable disclosures should be made in the certificate by the auditor.

Q 42. Where the liability on account of disallowance of ITC identified by the auditor arises, should the same be remitted?

Ans. Part V of FORM GSTR-9C provides for auditor's recommendation on additional liability wherein liability arising on account of non-reconciliation of ITC has to be remitted in cash. As per instruction appended to revised FORM GSTR-9C notified through Notification No. 74/ 2018-Central Tax, dated 31st December, 2018, additional liability can be paid through FORM DRC-03 by utilizing cash ledger only.

Q 43. Is the determination of additional liability determined by the auditor binding on the registered person?

Ans. At the outset, it can be inferred from the heading to Part V of FORM GSTR-9C that the auditor only has a recommendatory power while furnishing his report. Any recommendations given by the auditor may or may not be acceptable to the registered person. If it is acceptable, the payment of tax is to be made by the registered person.

However, if it is not acceptable then the question arises as to how the auditor resolves the issue. At this juncture, the auditor needs to exercise his professional diligence, skill, legal knowledge and care in determination of any additional tax liability which in his opinion, may be payable by the registered person. The registered person has an option to accept, reject or partially accept the recommended additional tax liability. In line with such recommendations though not explicitly stated anywhere in the relevant Form or GST laws –

- (i) the registered person can choose to make the payment of the additional tax liability in full or in part;
- (ii) the registered person can even choose to reject the complete recommendations of the auditor and not make the payment at all.

Before an auditor ventures into recommending any additional tax liability due care, caution and diligence must be exercised. For instance, in respect of commodity classification based on HSN if an auditor believes that there are two possibilities then he may choose to place

reliance on an expert opinion obtained by the registered person. In such a situation a proper disclosure may suffice.

However, when looked at from the perspective of the Government, the recommendation shall form the foundation for an effective show cause notice and enquiry into the affairs of the registered person.

Q 44. In which of the situations will Part I and Part II of the Certification part be applicable?

Ans. Part I certification is to be certified by a Chartered Accountant/ firm of Chartered Accountant wherein the audit of books of accounts, financial statements and reconciliation statement in FORM GSTR-9C are certified by the same Chartered Accountant/ firm of Chartered Accountant.

Part II certification is to be certified by a Chartered Accountant/ firm of Chartered Accountant or a Cost Accountant/ firm of Cost Accountants if the audit of books of accounts, financial statements and reconciliation statement in FORM GSTR-9C are certified by some other Chartered Accountant/ firm of Chartered Accountant.

Q 45. Can the Internal Auditor of the registered person certify FORM GSTR-9C?

Ans. An internal auditor cannot certify FORM GSTR-9C as per the instructions issued by ICAI.

Q 46. Does the submission of the FORM GSTR-9C lead to the understanding that the Commissioner or any officer authorized by him will not undertake an audit under section 65 of the CGST Act?

Ans. No, provisions relating to departmental audit under section 65 and provisions relating to audit under section 35(5) are two independent provisions. Audit under section 35(5) is required when aggregate turnover is greater than Rs. 2 crore whereas there is no such condition for audit under section 65. Further audit under section 65 is by the department whereas audit under section 35(5) is by a Chartered Accountant/ Cost Accountant. Thus, submission of FORM GSTR-9C will not in any manner curtail the right of the department to conduct an audit.

Q 47. Can FORM GSTR-9C be certified by a different Chartered Accountant for another distinct person of the same entity?

Ans. There is no restriction under the CGST Act or under the ICAI regulation in relation to certification of FORM GSTR-9C by different Chartered Accountant for another distinct person of the same entity.

Q 48. Who is responsible to submit FORM GSTR-9C?

Ans. It will be the responsibility of the registered person to submit FORM GSTR-9C. Auditor's responsibility will be to provide the certified copies of FORM GSTR-9C to the registered person or upload the same on the

website. However, the submission of the same must be made by the registered person. Even after verification by Chartered Accountant/ Cost Accountant, verification by registered person has been added in revised FORM GSTR-9C as notified by Notification No. 74/ 2018-Central Tax, dated 31stDecember, 2018.

Q 49. In case of multi location entities, what should be the specific area of examination?

Ans. Audit of multi location entities would require examination (among others) of the following:

- i) Cost incurred commonly at or by the Head Office – e.g. Marketing and Brand Building Costs;
- ii) Head Office providing support to Branches – e.g. Centralized Accounting Services; HR Services etc.,
- iii) Branches without billings to third parties;
- iv) Branches with billings to third parties;
- v) Identification of Branches which are not registered;
- vi) E-Way bill to track supplies which have been marked as stock transfers;
- vii) Credit of ‘State A’ availed in ‘State B’ especially in cases of where the place of supply is State B (e.g. Accommodation Services of employee of ‘State A’ availed as credit in ‘State B’);
- viii) Basis of bifurcation of credits into ISD;

ix) Valuation of supply especially when credits are not available in the hands of the receiving Branches.

Q 50. What are the changes made in revised FORM GSTR-9C as notified by Notification No. 74/ 2018-Central Tax dated 31st December, 2018?

Ans. Following are summary of changes made in FORM GSTR-9C.

Reference number in Form	Changes Made	Comments
Part-II, Table 5E	Value to be deducted (-) instead of addition (+)	Inadvertent mistake has been corrected. Positive credit note value is to be reported and the same will be deducted to arrive at Annual Turnover as per Sl. No. 5P.
Part-II, Table 5J	Value to be added (+) instead of deduction (-)	Inadvertent mistake has been corrected. Positive credit note value is to be reported and the same will be added to arrive at Annual Turnover as per Sl. No. 5P.
Inserted verification by registered person	Verification by registered person has been added after verification by Chartered Accountant or Cost accountant	Authentication of FORM GSTR-9C by registered person so as to share joint responsibility of FORM GSTR-9C

Instruction 2	Instructed to file FORM GSTR-1, FORM GSTR-3B and FORM GSTR-9 of FY 2017-18 before filing FORM GSTR-9C.
Instruction 4	Clarifies that Taxable Turnover from FORM GSTR-9 shall be sum of Table (4N-4G) + (10-11) shall be reflected in Table 7F of FORM GSTR-9C.
Instruction 8	It is clarified that additional tax liability can be paid through FORM DRC-03 and that too using cash ledger only.
Part-II, Point 3	Reference to SGST Act is mentioned alongwith

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- Indirect Taxes Committee