

GST (GOODS AND SERVICES TAX)

Special Audit in GST

Introduction

GST is a trust based taxation regime wherein the assessee is required to self-assess his returns and determine tax liability without any intervention by the tax official. Therefore a tax regime that relies on self-assessment has to put in place a robust audit mechanism to measure and ensure compliance of the provisions of law by the taxable person.

“Audit” has been defined in section 2(13) of the CGST Act, 2017 and it means the examination of records, returns and other documents maintained or furnished by the registered person under the GST Acts or the rules made there under 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 the GST Acts or the rules made thereunder.

Types of Audit

GST envisages three types of Audit. The first audit is by a chartered accountant or a cost accountant. Every registered person whose aggregate turnover during a financial year exceeds two crore rupees has to get his accounts audited by a chartered accountant or a cost accountant and furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in FORM GSTR-9C.

In the second type which is the normal audit, the Commissioner or any officer authorised by him, can undertake audit of any registered person for such

period, at such frequency and in such manner as may be prescribed.

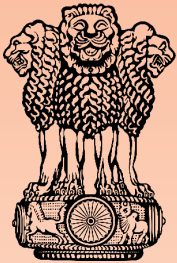
The third type of audit is called the Special Audit. In Special Audit the registered person can be directed to get his records including books of account examined and audited by a chartered accountant or a cost accountant during any stage of scrutiny, inquiry, investigation or any other proceedings; depending upon the complexity of the case.

Procedure

- During the scrutiny, inquiry, investigation or any other proceedings of a registered person, the Assistant Commissioner or any officer senior to him, having regard to the nature and complexity of the case and the interest of revenue, might be of the opinion that the value has not been correctly declared or the credit availed is not within the normal limits.
- In such cases, with the prior approval of the Commissioner, the Assistant Commissioner or any officer senior to him can direct the registered person in FORM GST ADT-03 to get his records including books of account examined and audited by a specified chartered accountant or a cost accountant. The chartered accountant or a cost accountant will be nominated by the Commissioner.
- The chartered accountant or cost accountant so nominated has to submit a report of such audit within the period of ninety days, duly signed and certified by him to the Assistant Commissioner.



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- On an application made by the registered person or the chartered accountant or cost accountant or for any material and sufficient reason, the Assistant Commissioner can extend the said period by a further period of ninety days.
- The provisions of special audit shall have effect even if the accounts of the registered person have been audited under any other provisions of the GST Act or any other law for the time being in force.
- The registered person shall be given an opportunity of being heard in respect of any material gathered on the basis of special audit and which is proposed to be used in any proceedings against him under this Act or the rules made thereunder.
- The expenses of the examination and audit of records, including the remuneration of such chartered accountant or cost accountant, shall be determined and paid by the Commissioner.
- On conclusion of the special audit, the registered person shall be informed of the findings of the special audit in FORM GST ADT-04.
- Where the special audit results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the process of demand and recovery will be initiated against the registered person.



Conclusion

Special audit provides a lawful and legal way for the GST officers to take the assistance of a chartered accountant or cost accountant to determine tax liabilities in complex cases. The professional expertise of a chartered accountant or cost accountant will be of great significance in ensuring that the interest of revenue is safeguarded at all times.

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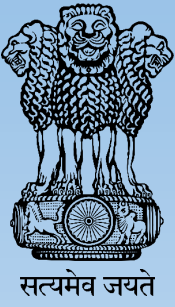
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Provisional Assessment in GST

Introduction

A supplier will come to know the extent of his tax liability which has to be discharged on a continuous and regular basis only after assessment. Assessment means determination of tax liability and includes self-assessment, re-assessment, provisional assessment, summary assessment and best judgment assessment. The major determinants of the tax liability are generally the applicable tax rate and the value. There might be situations when these determinants might not be readily ascertainable and may be subject to the outcome of a process that requires deliberation and time. Hence like under the previous laws, when due to various circumstances it might not be always possible, at that point of time, to carry out an assessment and determine the exact duty liability, the GST law also provides for provisional assessment.

The Asst. Commissioner/Dy. Commissioner of Central Tax provisionally determines the amount of tax payable by the supplier and is subject to final determination. On provisional assessment, the supplier can pay tax on provisional basis but only after he executes a bond with security, binding them for payment of the difference between the amount of tax as may be finally assessed and the amount of tax provisionally assessed. On finalization of the provisional assessment, any amount that has been paid on the basis of such assessment is to be adjusted against the amount that has been finally determined as payable. In case of short payment, the same has to be paid with interest and in case of excess payment, the same will be refunded with interest.

Procedure

In case a supplier is unable to determine the value of goods or services or both or to determine the rate of tax applicable thereto, he can request the Asst. Commissioner/Dy. Commissioner of Central Tax in writing, giving reasons for payment of tax on a provisional basis. The supplier requesting for payment of tax on a provisional basis has to furnish an application along with the documents in support of his request, electronically in FORM GST ASMT-01 on the

common portal, either directly or through a Facilitation Centre notified by the Commissioner.

The Asst. Commissioner/Dy. Commissioner of Central Tax will scrutinize the application in FORM GST ASMT-01. In case, additional information or documents in support is required by the Asst. Commissioner/Dy. Commissioner of Central Tax to decide the case, notice in FORM GST ASMT-02 will be issued to the supplier requesting for submission of the same.

The supplier has to file a reply to the notice in FORM GST ASMT – 03, and if he desires can also appear in person before the Asst. Commissioner/Dy. Commissioner of Central Tax to explain his case.

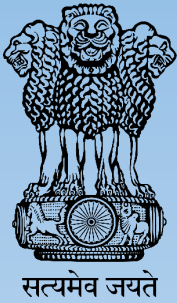
The Asst. Commissioner/Dy. Commissioner of Central Tax will then issue an order in FORM GST ASMT-04 within a period not later than ninety days from the date of receipt of the request, allowing the payment of tax on a provisional basis. The order will indicate the value or the rate or both on the basis of which the assessment is to be allowed on a provisional basis and the amount (this amount shall include the amount of integrated tax, central tax, State tax or Union territory tax and cess payable in respect of the transaction) for which the bond is to be executed along with the security to be furnished. The security will not exceed twenty-five percent of the amount covered under the bond.

The supplier has to execute the bond in FORM GST ASMT-05 along with a security in the form of a bank guarantee for an amount as mentioned in FORM GST ASMT-04. A bond furnished to the proper officer under the State Goods and Services Tax Act or Integrated Goods and Services Tax Act shall be deemed to be a bond furnished under Central Goods and Services Tax Act.

On executing the bond the process of the provisional assessment is complete and the supplier can supply the goods or services or both and pay the tax at the rate or on the value that has been indicated in the order in FORM GST ASMT-04.



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Finalization of provisional assessment

The provisional assessment will be finalized, within a period not exceeding six months from the date of issuance of FORM GST ASMT-04. The Asst. Commissioner/Dy. Commissioner of Central Tax will issue a notice in FORM GST ASMT-06, calling for information and records required for finalization of assessment and shall issue a final assessment order, specifying the amount payable by the registered person or the amount refundable, if any, in FORM GST ASMT-07.

On sufficient cause being shown and for reasons to be recorded in writing, the time limit for finalization of provisional assessment can be, extended by the Joint Commissioner or Additional Commissioner for a further period not exceeding six months and by the Commissioner for such further period not exceeding four years.

In writing, the time limit for finalization of provisional assessment can be, extended by the Joint Commissioner or Additional Commissioner for a further period not exceeding six months and by the Commissioner for such further period not exceeding four years.

Interest liability

In case any tax amount becomes payable subsequent to finalization of the provisional assessment, then interest at the specified rate will also be payable by the supplier from the first day after the due date of payment of the tax till the date of actual payment, whether such amount is paid before or after the issuance of order for final assessment.

In case any tax amount becomes refundable subsequent to finalization of the provisional assessment, then interest (subject to the eligibility of refund and absence of unjust enrichment) at the specified rate will be payable to the supplier.

Release of Security consequent to Finalization

Once the order in FORM GST ASMT-07 is issued, the supplier has to file an application in FORM GST ASMT- 08 for the release of the security furnished. On receipt of this application the Asst. Commissioner/Dy. Commissioner of Central Tax will issue an order in FORM GST ASMT-09 within a period of seven working days from the date of the receipt of the application, releasing the security after the amount payable if any as specified in FORM GST ASMT-07 has been paid.

Conclusion

Provisional assessment provides a method for determining the tax liability in case the correct tax liability cannot be determined at the time of supply. The payment of provisional tax is allowed only against a bond and security. The provisional assessment has to be finalized within six months unless extended. On finalization, the tax liability can either be more or less as compared to the provisionally paid tax. In case of increase in the tax liability, the difference is payable along with interest and in case of decrease in the tax liability the amount will be refunded with interest.



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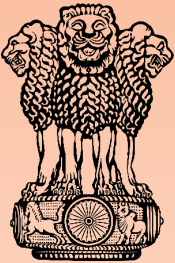
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Debit Note in GST

Introduction

A supplier of goods or services or both is mandatorily required to issue a tax invoice. However, during the course of trade or commerce, after the invoice has been issued there could be situations like:

- The supplier has erroneously declared a value which is less than the actual value of the goods or services or both provided.
- The supplier has erroneously declared a lower tax rate than what is applicable for the kind of the goods or services or both supplied.
- The quantity received by the recipient is more than what has been declared in the tax invoice.
- Any other similar reasons.

In order to regularize these kinds of situations the supplier is allowed to issue what is called as debit note to the recipient. The debit note also includes supplementary invoice.

Meaning

When a tax invoice has been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply, the registered person, who has supplied such goods or services or both, shall issue to the recipient a debit note containing the prescribed particulars.

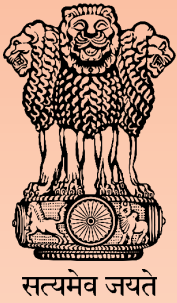
Format

There is no prescribed format but debit note issued by a supplier must contain the following particulars, namely:

- (a) name, address and Goods and Services Tax Identification Number of the supplier;
- (b) nature of the document;
- (c) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;
- (d) date of issue;
- (e) name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;
- (f) name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered;
- (g) serial number and date of the corresponding tax invoice or, as the case may be, bill of supply;
- (h) value of taxable supply of goods or services, rate of tax and the amount of the tax debited to the recipient; and
- (i) signature or digital signature of the supplier or his authorized representative.



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Tax liability

The issuance of a debit note or a supplementary invoice creates additional tax liability. The treatment of a debit note or a supplementary invoice would be identical to the treatment of a tax invoice as far as returns and payment are concerned.

Records

The records of the debit note or a supplementary invoice have to be retained until the expiry of seventy-two months from the due date of furnishing of annual return for the year pertaining to such accounts and records. Where such accounts and documents are maintained manually, it should be kept at every related place of business mentioned in the certificate of registration and shall be accessible at every related place of business where such accounts and documents are maintained digitally.

Conclusion

The debit note or a supplementary invoice is therefore a convenient and legal method by which the value of the goods or services in the original tax invoice can be enhanced. The issuance of the debit note will easily allow the supplier to pay his enhanced tax liability in his returns without requiring him to undertake any other tedious process.



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Credit Note in GST

Introduction

A supplier of goods or services or both is mandatorily required to issue a tax invoice. However, during the course of trade or commerce, after the invoice has been issued there could be situations like:

- The supplier has erroneously declared a value which is more than the actual value of the goods or services provided.
- The supplier has erroneously declared a higher tax rate than what is applicable for the kind of the goods or services or both supplied.
- The quantity received by the recipient is less than what has been declared in the tax invoice.
- The quality of the goods or services or both supplied is not to the satisfaction of the recipient thereby necessitating a partial or total reimbursement on the invoice value.
- Any other similar reasons.

In order to regularize these kinds of situations the supplier is allowed to issue what is called as credit note to the recipient. Once the credit note has been issued, the tax liability of the supplier will reduce.

Meaning

Where a tax invoice has been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services

or both, may issue to the recipient what is called as a credit note containing the prescribed particulars.

Format

There is no prescribed format but credit note issued by a supplier must contain the following particulars, namely:

- (a) name, address and Goods and Services Tax Identification Number of the supplier;
- (b) nature of the document;
- (c) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;
- (d) date of issue;
- (e) name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;
- (f) name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered;
- (g) serial number and date of the corresponding tax invoice or, as the case may be, bill of supply;
- (h) value of taxable supply of goods or services, rate of tax and the amount of the tax credited to the recipient; and
- (i) signature or digital signature of the supplier or his authorised representative.

Adjustment of tax liability

The person who issues a credit note in relation to a supply of goods or services or both must declare the details of such credit note in the return for the month during which such credit note has been issued but not later than September following the end of the financial year in



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which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier. In other words, the output tax liability cannot be reduced in cases where credit note has been issued after September.

The output tax liability of the supplier gets reduced once the credit note is issued and it is matched. The details of the credit note relating to outward supply furnished by the supplier for a tax period shall, be matched:

- with the corresponding reduction in the claim for input tax credit by the recipient in his valid return for the same tax period or any subsequent tax period; and
- for duplication of claims for reduction in output tax liability.

The claim for reduction in output tax liability by the supplier that matches with the corresponding reduction in the claim for input tax credit by the recipient shall be finally accepted and communicated to the supplier. The reduction in output tax liability of the supplier shall not be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.

Where the reduction of output tax liability in respect of outward supplies exceeds the corresponding reduction in the claim for input tax credit or the corresponding credit note is not declared by the recipient in his valid returns, the discrepancy shall be communicated to both such persons. Whereas, the duplication of claims for reduction in output tax liability shall be communicated to the supplier.

The amount in respect of which any discrepancy is communicated and which is not rectified by the recipient in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the supplier in his return for the month succeeding the month in which the discrepancy is communicated.

The amount in respect of any reduction in output tax liability that is found to be on account of duplication of claims shall be added to the output tax liability of the supplier in his return for the month in which such duplication is communicated.

Records

The records of the credit have to be retained until the expiry of seventy-two months from the due date of furnishing of annual return for the year pertaining to such accounts and records. Where such accounts and documents are maintained manually, it should be kept at every related place of business mentioned in the certificate of registration and shall be accessible at every related place of business where such accounts and documents are maintained digitally.

Conclusion
The credit note is therefore a convenient and legal method by which the value of the goods or services in the original tax invoice can be amended or revised. The issuance of the credit note will easily allow the supplier to decrease his tax liability in his returns without requiring him to undertake any tedious process of refunds.



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