

How to handle Department Audit under GST

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Legal Framework:

- Relevant legal Provisions in the GST Act and Rules viz.,
 - **Section 2(13)** – Meaning of the term ‘Audit’;
 - **Section 2(85)** – Meaning of the term ‘Place of Business’;
 - **Section 65** – Audit by Tax Authorities;
 - **Rule 101** – Departmental Audit;
 - **Section 71** – Access to the **business premises** of the taxpayer;
 - **Sec 35 read with Rule 56** – Maintenance of Accounts, Records & Documents.
- GST Audit Manual 2019 issued by the CBIC [GSTAM-2019];
- Trade Circular No. 13T of 2020 – General Procedure for GST Audit issued by the Commissioner of State Tax, Maharashtra;
- GST Audit Manual issued by State of Karnataka – Jan 1, 2021;
- Manual for Quality Assurance Review & Audit Performance Index 2021 issued by the CBIC;

Definition of Audit u/s 2(13) of CGST Act:

Meaning of the term '**Audit**' u/s 2(13) of the Act:

- **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,
- **To assess**
 - ✓ his compliance with the **provisions of this Act** or the rules made thereunder.

Section 65: Audit by Tax Authorities

- (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.
- (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**;

Note:

- If department letter for conducting audit is not replied, following actions to be taken:
 - ✓ Note sent to executive Commissionerate for taking appropriate action;
 - ✓ Inclusion in the Risk Parameters for future - To be identified for audit on priority;
 - ✓ Downgrading of the GST compliance ratings.

(3) The registered person shall be informed by way of notice **not less than 15 working days** prior to the conduct of Audit. [Form ADT-01].

(4) The audit shall be completed within a period of **three months** from the date of commencement of the audit.

If 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**.

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)**.

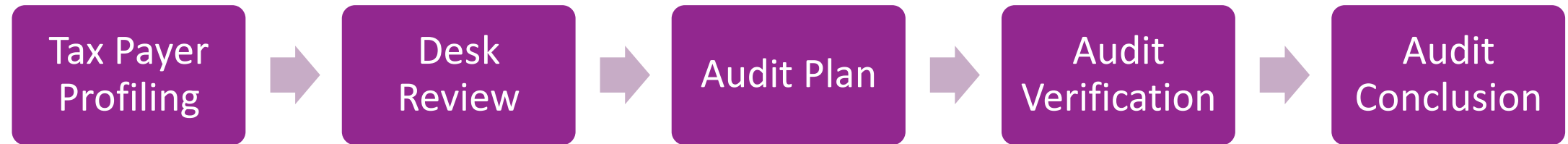
(5) During the course of audit, the authorized officer may require the registered person,—

- i. To afford him the **necessary facility** to verify the books of account or other documents as he may require;
- ii. To furnish such information as he may require and render assistance for timely completion of the audit.

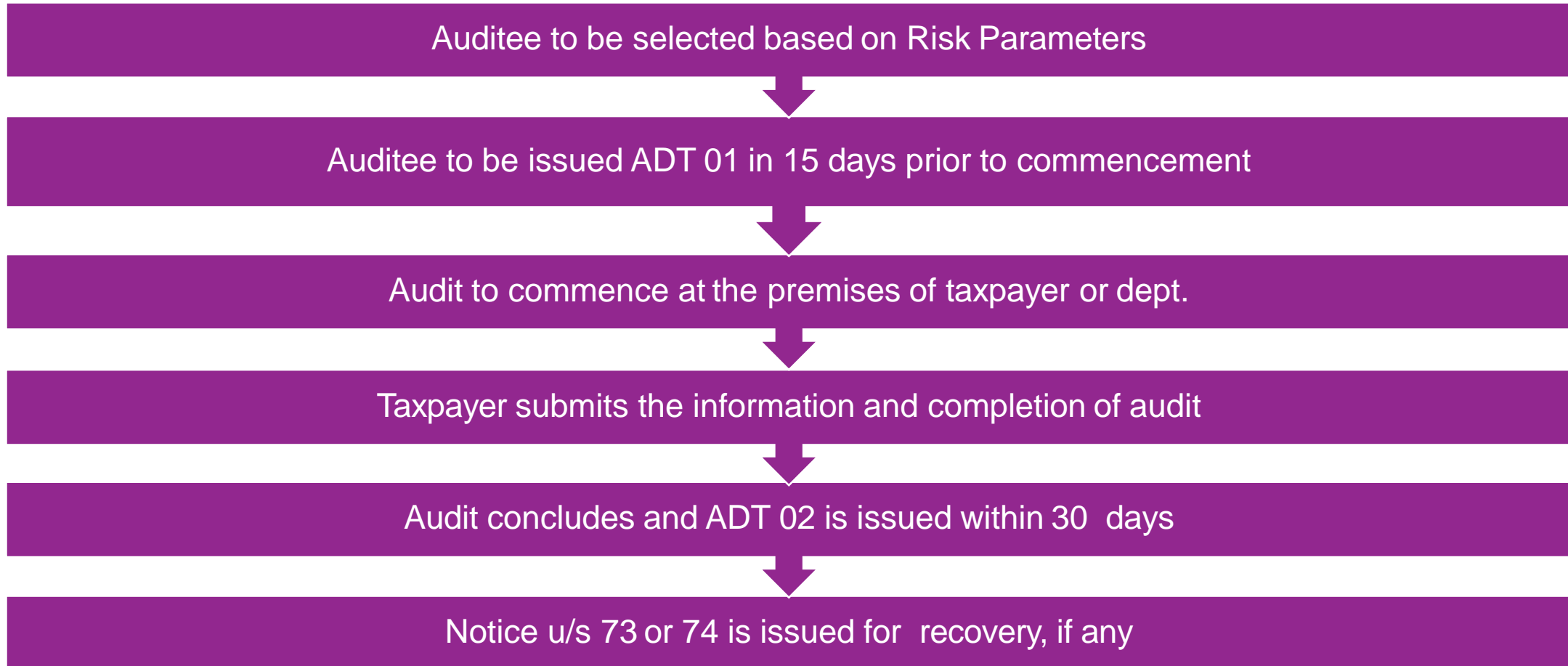
(6) On conclusion of audit, the proper officer shall, **within thirty days**, inform the registered person about findings, rights and obligations and the reasons for such findings in Form ADT 02. – **[Proper officer is AC/ DC]**

(7) Where the audit results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilized, the proper officer may initiate action under section 73 or section 74 - **[Superintendent for S. 73 and AC/ DC for S.74]**

Methodology of GST AUDIT:



Steps for GST Audit:



Period of Audit and Selection Criteria

- **Audit to be conducted for a financial year [or part thereof] or multiples thereof;**
- **Audit is sample selection driven, Criteria for selection to be as under:**
 - Risk Based Selection v/s earlier turnover/ taxes paid basis selection – {Risk evaluation method prescribed by the Directorate General of Audit in consultation with the Directorate General of Analytics and Risk Management}
 - Deferment for Accredited Taxpayers – 3 years from the date of the last audit
- **20% of cases to be identified based on the local risk parameters (after obtaining approval of Chief Commissioner) as under:**
 - Taxpayer did not provide/delayed in providing documents sought by the Audit Team;
 - Inconsistency in the filing of tax returns by the taxpayers;
 - Taxpayer's return was previously investigated for evasion;

- Ratio Analysis: Unexpected increase or decrease in turnover
- Excess availment of ITC as compared to GSTR 2A
- Minimum Payment of Tax liabilities in cash
- Excess availment of ITC
- High-Value Transaction in GST return
- Procurement from Fake supplier
- Supply made to Fake firm
- Non-reversal of ITC in case of exempt Supply
- Taxpayer received notices from other governmental entities;
- Quality of the Taxpayer's books and records not well-kept;
- Taxpayer has supplied goods on which there has been a reduction in the rate of duty, in order to examine the possibility of profiteering u/s 171 of the CGST Act, 2017;
- Higher incidence of supplies without the issuance of e-way Bills have been noticed.

- Specific sector in which the tax payer operates (Ex: Typical high-risk activities include restaurants and hotels, apartment rentals, professionals, car rental, spare parts for vehicles, chemicals, telecommunications)
- Audit differences (past audit assessments)
- The taxpayers who was not audited in the Pre- GST era for the last 4-5 years.
- The taxpayer whose turnover increased substantially after enactment of GST.

Sample Form ADT-01:

To

Period – F.Y. (s) – 2017-18 & 2018-19

NOTICE FOR CONDUCT OF GST AUDIT

Whereas it has been decided to undertake audit of your books of accounts and records for the financial year(s) 2017-18 & 2018-19 in accordance with the provisions of Section 65 of the CGST Act, 2017. I propose to conduct the said audit at my office/at your place of business in the month of **JAN., 2021.**

And whereas you are required to:-

- (i) afford the undersigned the necessary facility to verify the books of account and records or other documents as may be required in this context, and
- (ii) furnish such information as may be required and render assistance for timely completion of the audit.

You are hereby directed to attend in person or through an authorized representative on 25.01.2021 at Office of the Assistant Commissioner of CGST, Audit-I Commissionerate Pune, Sector No. 26, GST Bhavan, Dr. Ambedkar Rd., Near Akurdi Rly. Station, Akurdi, Pune-411044 as required for audit.

In case of failure to comply with this notice, it would be presumed that you are not in possession of such books of account and proceedings as deemed fit may be initiated as per the provisions of the Act and the rules made thereunder against you without making any further correspondence in this regard.

The list of documents required is as per the list enclosed – **Annexure – A**

Sample Form ADT-01:

FORM GST ADT - 01
[See rule 101(2)]

Reference No.:

Date:

To,-----

GSTIN.....

Name.....

Address.....

.....

Period - F.Y.(s) -.....

Notice for conducting audit

Whereas it is proposed to undertake audit of your books of account and records for the tax periods of the financial year(s)..... to in accordance with the provisions of section 65. I propose to conduct the said audit at my office/at your place of business on -----.

And whereas you are required to: -

- (i) afford the undersigned the necessary facility to verify the books of account and records or other documents as may be required in this context, and
- (ii) furnish such information as may be required and render assistance for timely completion of the audit.

You are hereby directed to attend in person or through an authorized representative on (date) at.....(place) before the undersigned and to produce your books of account and records for the aforesaid financial year(s) as required for audit.

In case of failure to comply with this notice, it would be presumed that you are not in possession of such books of account and proceedings as deemed fit may be initiated as per the provisions of the Act and the rules made thereunder against you without making any further correspondence in this regard.

Signature

Name

Designation

Annexure – A to Form ADT-01: Information demanded by the Department

ANNEXURE A

THE LIST OF RECORD /DOCUMENTS REQUIRED FOR AUDIT UNDER GST FROM THE REGISTERED PERSON .

S.NO	PARTICULARS	PERIOD /DETAILS
1	Registration certificate	Application details and amendment with the additional premises if any
2	GSTR 9/GSTR 9C	01/07/2017 to 31/03/2018 & 01/04/2018 to 31/03/2019
3	GSTR 1	All monthly returns in soft form .01/07/2017 to 31/03/2019
4	GSTR3B	All monthly returns in soft form .01/07/2017 to 31/03/2019
5	Summary of GSTR - 2A	System generated for the period 01/07/2017 to 31/03/2019 (SOFT) All monthly returns from 01/07/2017 to 31/03/2019 (SOFT)
6	Summary of GSTR 3B	All monthly returns from 01/07/2017 to 31/03/2019 (in soft form) (appears in the system assessee login in Annual Return menu.
7	Summary of GSTR 1	Summary of GSTR 3B` (system assessee login in Annual Return menu.)`01/07/2017 to 31/03/2019
8	Comparative summary of GSTR-1/GSTR3B/GSTR2A/Exports/RCM - 4 types of summary and one consolidate summary of all	Appearing in the assessee login in the Return Dashboard. (Downloaded in Excel form)

9	Audited balance sheet and Profit and loss Account	F Y 2017-18 & 2018-19
10	Break up of Turnover	For 01/04/2017 to 30/06/2017 and 01/07/2017 till 31/03/2018
11	Annual Financial Report/ITR4/5/6/7 as applicable and Auditors Report .	F Y 2017-18 & 2018-19
12	VAT report /Return	01/04/2017 to 30/06/2017
13	ER-1/ER-3/ST-3 for the period 01/04/2017 to 30/06/2017	01/04/2017 to 30/06/2017
14	Tran-1	Filed and revised if any
15	Any correspondence from Range office regarding Tran-1	01/07/2017 ONWARDS
16	Cases pending SCN/Commr.(A)/*CESTAT/ HC/SC if any	Details up to 30/06/2017- as on date
17	ITC credit taken-Break up of Capital Goods /services/Inputs	01/07/2017 to 31/03/2019 (Excel form soft copy) invoice wise
18	Details of Goods and services supplied -Taxable /non taxable/nil rated/exempted/Zero rated HSN WISE	01/07/2017 to 31/03/2019
19	26 AS statement	For the FY 2017-18 & 2018-19

Sample Form ADT-02:

FORM GST ADT – 02

[See rule 101(5)]

Reference No.:

Date:

To,

GSTIN

Name

Address

Audit Report No. dated

Audit Report under section 65(6)

Your books of account and records for the F.Y..... has been examined and this Audit Report is prepared on the basis of information available / documents furnished by you and the findings are as under:

Short payment of Tax	Integrated tax	Central tax	State /UT tax	Cess
Interest				
Any other amount				

[Upload pdf file containing audit observation]

You are directed to discharge your statutory liabilities in this regard as per the provisions of the Act and the rules made thereunder, failing which proceedings as deemed fit may be initiated against you under the provisions of the Act.

Approach and Handling of GST Audit under Section 65:

- Cooperating with the audit team and providing all the necessary information & documents called for;
- Keeping the entire information in an organized manner ready prior to the visit by the audit party;
- Seek adjournment if information/ documents are not ready;
- Identity of the each and every member of the audit team must be verified;
- Additional time to be requested if not clear/ not sure about any facts or law;
- Professional can be involved as an authorized representative to handle the audit and represent the taxpayer;

.....Contd.

- Payment can be made under protest or under the right to contest - Areas of interpretation – Keeping the issue alive – waiting for the apex court judgment;
- Proper officer may issue an SCN, if no SCN is issued, then file a refund application;
- If the department asks for original documents – Make them available on a sample basis backed by a CA certificate;
- Unofficial demands by the aggressive officers in the course of audits – Payment must not be demanded under coercion/ harassment - **Gujarat High Court**;
- Oral directions for payment/ reversals - Suggested to keep everything in writing – Submit a letter stating the complete sequence of events with full facts & details;
- Type of replies given during the audit would help – It will make the foundation strong for future litigation;

Broad Areas of Verification by the department:

Areas	Explanations
Registration	Details of directors, places of business, type of registration etc.
Outward Supplies	Levy, Classification, Rate of tax, Time of supply, Valuation, Exemption, Place of supply, Nature of Tax etc., Reconciliation with books
Inward Supplies	Eligibility of credit, 2A reconciliation, Incorrect type of credit taken, Tax reversed by the supplier under CN, Reconciliation with books, 180 days payment, ITC availed beyond due date, Reversal of ITC etc.
Reverse Charge	Reconciliation with books, Paid in cash, Interest payment for delay, URD for July 2017 to Oct 12, 2017
Refunds Transitional	Eligibility, correctness of the claim, supporting documents etc.
Other Issues	ITC transferred, Correctness & calculations, Supporting documents etc., Taxability of spill over transactions
Procedural Compliances	Manner of documentation maintained (Proper documentation & systematic arrangement), Job work, E-way bill compliances etc.

Documents that need to be kept ready for ease of Department Audit Process:

- Financial statement and reports – Director's Report, Tax audit report, Annual financial statement including notes to accounts, Cost audit report, Trial balance [For 2017-18: April 2017 to June 2017, July 2017 to March 2018] ;
- Inward-Outward supply summary statement;
- RCM ledger and supportive documents;
- Inward-Outward supply invoices;
- Cancelled invoices due to any reason;
- Goods return (inward and outward supply) register along with credit note/debit note details;
- Inward supply Register (soft copy);

- Outward Supply register (soft copy);
- Non-GST supply;
- Job work details (inward and outward side);
- Zero rated supply register and supportive documents (commercial invoice, shipping bill, bill of lading, EGM, Bank realization certificate or inward remittance certificate, etc.);
- Details of Exempted supply/Supply to SEZ dealer;
- Refund claim/ availment details if any (export of goods and services, inverted duty structure, etc. any type of refund claimed by dealer);
- TDS payment transactions if any;
- TRAN-I details (details regarding credit carried forwarded from previous Act to GST Act);
- GSTR 2A-Mismatch, unmatched transactions details;
- E-way bill transactions month-wise summary statement and corresponding registers;

- In case of services, FIRC (Foreign Inward Remittances), corresponding agreements, invoices Annual Maintenance Contract copies, and if any;
- Details of advances received, advance adjustments and tax payment for the same;
- Other Income/ misc. income;
- Reversal/reduction of ITC;
- Credit ledger/Input tax credit availed summary (for the Capital asset, liability, Refund claim, any other deduction);
- Cash ledger availment summary (for liability, RCM, any other deduction);
- Reversal of ITC within 180 days due to non-payment in 180 days;
- Ledgers of fixed assets along with their invoices.
- Ledgers of expenses which attracts RCM (Ex: Freight, Legal charges etc.)

- **GSTN Portal Data:**

- All Periodical Returns (GSTR -1 & GSTR 3B);
- E-cash Ledger and E-credit Ledger;
- Form GSTR-9 and Form GSTR-9C (along with their complete support and reconciliation with books of accounts)

- **Reconciliations:**

- Revenue Reconciliation as per Books Vs. GSTR-1 Vs. GSTR-3B Vs. Income Tax Form 26AS;
- ITC Reconciliation with Books Vs. GSTR 3B;
- Complete Reconciliation with Books Vs. GSTR 9 Vs. 9C;

Challenges during audit:

S.No.	Areas of Challenge
1.	HSN Wise inward and Outward Report;
2.	GSTR 2A reconciliation with Input tax register for the period covered under Audit;
3.	Reconciliation of optional table 8 of GSTR-9 (2A matching with Purchases);
4.	Payment made to the vendor within 180 days;
5.	State wise Trial Balance;
6.	Bifurcation of ITC into input, input services and capital goods.

Key Points need to be consider in Audit:

S no	Particulars	Explanations
1	Interest payment	➤ The company should pay interest only on cash liabilities
2	Payment through DRC or GST return	<ul style="list-style-type: none"> ➤ The company should evaluate type tax liabilities require to be paid. In case of RCM liabilities, it is advisable that tax should be paid through GST return ➤ If output liabilities or excess payment of ITC pertain to previous financial year for which Annual return has been filed than it should be paid through DRC ➤ At the time of payment of DRC, cause of payment should selected carefully as mentioned below: ➤ Voluntary, SCN, Annual Return , Reconciliation statement, Liabilities Mis-matched- GSTR 1to GSTR 3B , ITC Mismatched-GSTR 2A/2B vs GSTR 3B, Intimation by officer DRC-01A, Scrutiny, others
3	Transfer of ITC trough cross charge	➤ In case of cross charge form Head office to Brach or vice versa, the company should prepare basis for the same. In this regard, basis of allocation should be Expense pertaining to branches. Allocation of ITC is not the appropriate for cross charge as GST provision has provide ISD concept for allocation of ITC.

Thank You