



The Directorate General of Taxpayer Services, (CBIC)  
DGTS-DZU and KZU

# Assessment & Audit under GST

Pan India Webinar 19-12-2023

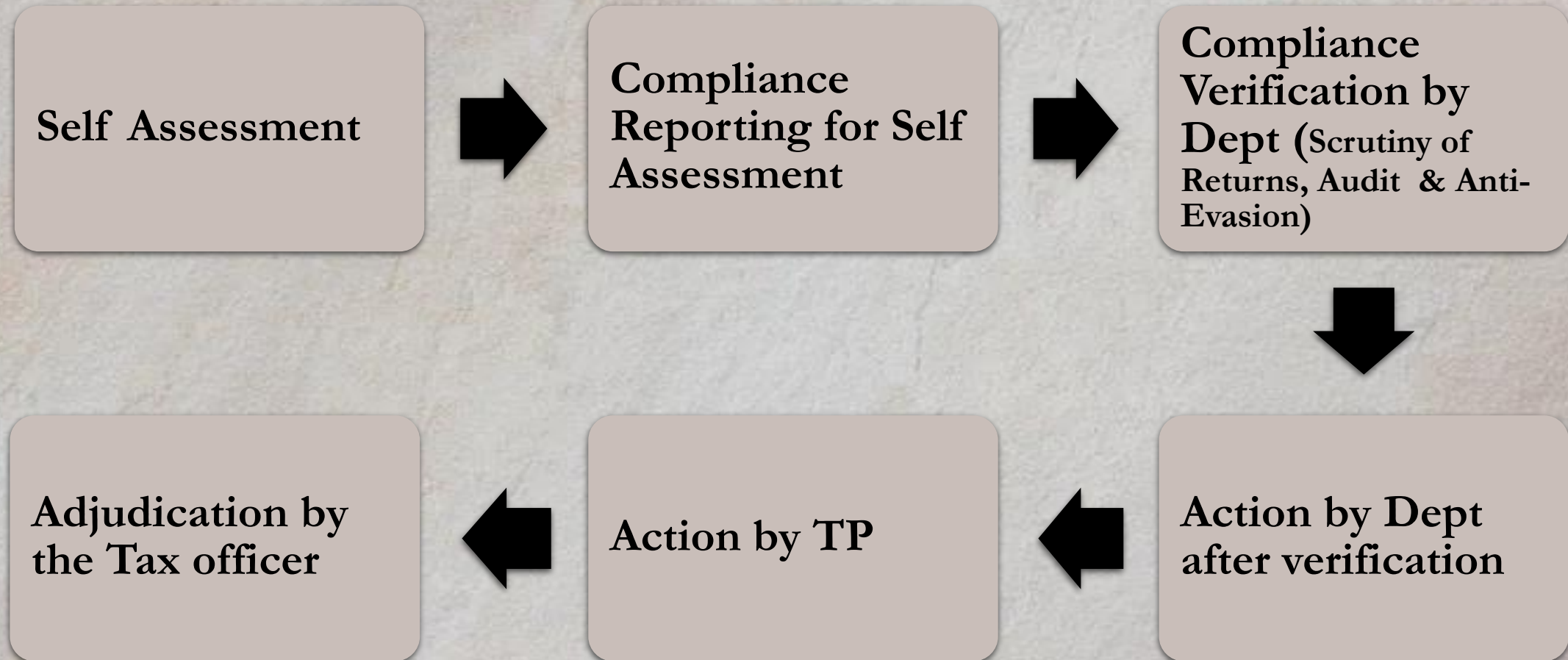
# Disclaimer

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- All participants/members/listeners are kindly requested to go through all the related tax law provisions (Law, Rules, Notifications, Circulars.).
- The provisions of both the CGST Act and the State /UT GST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such similar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the respective State/UT GST Act.

# Topics

- Part I-Statutory provisions.
- Part II-Self-Assessment -Taxpayers
- Part-III-Assessment by Tax Authorities-Scrutiny of Returns
- Part IV-ASMT-10 Notice & Reply by Taxpayer
- Part V-Audit by Department.
- Recap & QA

# Assessment to Adjudication



# Part-I

## *Statutory provisions.*



# Definition-Assessment

—Section 2(11)

- “assessment” means determination of tax liability under this Act and includes self-assessment, re-assessment, provisional assessment, summary assessment and best judgment assessment;

# Definition-Audit

## —Section (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;

# Assessment-Statutory provisions

## —CGST Act, 2017

- 59. Self-assessment
- 60. Provisional assessment
- 61. Scrutiny of returns
- 62. Assessment of non-filers of returns
- 63. Assessment of unregistered persons
- 64. Summary assessment in certain special cases

## —GST Rules, 2017

- 98. Provisional Assessment
- 99. Scrutiny of returns.
- 100. Assessment in certain cases

# Forms –Relating to Assessment

## —Scrutiny of returns

- FORM GST ASMT-10-Notice
- FORM GST ASMT-11-Reply
  
- FORM GST ASMT-12-Order

## —Assessment of Non-filers

- Notice under Section 46 Form-GSTR-3A
- FORM GST ASMT-13 –Order for Assessment

## —Assessment of Unregistered person

- FORM GST ASMT-14-Notice
- FORM GST ASMT-15-Order .

## —Summery Assessment in certain cases.

- FORM GST ASMT-16 -Order
- FORM GST ASMT-17 –Application for withdrawal of Order
- FORM GST ASMT-18-Withdrawal order

# Audit- Statutory provisions.

## —CGST Act, 2017

- Section 65 Audit by tax authorities.
- Section 66 Special audit.

## —GST Rules, 2017

- Rule 101. Audit.
- Rule 102. Special Audit.-

## —Forms

- FORM GST ADT-01**- Notice for conducting audit
- **FORM GST ADT-02**-Audit Report under section 65(6)
- FORM GST ADT-03**-  
Communication to the registered person for conduct of special audit under section 66
- FORM GST ADT-04**-Information of Findings upon Special Audit

# Other relevant statutory provisions relating to assessment

## —Section 73

- Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful-misstatement or suppression of facts.

## —Section 74

- Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilfull-misstatement or suppression of facts.

## —Rule 100.

- Assessment in certain cases.-

## —Rule 142.

- Notice and order for demand of amounts payable under the Act.

# Forms Others relating to assessment & Demand.

- DRC – 01 Summary of Show Cause Notice
- DRC - 01A-Intimation of tax ascertained as being payable under section 73(5)/74(5)
- DRC – 02-Summary of Statement
- DRC – 03-Intimation of payment made voluntarily or made against the show cause notice (SCN), or statement or intimation of tax ascertained through DRC-01A.
- DRC – 04-Acknowledgement of acceptance of payment made voluntarily
- DRC – 05-Intimation of conclusion of proceedings
- DRC – 06-Reply to the Show Cause Notice
- DRC – 07-Summary of the order.



**Part-II**  
**Self-Assessment. How to do...?**

# Self Assessment

- The GST regime continues to promote the scheme of self-assessment.
- Every registered person would be required to assess his tax dues in accordance with the provisions of GST Act and Rules and report the tax liability and other compliance to the tax administrators, by filing periodic tax returns.
- GST Compliance is crucial for a smooth business work-flow.
- Assessment ensures that taxpayers are complying with the GST laws and regulations.

# Tax liability under GST

- GST is applicable on the supply of goods or services as against the earlier concepts of tax on the manufacture or sale of goods or provision of services.
- It is a destination-based consumption tax.
- The tax levied would accrue to the State or the Union Territory where the consumption takes place.
- GST applies to all goods other than alcoholic liquor for human consumption and five petroleum products, viz. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel.

# Self-Assessment.

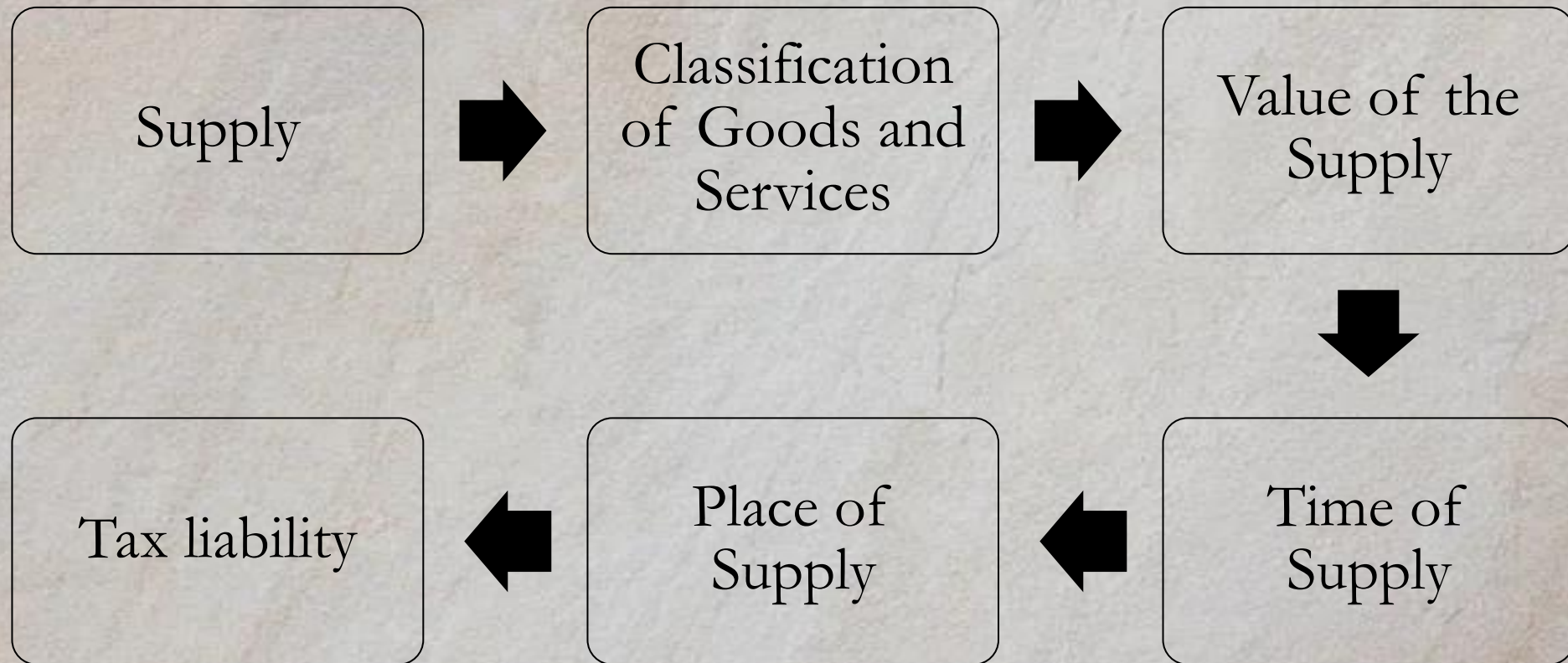
## —Section 59. Self-assessment. -

- Every registered person shall self-assess the taxes payable under this Act and furnish a return for each tax period as specified under section 39.

## —Section 39. Furnishing of returns.-

- (1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51, or section 52 shall, for every calendar month or part thereof, furnish, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars, in such form and manner, and within such time, as may be prescribed:

# Factors for determination of tax liability in GST



# Supply

—Under GST, Supply is “taxable event for charging tax.” under GST Act.

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—Section 7 of GST Act, 2017 read with Schedule I to III decides the GST liability.

- Schedule-I-Activities to be treated as supply even if made without consideration
- Schedule-II-Activities or transactions to be treated as supply of goods or supply of services
- Schedule –III-Activities or transactions which shall be treated neither as a supply of goods nor a supply of services

# Type of supply



## Taxable supply

Normal

- B2B,B2C,B2G,C2B,G2B,G2C

Zero-rated supply

- Export of goods & Services
- Supply to SEZ



## Non-Taxable Supply

Exempted under GST

Outside the scope of GST



## Non-GST Supply

Transactions not Covered under GST Act.

# Classification of Goods and Services

—Classification is the categorization of goods and services to ascertain whether a subject matter is eligible to tax, exemption, rate of tax etc.

Classification of goods or services is a complex procedure of ascertaining whether goods or services are composite, non-composite or mixed, and how to resolve competitive entries.

# Definition-Goods.

—Section 2(52), of GST Act, states that “goods means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply”.

# Definition-Service.

- Section (102) "services" means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;
- Explanation.- For the removal of doubts, it is hereby clarified that the expression "services" includes facilitating or arranging transactions in securities;

# How to classify goods ?

—GST does not have its own Tariff Act unlike the Central Excise Tariff Act, 1985.

—GST embarrassed the Customs Tariff Act, 1975 act for the purpose of determination of classification. This has been indicated in explanation to Notification No: 01/2017 Central Rate dated 28-06-2017

- (iii) “Tariff item”, “sub-heading” “heading” and “Chapter” shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).
- (iv) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

# How to classify Services ?

- GST also does not have Tariff Act for the classification of Services unlike the SAC codes of Service Tax Regime.
- Annexure to Notification No: 11/2017 Central Rate dated 28-06-2017 is used for the determination of classification of services. This has been indicated in explanation to Notification No: 01/2017 Central Rate dated 28-06-2017
- Explanation.-For the purposes of this notification
  - (ii) Reference to “Chapter”, “Section” or “Heading”, wherever they occur, unless the context otherwise requires, shall mean respectively as “Chapter, “Section” and “Heading” in the annexed scheme of classification of services (Annexure).
  - (iii)The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975(51 of 1975), the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of heading 9988

# Important Notifications- Goods

## —Rate for Goods

- 01/2017 CTR dated 28-06-2017 as amended

## —Exemption

- 2/2017- CTR 28-06-2017 as amended

## —Reverse charge on certain specified supplies of goods-

- 4/2017-CTR) dated 28-06-2017 as amended

## —Merchant Export

- -40/2017-CTR dated 10-2017 as amended

# Important Notifications-Services

—Rate of GST for Services

- 11/2017-CTR dated 28/06/2017 as amended

—Exemption

- 12/2017-CTR dated 28/06/2017 as amended

—Reverse charge mechanism under CGST Act –

- 13/2017- CTR dated 28/06/2017 as amended

# Value of supply

—Under GST Act, tax is payable on the value of taxable supply of goods or services or both. Therefore, determination of value of taxable supply is important as it will determine the amount on which tax is to be payable by the supplier. Determination of Value of Supply have been prescribed in Section 15 of CGST Act, 2017 and Chapter IV of CGST Rules 2017 in Rule 27 to Rule 35.

—Section 15(1): Transaction Value

—Section 15(2): Inclusions and Exclusions to the Value of Supply Section

—15(3): Non-inclusion of discount in value of supply Section

—15(4): Determination of value as per the Rules Section

—15(5): Government to Notify the determination of value in certain supplies

# Place of Supply

—GST is a destination-based tax, i.e., the goods/services will be taxed at the place where they are consumed and not at the origin. So, the state where they are consumed will have the right to collect GST.

—Therefore, place of supply is crucial under GST as all the provisions of GST revolve around it. Place of supply of goods under GST defines whether the transaction will be counted as intrastate or interstate, and accordingly, levy of SGST, CGST & IGST will be determined.

—Provisions regarding 'Place of supply' are governed by the IGST Act.

# Place of supply-IGST Act, 2017

## - Good

- With in India
  - Section 10
- Outside India
  - Section 11

## - Services

- With in India
  - Section 12
- Outside India
  - Section 13

# Tax Type on Place of supply



Interstate Supply

- IGST



Intrastate Supply

- CGST
- SGST/UT GST



Import or Export a

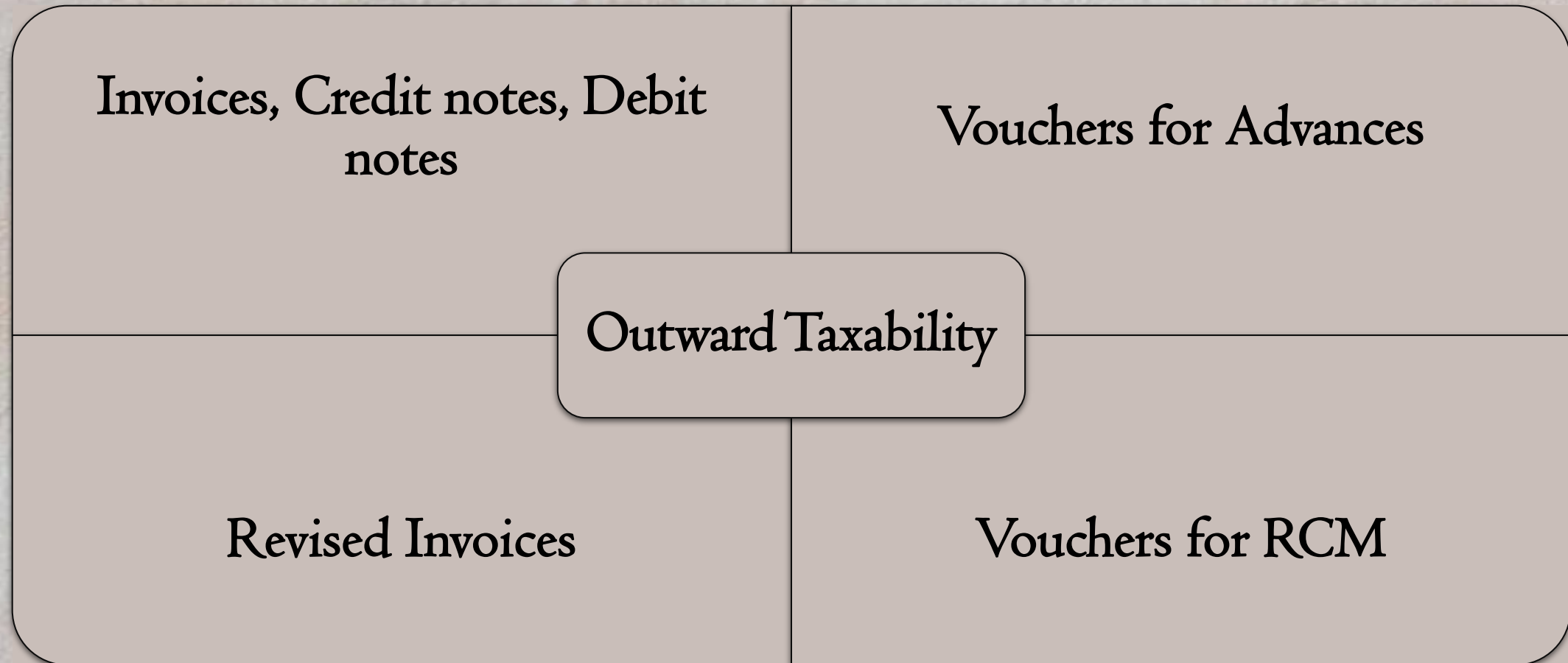
- IGST



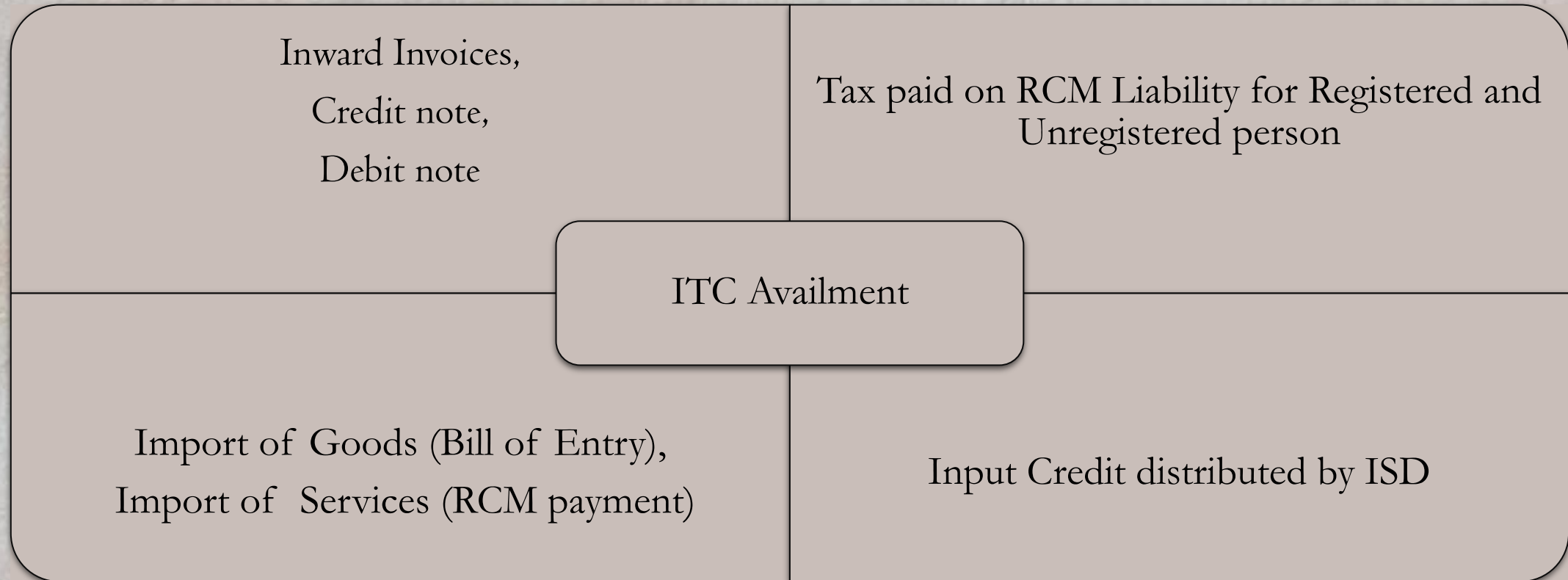
SEZ Supply

- IGST

# Documents for determination of taxability



# ITC Availment



# Discharging tax liability

## —Payment of Tax

- In Cash –Electronic Cash Ledger
- Through ITC-Electronic Credit Ledger

## —Cross utilization of ITC

- Section 18 of IGST Act, 2017

# **Compliance requirements Self-assessment.**

# Chapter VII: Tax Invoice, Debit And Credit Notes

—31. Tax invoice

—31A. Facility of digital payment to recipient

— 32. Prohibition of unauthorized collection of tax

—33. Amount of tax to be indicated in tax invoice and other documents

—34. Credit and debit notes

# Chapter IX: Returns

- Section 37. Furnishing details of outward supplies
- Section 38. Communication of details of inward supplies and input tax credit
- Section 39-Furnishing of returns
- Section 44 -Annual return
- Section 45 -Final return
- Section 47 -Levy of late fee.
- Section 50-Interest on delayed payment of tax
- Section 54-Refund of Tax
- Section 56- Interest on delayed refunds
- Section 59-Self Assessment

# Chapter X: Payment Of Tax

- 49. Payment of tax, interest, penalty and other amounts
- 49A. Utilizations of input tax credit subject to certain conditions
- 49B. Order of utilization of input tax credit
- 50. Interest on delayed payment of tax
- 51. Tax deduction at source
- 52. Collection of tax at source
- 53. Transfer of input tax credit
- 53A. Transfer of certain amounts

# Chapter XI: Refunds

- 54. Refund of tax
- 55. Refund in certain cases
- 56. Interest on delayed refunds
- 57. Consumer Welfare Fund
- 58. Utilization of Fund

# Assessment-Statutory provisions

## —CGST Act, 2017

- 59. Self-assessment
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## —GST Rules,2017

- 98. Provisional Assessment
- 99. Scrutiny of returns.
- 100. Assessment in certain cases

# Other relevant statutory provisions relating to assessment

- Section 65            Audit by tax authorities.
- Section 66            Special audit.
- Section 67            Power of inspection, search and seizure.
- Section 73            Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful-misstatement or suppression of facts.
- Section 74            Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful-misstatement or suppression of facts.

# Forms –Relating to Assessment

## —Provisional Assessment

- FORM GST ASMT - 01-Application for Provisional Assessment Request.
- FORM GST ASMT - 02-Notice.
- FORM GST ASMT - 03 -Reply to Notice.
- FORM GST ASMT - 04 -Order for Provisional Assessment.
- FORM GST ASMT - 05 -Execution of Bond.
- FORM GST ASMT - 06 –Notice for Final Assessment.
- FORM GST ASMT – 07-Final Assessment Order.
- FORM GST ASMT – 08-Applicaion for release of security.
- FORM GST ASMT – 09-Order for lease of Security.

# Forms continued.

## —Scrutiny of returns

- FORM GST ASMT-10-Notice
- FORM GST ASMT-11-Reply
- FORM GST ASMT-12-Order

## —Assessment of Non-filers

- Notice under Section 46 Form-GSTR-3A
- FORM GST ASMT-13 –Order for Assessment

## —Assessment of Unregistered person

- FORM GST ASMT-14-Notice
- FORM GST ASMT-15-Order

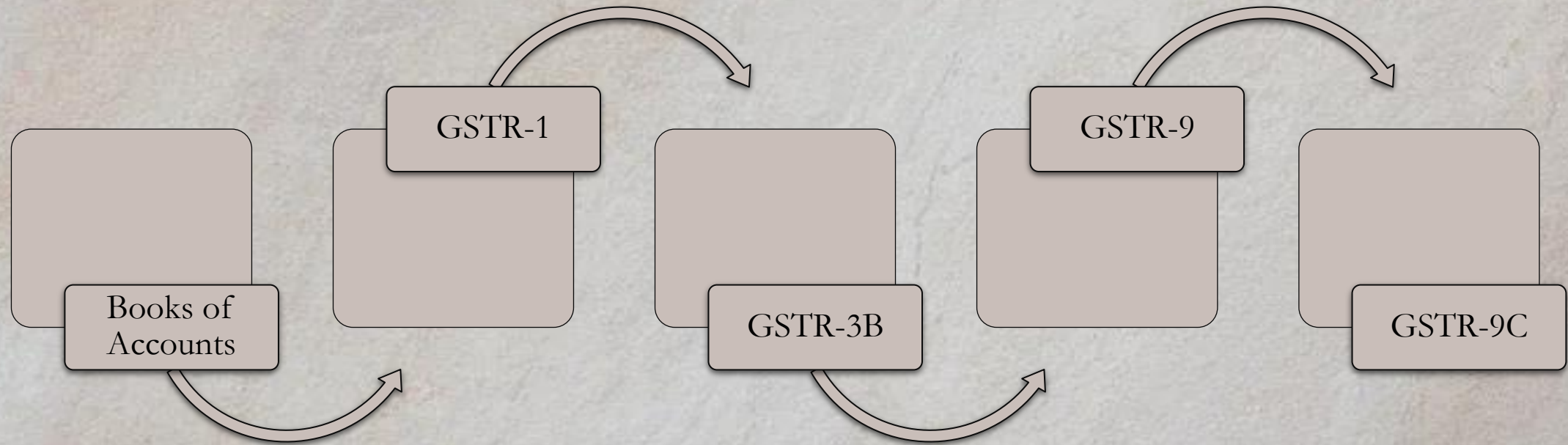
## —Summery Assessment in certain cases.

- FORM GST ASMT-16 -Order
- FORM GST ASMT-17 –Application for withdrawal of Order
- FORM GST ASMT-18-Withdrawal order

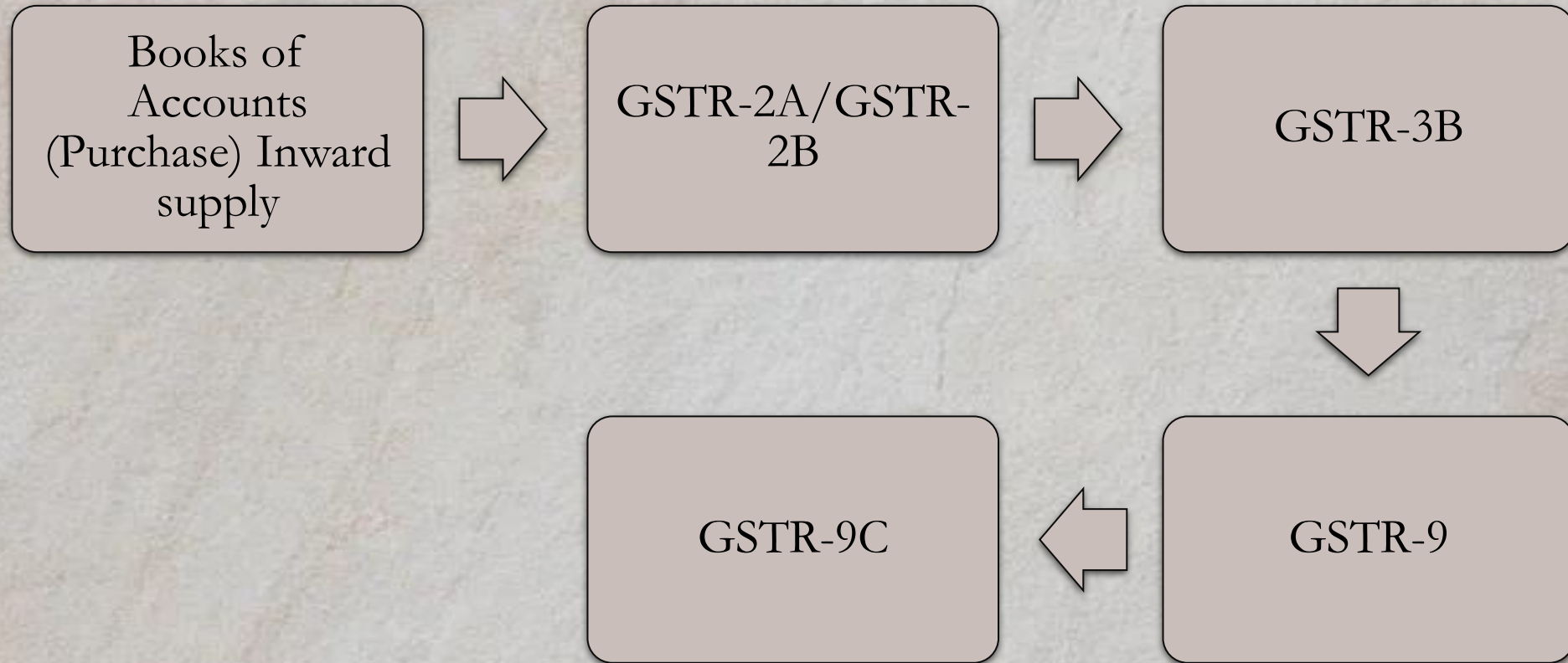
# Self Assessment>Returns

Section	Rule	Form
Form and manner of furnishing details of outward supplies.-	59	Form GSTR-1
Self-Assessment by Regular Assessee and Casual Taxable Person u/s 39(1)	61	Form GSTR 3 & 3B
Self-Assessment by Composition Dealer u/s 39(2)	62	Form GSTR 4
Self-Assessment by Non-Resident Taxable Person u/s 39(5)	63	Form GSTR 5
Self-Assessment of OIDARS provided by person located outside India to non-taxable person in India u/s 39(1)	64	Form GSTR 5A
Self-Assessment by ISD u/s 39(4)	65	Form GSTR 6
Self-Assessment of Tax Deducted At Source u/s 39(3)	66	Form GSTR 7
Self-Assessment of Tax Collected At Source u/s 52(4)	67	Form GSTR 8
Self-Assessment for purpose of Refund by persons having UIN u/s 39(1)	82	Form GSTR 11

# Financial A/c -GST Returns-Outward supply



# Financial A/c -GST Returns-ITC availment



# Part III

## Compliance verification by Tax Authorities.

— Scrutiny & Audit.



# Monitoring tax Compliance-Statutory provisions

## Chapter XII: Assessment

- 60. Provisional assessment
- 61. Scrutiny of returns
- 62. Assessment of non-filers of returns
- 63. Assessment of unregistered persons
- 64. Summary assessment in certain special cases

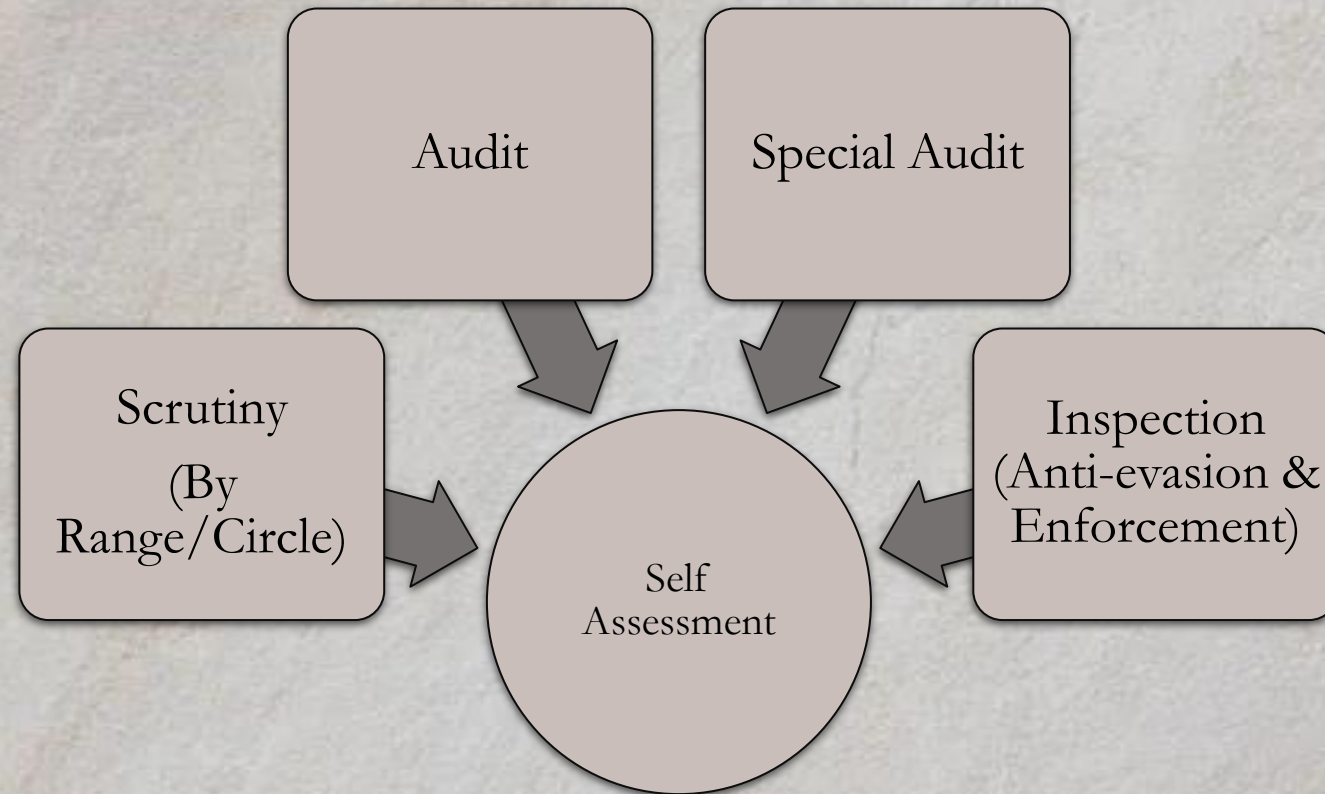
## Chapter XIII: Audit

- 65. Audit by tax authorities
- 66. Special audit

## Chapter XIV: Inspection, Search, Seizure And Arrest

- 67. Power of inspection, search and seizure
- 68. Inspection of goods in movement

# Compliance verification by Tax Authorities



# Section 61-Scrutiny of returns.

- 61. (1) The proper officer may scrutinize the return and related particulars furnished by the registered person to verify the correctness of the return and inform him of the discrepancies noticed, if any, in such manner as may be prescribed and seek his explanation thereto.
  
- (2) In case the explanation is found acceptable, the registered person shall be informed accordingly, and no further action shall be taken in this regard.
  
- (3) In case no satisfactory explanation is furnished within a period of thirty days of being informed by the proper officer or such further period as may be permitted by him or where the registered person, after accepting the discrepancies, fails to take the corrective measure in his return for the month in which the discrepancy is accepted, the proper officer may initiate appropriate action including those under section 65 or section 66 or section 67, or proceed to determine the tax and other dues under section 73 or section 74.

# Scrutiny of returns-Rule,99.

- 99. Scrutiny of returns.- (1) Where any return furnished by a registered person is selected for scrutiny, the proper officer shall scrutinize the same in accordance with the provisions of section 61 with reference to the information available with him, and in case of any discrepancy, he shall issue a notice to the said person in **FORM GST ASMT-10**, informing him of such discrepancy and seeking his explanation thereto within such time, not exceeding thirty days from the date of service of the notice or such further period as may be permitted by him and also, where possible, quantifying the amount of tax, interest and any other amount payable in relation to such discrepancy.
- (2) The registered person may accept the discrepancy mentioned in the notice issued under sub-rule (1), and pay the tax, interest and any other amount arising from such discrepancy and inform the same or furnish an explanation for the discrepancy in **FORM GST ASMT-11** to the proper officer.
- (3) Where the explanation furnished by the registered person or the information submitted under sub-rule (2) is found to be acceptable, the proper officer shall inform him accordingly in **FORM GST ASMT-12**.

# Circulars relating to Assessment

Circular No. 3/3/2017-GST, dated 5-7-2017(F. No. 349/75/2017-GST)

- Proper Officer relating to provisions other than Registration and Composition under CGST Acts

Circular No. 129/48/2019-GST, dated 24-12-2019(F. No. CBEC-20/06/04/2019-GST)

- Return — Non-furnishing of return — Standard Operating Procedure to be followed under Section 39, 44 or 45 of CGST Act, 2017 — Clarification

31 May 2018

5 July 2017

24 Dec. 2019

Circular No. 31/05/2018-GST, dated 9-2-2018

- Proper under Sections 73 and 74 of CGST and under IGST

# Proper Officer-Central GST

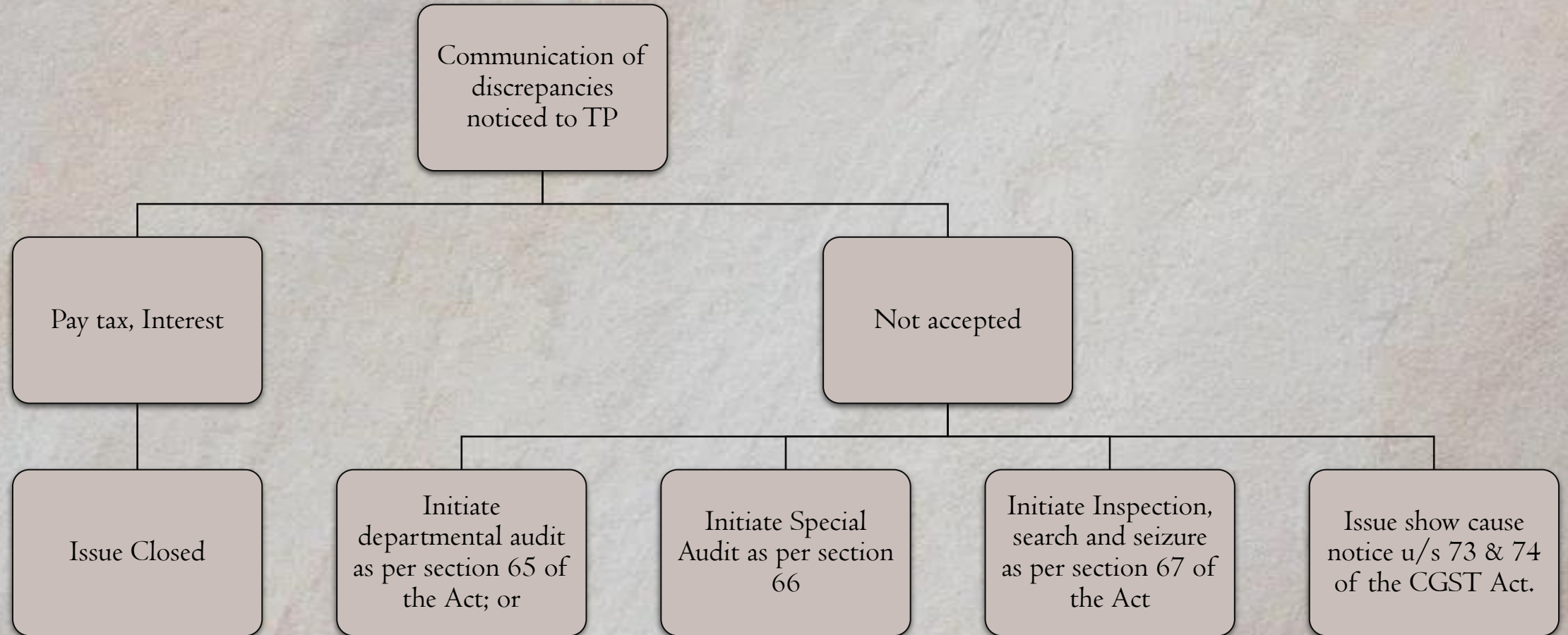
## —Dy/Assistant Commissioner Central GST

- Sub-sections (1), (2) and (3) of Section 60-Provisional Assessment
- Section 63-Assessment of unregistered persons
- Sub-section (1) of Section 64-Summary assessment in certain special cases.
- Sub-sections (1), (2), (3), (5), (6), (7), (9), (10) of Section 74 –  
Determination of tax not paid or short paid or Erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any willful misstatement or suppression of facts.

## —Superintendent of Central Tax

- Sub-sections (1) and (3) of Section 61- Scrutiny of returns and determination of tax in terms of provisions of section 73 or section 74.

# Scrutiny of returns-flow chart



# ASMT-10-DRC-07

ASMT-10-Notice

- ASMT-11-Reply for the Notice
- ASMT-12-Drop proceedings

DRC-01A-Pre consultative  
Notice

- DRC-03-Payment
- Drop proceedings

DRC-01-SCN Sec 73/74

- DRC-03-Payment
- DRC-05-Drop Proceedings

DRC-06-Reply

DRC-07-Order

# **GST ASMT-10 NOTICE**

## **Part IV-ASMT-10 Notice & Reply by Taxpayer**

- Discrepancies Communicated in ASMT-10-parameters for verification
- Reply for ASMT-10 Notices

# CBIC-Standard Operating Procedure for Scrutiny of Returns

—CBIC has issued SOP for Scrutiny of Returns for FY 2019-20 onwards.

- Instruction No. 02/2022-GST Dated: 22nd March 2022.
- 
- Instruction No: 02/2023-GST dated 26th May 2023.(About online Scrutiny process)

# **SOP on scrutiny CBIC.**

- The Proper scrutinize the returns and related particulars furnished by the registered person to verify the correctness of the returns.
- Information available with the proper officer on the system in the form of various returns and statements furnished by the registered person and the data/details made available through various sources like DGARM, ADVAIT, GSTN, E-Way Bill Portal, etc. would be relied upon for this purpose

# SOP on scrutiny CBIC Cont...

- As far as possible, scrutiny of returns should have minimal interface between the proper officer and the registered person and, there should normally not be any need for seeking documents/ records from the taxpayers before issuance of **ASMT-10**.
- For each GSTIN identified for scrutiny for a financial year, the proper officer is required to scrutinize all the returns pertaining to the corresponding financial year under consideration and a single compiled notice in **ASMT-10** is issued to the taxpayer for that financial year.
- Where the explanation furnished by the registered person or the information submitted in respect of acceptance of discrepancy and payment of dues is found to be acceptable by the Proper Officer, he shall conclude the proceedings by informing the registered person in **ASMT-12**.

# SOP on scrutiny CBIC. Cont...

—In case no satisfactory explanation is furnished by the registered person in ASMT-11 within a period of thirty days of being informed by or such further period as may be permitted or where the registered person, after accepting the discrepancies, fails to pay the tax, interest and any other amount arising from such discrepancies, the proper officer, will proceed to determine the tax and other dues under section 73 or section 74.

# SOP on scrutiny CBIC. Cont...

- if the proper officer is of the opinion that the matter needs to be pursued further through audit or investigation to determine the correct liability of the said registered person, then he may refer the matter to the jurisdictional Principal Commissioner / Commissioner through the divisional Assistant / Deputy Commissioner, for the decision whether the matter needs to be referred to Audit Commissionerate or Anti-evasion Wing of the Commissionerate, as the case may be.
- This SOP is envisaged to enable the department to leverage technology and risk-based tools to encourage self-compliance and to conduct scrutiny of returns with minimal interaction with the registered persons.

# Timeline-I

ASMT 10

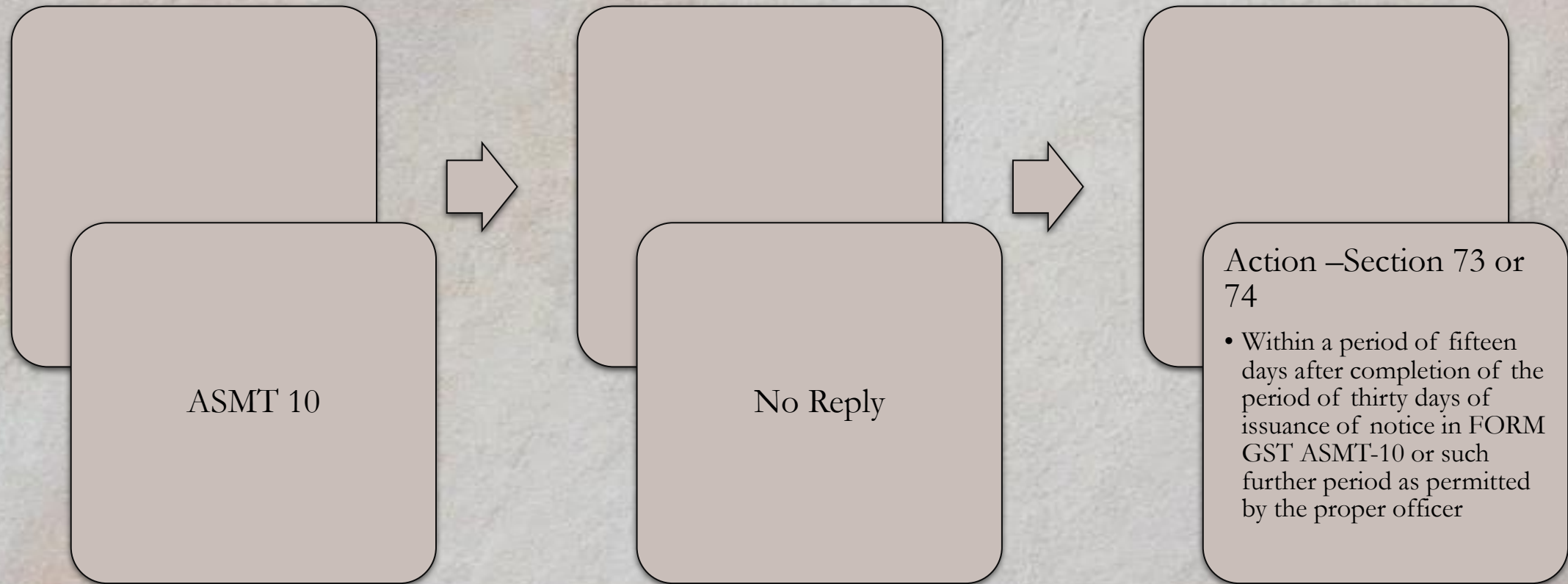
ASMT-11

- (Reply thirty days of being informed by the proper officer in FORM GST ASMT-10 or such further period as may be permitted by the proper officer)

ASMT-12

- (Within thirty days from receipt of reply from the registered person in FORM GST ASMT-11, if applicable)

# Timeline-II-Action under section 73 or 74.





# Parameters for Scrutiny.

CBIC Instruction No. 02/2022-GST dated 22-03-2022.

# Parameters for Scrutiny

## —Tax liability

- GSTR-1 GSTR-3B-Outward Supply
- GSTR-1 filed but GSTR-3B not filed
- RCM Liability –GSTR-2A
- Zero rated Supply
- Exempted and Non-GST-Supply
- TCS and TDS Supplies
- E-Waybill and outward liability

## —ITC Availed

- GSTR-3BVs GSTR-2A/2B
- RCM Liability-GSTR-3B-ITC Availed
- ITC availed on Cancelled registration
- Section 16(4) and ITC availed
- ITC on account of import of goods
- Reversal of ITC –Common Credit
- ISD and ITC.

# GSTR-1 GSTR-3B-Outward Supply

- Tax liability on account of “Outward taxable supplies (other than zero rated, nil rated and exempted)” and “Outward taxable supplies (zero rated)” as declared in table 3.1(a) and table 3.1(b) respectively of FORM GSTR-3B will be verified with corresponding tax liability in respect of outward taxable supplies declared in table 4 (other than table 4B), table 5, table 6, table 7A(1), table 7B(1), table 11A and table 11B (along with the net effect of amendments thereof in Table 9, 10 and 11(II)) of FORM GSTR-1.

# How to check Outward liability ?

—**Outward liability** = Invoices for outward supply (+) Debit notes-credit notes (+) or (-) Amendments

—**Debit notes as per FA/c Vs Debit note as per GSTR-1**

- If Debit note in FA/c > GSTR-1 , there is liability of GST
- For all debit notes there is interest liability as per Section 50

—**Credit notes as per F A/c Vs Credit note as per GSTR1**

- If F/Ac credit note is less, there is a liability of GST
- Post Sales credit note should be backed with proper agreement.

# RCM Liability –GSTR-2A

- RCM supplies declared in table 3.1(d) of FORM GSTR-3B and RCM as per details available in FORM GSTR-2A.
- RCM liability is payable from the supply on account of specified goods and service received from Registered person and unregistered person.
- The details for Registered person is available in GSTR-2B /2A. Check you have paid RCM for the information reported in GSTR-2B/GSTR-2A. RCM as per GSTR2A/2B. This amount is liable to be paid. If there is short payment you need to discharge along with Interest.
  - For RCM for URP, check the financial accounts
  - $\text{RCM payable} = \text{RCM as per GSTR-2A/2B} + \text{RCM as per F/Ac.}$
- If RCM payable is greater, there is short payment and GST payable along with interest

# E-Waybill and outward liability

- Liability on account of outward supplies in Table 3.1(a) and 3.1(b) of FORM GSTR-3B should be verified with the Tax liability as declared in e-way bills.
- Rule 138 of the CGST Rules mandates generation of e-way bill before commencement of movement of goods of consignment value exceeding fifty thousand rupees (in relation to supply, or for reasons other than supply, or due to inward supply from unregistered person).
- Liability declared in table 3.1 (a) and (b) of FORM GSTR-3B should not be less than tax liability as declared in the e-way bills as per the conditions of supply. (Free on Road-Ex-Works-Ex-Factory) .

# RCM Liability-GSTR-3B and ITC

—(i) ITC availed in Table 4(A)(2) and Table 4(A)(3) of FORM GSTR-3B. Availment of ITC more than the liability discharged on account of reverse charge supplies indicate either short payment of tax liability on account of RCM supplies or excess availment of input tax credit in respect of RCM supplies.

# GSTR-1 filed but GSTR-3B not filed

## —Parameter

- Ineligible ITC availed in respect of invoices / debit notes issued by the suppliers who have not filed their GSTR-3B returns for the relevant tax period.

## —Verification method

- FORM GSTR-2A of the registered person contains the details of “GSTR-3B filing status” of the supplier in respect of each invoice / debit note received by the registered person. Where the said status is “No”, it indicates the supplier has furnished invoice details in his FORM GSTR-1 but has not furnished the return in FORM GSTR-3B for the corresponding tax period. The availment of ITC in respect of such invoices / debit notes may be checked.

# ITC availed on Cancelled registration

## —Parameter

- Claim of ITC in respect of supplies from taxpayers whose registrations have been cancelled retrospectively.

## —Verification method:

- In case of retrospective cancellation of registration of a supplier, the recipient is not entitled to claim ITC in respect of invoices or debit notes issued after the effective date of cancellation of the registration.
- Effective date of cancellation of registrations of the suppliers, if any, is made available in relevant tables of FORM GSTR-2A.
- Accordingly, it may be verified whether the registered person has availed ITC in respect of such invoices or debit notes issued by the suppliers after the effective date of cancellation of their registrations.

# Section 16(4) and ITC availed

- Sub-section (4) of section 16 of CGST Act provides for availment of ITC only till the due date of furnishing of FORM GSTR-3B for the month of September/October following the end of FY to which such ITC pertains or furnishing of relevant Annual Return, whichever is earlier.
- Accordingly, if any return in FORM GSTR-3B is furnished after such time by the registered person under scrutiny, any ITC availed therein is inadmissible.

# ITC on account of import of goods

- ITC availed in respect of “Import of goods” in Table 4(A)(1) of FORM GSTR-3B is to be verified with corresponding details in Table 10 and Table 11 of FORM GSTR-2A.
- Wherever required, the details of such imports may also be cross-verified from ICEGATE portal.

# Reversal of ITC –Common Credit

- Rule 42 of the CGST Rules provides for manner of determination of input tax credit in respect of inputs or input services and reversal thereof.
- Rule 43 provides for manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases.
- Exempted /Non-GST Supply, reported in GSTR-3B , Table 3 needs to be checked.
- The registered person avails ITC in table 4(A) of FORM GSTR-3B and reverses in Table 4(B). It may be verified whether requisite reversals have actually been made by the said registered person.

# Action by Taxpayer

—Download

- Comparison of tax liability and ITC from GSTN Portal
- Table 8A
- GSTR-2B
- Summary report of GSTR-3B , GSTR-1

—Reconcile the Outward supply& Inwards with Financial records.

—Check it with GSTR-9 and GSTR-9C

—Check the Tax payable as per the F/ Ac is equal to Tax paid as per GSTR-3B.

—If Less than or equal no further liability

—If more then GSTR-3B, liable to pay the differential tax along with interest using DRC-03

# Important things to consider

- Understand the facts.
- Chronologically list down the facts.
- Keep ready GSTR-1, GSTR-3B, GSTR-9, GSTR-9C, Summary of GSTR-3B, GSTR-1, GSTR-2A and Table 8 of GSTR-9
- Roughly list down the topics that may be useful for replying as per your understanding.
- Prepare a draft, check all aspects are covered and replied.
- Finalize the draft
- Submit the reply as per the time limit permitted.

# Demand u/s 73 or 74

- Demand under GST and the recovery provisions will be initiated if there is a failure to pay the tax in compliance with the Goods and Services Tax (GST) laws.
- GST is payable on a self-assessment basis. If the assessee pays the tax on self-assessment correctly then there will not be any problem.
- If there is any short payment or wrong utilization of input tax credit, then the GST authorities will initiate demand and recovery provisions against the assessee as per Section 73 or 74 read with Rule 142 of CGST Rules, 2017

# DRC-01A & DRC-01A-Part B

- A person is chargeable with tax, interest and penalty under sub-section (1) of section 73 or 74 of the CGST Act. In that case, the proper officer hereafter will first need to communicate the details of tax, interest and penalty, as ascertained by him, in Part A of Form GST DRC-01A.
- On receipt of intimation in Form DRC-01A, a taxpayer can use the second part of the said form, i.e. Part B, to communicate to the officer if he has made part-payment of the ascertained liability or if the liability is not acceptable by him. Submissions based on the above, if any, can also be communicated.

# **DRC-01,DRC-06 andDRC-07**

—If the proper officer does not accept the reply for DRC-01A he shall serve, along with the Notice issued under section 52 or section 73 or section 74 or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130, a summary thereof electronically in FORM GST DRC-01

—The TP has to submit the for the notice tice issued under any section whose summary has been uploaded electronically in FORM GST DRC-01 under sub-rule (1) in FORM GST DRC-06 .

# DRC-07 & DRC-08

- After due process and personal hearing, summary of the order issued under section 52 or section 62 or section 63 or section 64 or section 73 or section 74 or section 75 or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130 will be issued and summary is uploaded electronically in FORM GST DRC-07, specifying therein the amount of tax, interest and penalty, as the case may be, payable by the Taxpayer.
- The order is treated as the Notice for recovery.
- Where a rectification of the order has been passed in accordance with the provisions of section 161 or where an order uploaded on the system has been withdrawn, a summary of the rectification order or of the withdrawal order shall be uploaded electronically by the proper officer in FORM GST DRC-08.

# Online filing of Reply

# Online filing

Dashboard	Services ▾	GST Law	Downloads ▾	Search Taxpayer ▾	Help and Taxpayer Facilities	e-Invoice
Dashboard > Services > User Services > Additional Notices and Orders						
Type of Notice/Order	Description	Ref ID	Date of Issuance	Action		
SCRUTINY OF RETURNS	Notice for intimating discrepancies in return in Form GST ASMT-10	ZD330423136416O	27/04/2023	<a href="#">View</a>		
SCRUTINY OF RETURNS	Notice for intimating discrepancies in return in Form GST ASMT-10	ZD331122087713L	29/11/2022	<a href="#">View</a>		
VOLUNTARY PAYMENT	Acknowledgement of acceptance	ZD331122008779I	03/11/2022	<a href="#">View</a>		

NOTICES

**REPLIES**

ORDERS

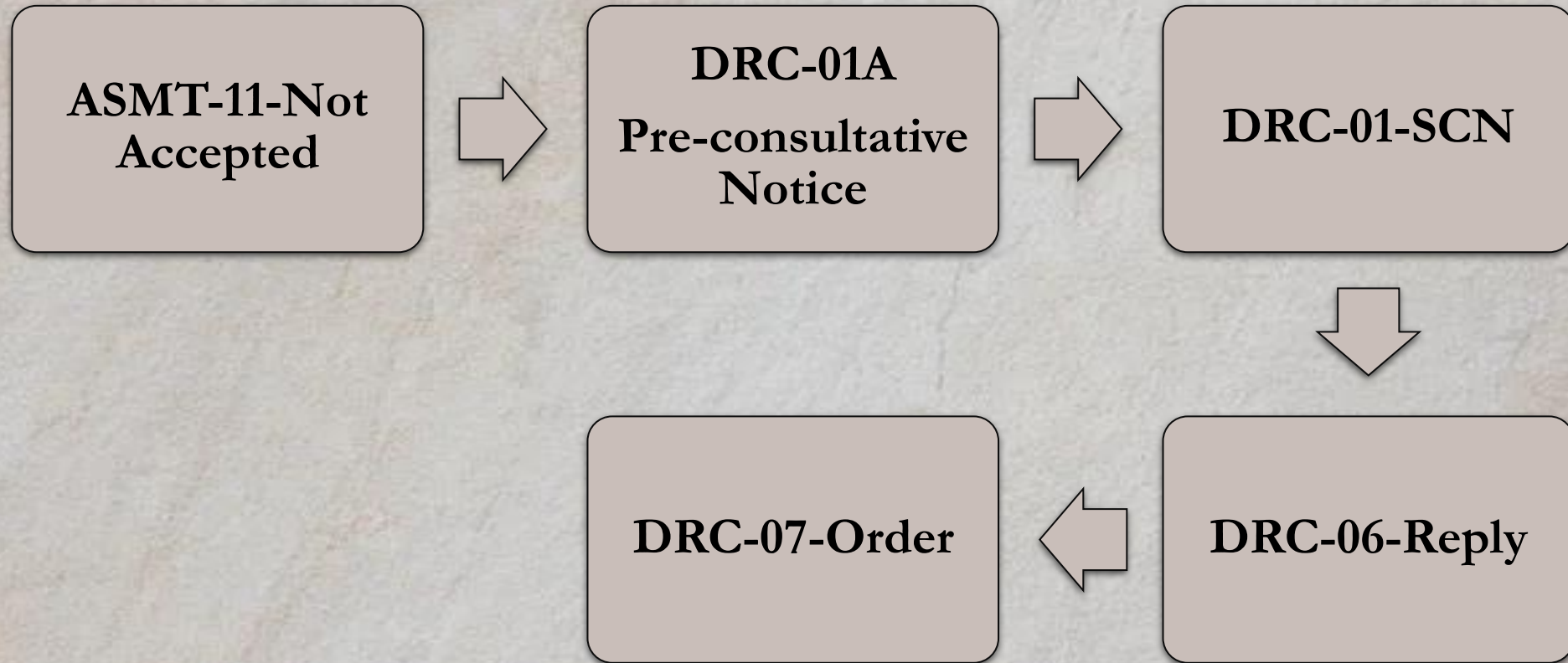
**ADD REPLY ▾**

REPLY-ASMT 11

Notice filed Against	Reply Date/Ph	Option for Personal Hearingy	Attachments
No Records Found			

[Click here to pay amount through DRC03](#)

# ASMT-11 to DRC-07



# Other assessment as per GST

- Section:62. Assessment of non-filers of returns
- Section:63. Assessment of unregistered persons
- Section:64. Summary assessment in certain special cases

# Section 62-Assessment of non-filers of returns.

- 62. (1) Notwithstanding anything to the contrary contained in section 73 or section 74, where a registered person fails to furnish the return under section 39 or section 45, even after the service of a notice under section 46, the proper officer may proceed to assess the tax liability of the said person to the best of his judgement taking into account all the relevant material which is available or which he has gathered and issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates.
- (2) Where the registered person furnishes a valid return within thirty days of the service of the assessment order under sub-section (1), the said assessment order shall be deemed to have been withdrawn but the liability for payment of interest under sub-section (1) of section 50 or for payment of late fee under section 47 shall continue

# Scope of Section 62

- Non-compliance with the notice issued under Section 46 paves the way for initiating the proceedings under this section.
- If the assessee fails to furnish the return within 15 days of issue of notice under section 46 then the Proper Officer may assess the tax liability in accordance with the provisions of Rule 100 i.e. to the best of his judgment, taking into account all the relevant material available on record, and issue an assessment order. This is also known as ‘best judgment assessment’.
- It can be completed without giving notice of hearing to the assessee. However best judgment assessment should be made on the basis of material available, or material gathered by proper officer.

# Procedural aspects for Section 62

—Section 46. Notice to return defaulters.

- Where a registered person fails to furnish a return under section 39 or section 44 or section 45, a notice shall be issued requiring him to furnish such return within fifteen days in such form and manner as may be prescribed.
- SOP for issue of Notice under Section 46 (Circular No. 129/48/2019-GST, dated 24-12-2019(F. No. CBEC-20/06/04/2019-GST)

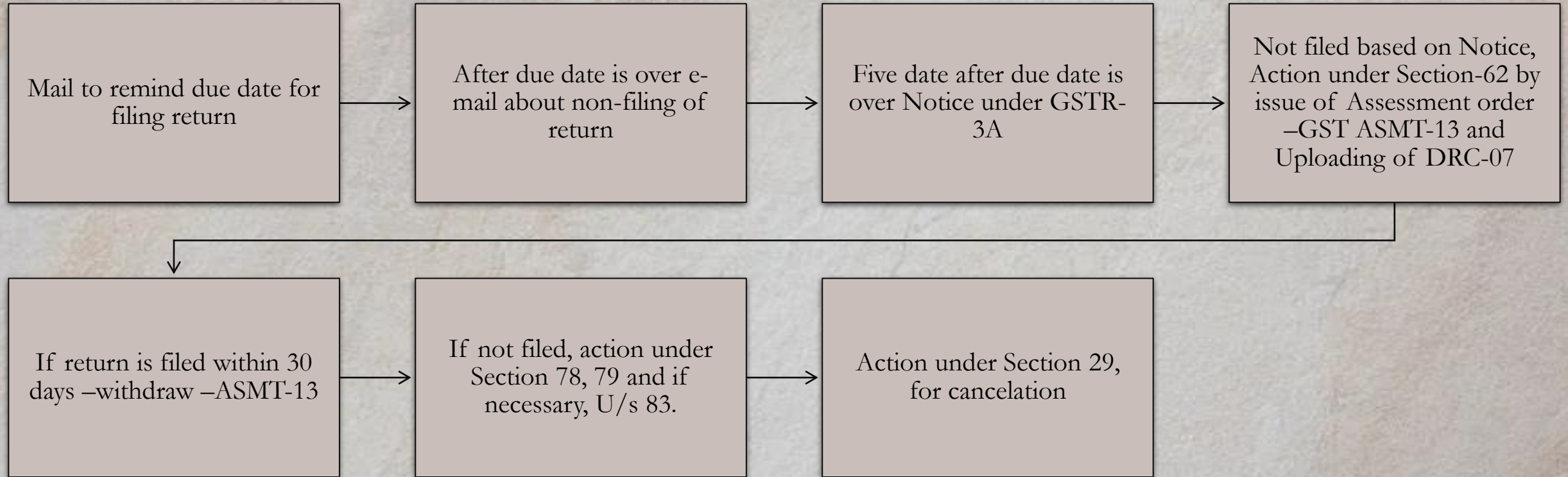
—**100. Assessment in certain cases**

- *(1) The order of assessment made under sub-section (1) of section 62 shall be issued in FORM GST ASMT-13 and a summary thereof shall be uploaded electronically in FORM GST DRC-07.*

# Please note

- This section is invocable only for non-filing of GSTR-3/3B and GSTR-10 (final return on cancellation of registration) because this section refers to non filing of return under Section 39 and Section 45.
- Section 62 cannot be invoked for non-filing GSTR-1, GSTR-2 and GSTR-9.
- Before taking action under this Section Notice under Section 46 has to be issued. This is pre-condition.

# SOP for Non-filers



# Section 63 :Assessment of unregistered persons.

—63. Notwithstanding anything to the contrary contained in section 73 or section 74, where a taxable person fails to obtain registration even though liable to do so or whose registration has been cancelled under sub-section (2) of section 29 but who was liable to pay tax, the proper officer may proceed to assess the tax liability of such taxable person to the best of his judgment for the relevant tax periods and issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates:

—Provided that no such assessment order shall be passed without giving the person an opportunity of being heard.

# Scope of Section 63

—This Section is applicable to unregistered persons i.e., persons who are liable to obtain registration under Section 22 and have failed to obtain registration, will come within scope of operation of this Section.

—This provision also covers cases where registration was cancelled under section 29(2).

—Section 29(2) of the Act covers 5 instances where registration may be cancelled by proper officer:

- (a) A person who contravenes the provisions of this Act or Rules made thereunder; or
- (b) A composition person who fails to furnish returns for 3 consecutive tax periods; or
- (c) A person other than composition person who fails to furnish returns for 6 consecutive months or
- (d) A person who has sought voluntary registration but has failed to commence business within 6 months; or
- (e) Where registration has been obtained by way of fraud, willful misstatement or suppression of facts.

# Procedural Aspects

—For assessment under this section, notice has to be issued as per Rule 100(2) in FORM GST ASMT-14 by the proper officer. The notice would contain the reasons / grounds on which the assessment is proposed to be made on best judgment basis. The registered person is allowed a time period of 15 days to furnish his reply, if any. After considering the said explanation, the order has to be passed in FORM GST ASMT- 15.

—Extract of Rule 100(2):

- 2) The proper officer shall issue a notice to a taxable person in accordance with the provisions of section 63 in FORM GST ASMT-14 containing the grounds on which the assessment is proposed to be made on best judgment basis and after allowing a time of fifteen days to such person to furnish his reply, if any, pass an order in FORM GST ASMT- 15.

# Section 64 :Summary assessment in certain special cases.

- 64. (1) The proper officer may, on any evidence showing a tax liability of a person coming to his notice, with the previous permission of Additional Commissioner or Joint Commissioner, proceed to assess the tax liability of such person to protect the interest of revenue and issue an assessment order, if he has sufficient grounds to believe that any delay in doing so may adversely affect the interest of revenue:
- Provided that where the taxable person to whom the liability pertains is not ascertainable and such liability pertains to supply of goods, the person in charge of such goods shall be deemed to be the taxable person liable to be assessed and liable to pay tax and any other amount due under this section.
- (2) On an application made by the taxable person within thirty days from the date of receipt of order passed under sub-section (1) or on his own motion, if the Additional Commissioner or Joint Commissioner considers that such order is erroneous, he may withdraw such order and follow the procedure laid down in section 73 or section 74.

# Scope Section 64

—The summary assessment can be undertaken in case the following conditions are satisfied:

- The Proper Officer must have evidence that there may be a tax liability; and
- The Proper Officer has obtained prior permission of Additional / Joint Commissioner to assess the tax liability summarily. The proper officer must have sufficient ground to believe that any delay in passing assessment order would result in loss of revenue.

—Summary assessment under this Section of the CGST Act can therefore be construed in some sense as a ‘protective assessment’ carried out in special circumstances, where there are sufficient grounds to believe that taxable person will fail to make payment of any tax, penalty or interest, if the assessment is not completed immediately. Such failure to pay tax, interest or penalty must be due to reasons attributable to the tax payer (ex: insolvency, instances of defaulting, absconding etc).

—Summary assessment under this Section is not a substitute for assessment getting time barred.

—Further, mere possibility of non-payment cannot be a grounds for resorting to summary assessment, unless there are factors indicating that such non-payment pertains to admitted or undisputed tax liability.

# Scope cont....

- As per the provision of Rule 100(3) the summary assessment order should be in FORM GST ASMT-16.
- The section allows the person who is assessed and is served with the order so passed, to come forward and make an application in accordance with Rule 100(4) in FORM GST ASMT-17 to the Additional / Joint Commissioner, who will examine the same and if the Additional/ Joint Commissioner is satisfied, the summary assessment order may be withdrawn.
- Besides, the Additional / Joint Commissioner may, on his own motion, withdraw such order and follow the procedure laid down in Section 73 or as the case may be Section 74 for determination of taxes not paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised if he considers that such order is erroneous.
- From the above, it appears that every summary assessment order so withdrawn under sub-Section (2), may be followed by a notice under Section 73 or as the case may be section 74 of the Act.
- On receipt of application the proper officer has to pass the order of withdrawal or, rejection of the application in accordance with Rule 100(5) in FORM GST ASMT-18.

Part-V

Audit under GST

AUDIT



# Kinds of Audits under GST

**Audit by tax authorities**

**Special Audit**

**Annual Audit by CA /  
CWA**

**CAG Audit**

# Statutory provisions

## —Sections

- 65. Audit by tax authorities
- 66. Special audit

## —Rules

- 101. Audit
- 102. Special Audit

# Audit by Tax Authorities- Section 65

—The registered person should provide the auditors:

- The necessary facility to verify the books of account or other documents as he may require.
- Such information as he may require and render assistance for timely completion of the audit.

—Result of audit to be intimated within 30 days [Form GST ADT-02] and further action.

—The proper officer may take action under section 73 or 74 if, he detect

- tax not paid or
- short paid or
- erroneously refunded, or
- input tax credit wrongly availed or utilized

# Special Audit- Section 66

- Proceeding must be pending before any officer not below the rank of Assistant Commissioner;
- Nature and complexity of the case and interest of revenue to be considered;
- Opinion : Correct value not declared, or ITC claimed not within normal limits;
- Prior approval of the Commissioner of CGST / SGST;
- Direct registered person to get his records and books of accounts audited [Form GST ADT-03];
- Audit to be done by CA / Cost Accountant nominated by the Commissioner;
- Audit Report is to be submitted within 90 days (can be extended by further 90 days by Assistant Commissioner);
- Opportunity of hearing is to be given to registered person and further action taken by proper officer;

# Special Audit- Section 66

—Expenses of audit including remuneration of such CA/Cost Accountant shall be determined and paid by the Commissioner.

—The proper officer may take action under section 73 or 74 if, he detect

- tax not paid or
- short paid or
- erroneously refunded, or
- input tax credit wrongly availed or utilized

# CAG Audit

- The Act does not have any provision for CAG Audit.
- Section 58 however gives a consultant's role to the CAG in a particular context.
- Under Section 58 :
  - The Government or the authority specified by it shall maintain proper record in relation to Fund (for the welfare of the consumer) and prepare an annual statement of accounts in such form and manner as may be prescribed in consultation with the Comptroller and Auditor-General of India.
- The CAG of India in any case have the power to inspect the accounts of Government or tax authority by virtue of powers vested in it by the CAG Act.

# What is 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 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.

# Principles of audit.

- An important objective of GST audit is to measure the level of compliance of the auditee in the light of the provisions of the GST Act(s) and the rules made thereunder.
- Audit is consistent with Notifications / Circulars / Orders issued from time to time.

# Aims and objectives of Audit.

- Audit in GST is intended to evaluate the credibility of self-assessed tax liability of a taxpayer based on the twin test of accuracy of their declarations and the accounts maintained by the taxpayer. Thus, Audit in GST should have the following objectives:
- Measurement of compliance levels with reference to compliance strategy of the tax administration.
- Detection of non-compliance and revenue realization.
- Prevention of non-compliance in the future.
- Discovering areas of non-compliance to prevent taxpayers from continuing with such deviations from expected compliance behavior that results in erroneous declaration of self-assessed liability.
- Providing inputs for corrections in/amendments to the legal framework which are being exploited by taxpayers to avoid paying taxes.
- Encouraging voluntary compliance.
- Any other goals deemed worth pursuing by the GST administration

# Departmental Audit

—Audit is detailed examination of records, returns and other documents to

- verify correctness of the contents relating to
- turnover, claims, taxes
- assess level of compliance

—Commissioner/Authorized Officer, by general/specific order

- direct audit of taxable person
- for prescribed period and frequency

—Taxpayers to be selected for audit on the basis of risk analysis

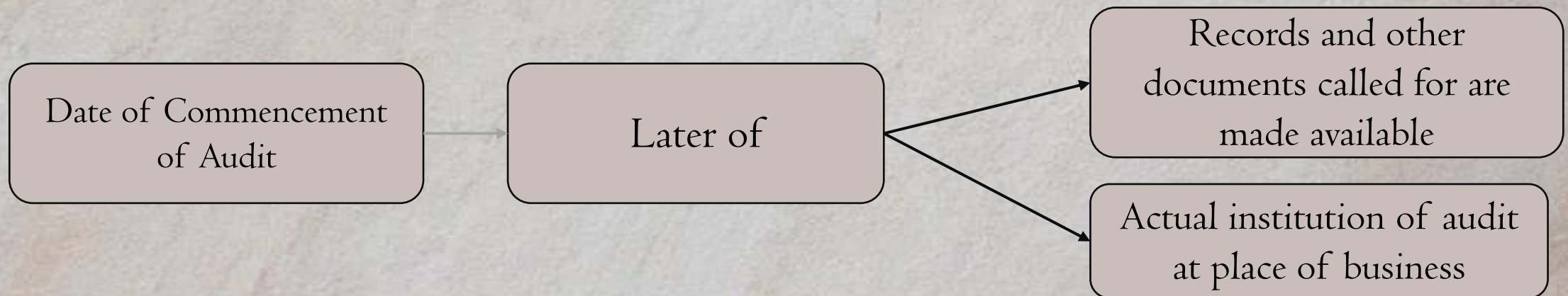
—Risk scores and risk profiling to be done

—Some selection criteria:

- Total tax/tax throughput
- Refund claim
- Export/zero rating
- History of delinquency
- Unusual deviations from “norms”/”standards”
- [Sections 49(1) & (2)]

# Audit by Tax Authorities- Section 65

- Commissioner of CGST / SGST or any officer authorized;
- Audit of any registered person for a particular period, at particular frequency and in particular manner;
- At the place of business of registered person or in their office;
- Notice to registered person at least 15 working days prior to audit [Form GST ADT-01];
- Audit to be completed within 3 months from the date of commencement (can be extended further by 6 months by Commissioner);



# Steps of audit under GST

## —Audit Selection:

- RTP for audit for a financial year or part or multiple thereof may be selected by Commissioner / appropriate authority based on targeting parameters /local factors developed in-house.

## —Allotment of selected RTP:

- The selected RTPs may be distributed to the respective jurisdictional officer. Allocation should be consistent with audit norms (no. of days to audit a RTP, size of each RTP audit capacity, etc.).

## —Issuance of notice for audit:

- The audit officer should issue FORM GST ADT - 01 fixing the date of audit. A Master File should be maintained in respect of each auditee, which should be updated before the commencement of audit.

## —Pre-audit desk review:

- Basic groundwork to chalk out the lines along which a particular audit will progress as well as to identify areas where audit attention should be concentrated for maximum yield.

# Steps of audit under GST

## —Preparation and approval of audit plan:

- Based on desk review, the audit team should prepare an audit plan and place it before the proper higher authority for approval. Any necessary modification may be done by the higher authority if required.

## —Commencement of audit:

- The date on which the records /documents are made available by the registered person or the actual institution of audit at the place of business constitute commencement of audit.

### Examination:

- In-depth checking of the records /documents/ books made available by the registered person during audit. —Original copies of documents like invoices, etc. may be called for only if deemed vital for being examined/subjected to scrutiny by the audit team.

# Steps of audit under GST

## —Communication of discrepancies found:

- The observations made upon audit are communicated to the auditee in writing. The auditee allowed due opportunity for filing his explanation in respect of discrepancies intimated by the department.

## —Preparation and approval of Draft Audit Report (DAR):

- Drawing up a DAR containing the observations made in the course of audit after considering explanations & documents provided by the auditee in respect of such discrepancies and approval of the same by the appropriate higher authority. A mechanism like Monitoring Committee Meeting should be established to decide each audit para.

## —Preparation of Final Audit Report:

- After approval, a final report is to be drawn up and issued to the auditee.

## —Audit consequences:

- i. Closure of audit (in case the observations are admitted by the RTP and the amount short paid as indicated is paid) or
- ii. initiation of demand and recovery proceedings by issuance of show cause notice u/s. 73/74.

# Area covered by Audit

- Broadly the are covered for Audit are
- Tax liability on Forward Charge
- Tax liability on Reverse Charge
- Availment an Utilization of Input tax credit

# Forward Charge

- GSTR-1 vs GSTR-3B vs Books
- Late filing of returns [Interest + Late fee]
- Wrong Classification of Goods/Services
- GST on Advances Received for Services
- Reconciling E-Way Bill with Sales Invoices
- Stock Transfer [Intra and Inter-State]
- Act of Tolerance Services
- Interest on short payment of GST

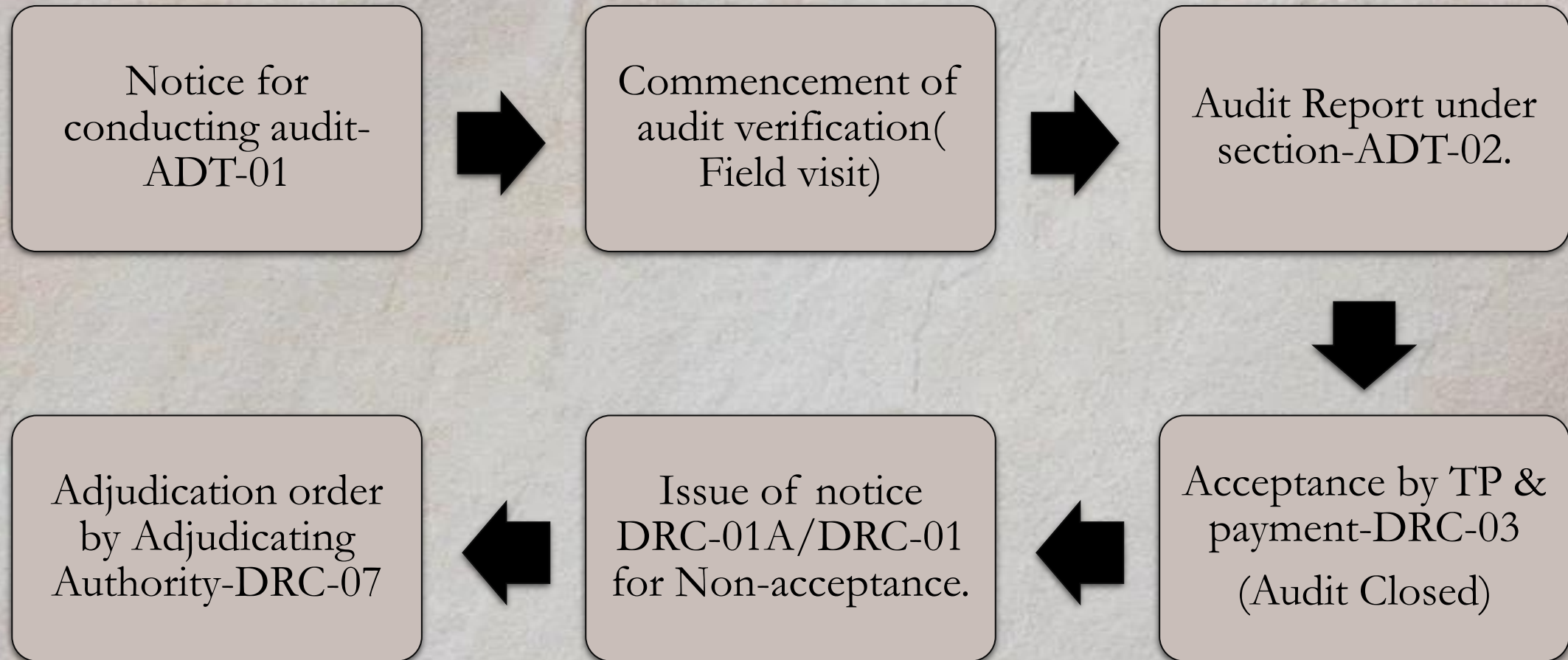
# Input Tax Credit.

- Tran-1, Tran-2 related issues
- GSTR-2A vs GSTR-3B
- Blocked Credits 17(5)
- Common ITC Reversal
- 180 days reversal (Trade Payables)
- ITC Reversal for Credit Notes reflected in GSTR-2A
- ITC Reversal in case of insurance claim
- Interest for ITC reversals

# Reverse Charge.

- RCM on purchase from unregistered dealer
- RCM Goods Transport Agency
- RCM on Legal Services
- RCM on Security Services
- RCM on Rent a Cab Services
- RCM on service provided by Director
- RCM on Services received from Government
- Job work on Imported Goods
- RCM on Royalty to foreign company

# Audit flow chart



# Recap

## —Self Assessment

- Determination of Tax liability and availment of Input tax Credit.
- Filing of returns for self assessment

## —Action by Department

- Scrutiny of returns
- Other Assessments
- Audit

## —Q and A



# Thank u

B.Venkateswran I.R.S.,

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