

Article on Compliance under GST Regime - Returns & ITC Matching

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Introduction

The Constitution Amendment Bill on Goods and Services Tax (GST) has received Presidential assent post its passage in both the houses of Parliament and ratification by over one-half of the State Legislatures. The GST Council, headed by the Union Finance Minister with all the State Finance Ministers as members, is in the process of finalizing and recommending model GST law and allied rules, rate of tax, threshold limits, exemptions, dispute resolution mechanism, etc. Based on the recommendations of the GST Council, the Parliament would pass two Bills for levy of Central GST and Integrated GST by the Central Government and each of the State Legislatures would pass a Bill for levy of State GST.

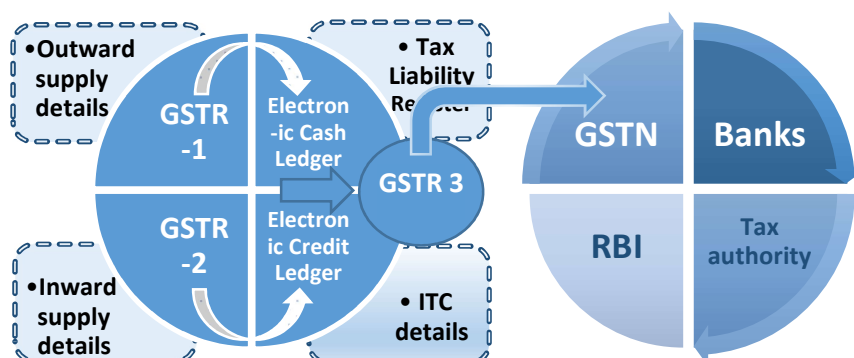
For successful implementation of GST, necessary Information Technology (IT) infrastructure is required to be put in place by the Government for ensuring smooth transition from the existing indirect tax structure into the GST regime. The portal being developed by Goods and Services Tax Network (GSTN) will act as a common interface between tax payers, tax authorities, banks and the Reserve Bank of India for exchange of information. While the GSTN is working relentlessly to ensure that the above authorities get the best of IT infrastructure for efficient administration of GST, the Government is also progressing promptly by imparting GST training of its officials at the Central and States. The Government also intends to kick start *Vyapak Abhiyan* towards the end of the year to bring awareness about GST among the public at large.

The burden now shifts on to the taxpayers to assess their level of preparedness in studying the impact of the new law to their transactions and analyze if their IT infrastructure matches the compliance requirements of the new regime. The GST proposes to create a common national market by reducing the cascading effect of tax on the cost of goods and services. It therefore calls for a change in the tax functions (including tax structure, tax computation, tax payment, tax incidence, credit availment and utilization) of existing businesses. It will also have an impact on other functions of the organization such as IT, Finance, Marketing, Supply chain, Legal, etc. It is therefore imperative for us to introspect where we stand and how well we are prepared to comply with the provisions of the proposed GST law. In this article, we intend to throw some light on the compliance requirements in filing of various returns and broad concepts of matching of input tax credit, based on the information presently available in public domain.

Basic overview on GST Returns

While all the returns under GST would be required to be filed electronically, the details of Central and State taxes would be consolidated together for the purpose of reporting the details of outward and inward supplies, Input Tax Credits (ITC), tax payments, etc. A normal registered taxable person is required to file two basic forms in a month, namely **GSTR-1** and **GSTR-2**. These forms represent details of outward supplies and inward supplies of goods and services effected in a particular tax period. A normal registered taxable person is also required to file a return in form **GSTR-3** on a monthly basis, consolidating the details of outward and inward supplies, ITC

availed, Tax payable, Tax paid and other particulars. A general overview on the flow of information through various returns is depicted in the form of a flowchart hereunder:



In addition to the above returns, a registered taxable person is also required to file an Annual Return in form GSTR-9 (not GSTR-8, as provided under the report of the Joint Committee on business process on GST Return, in October 2015). Specific provisions have been made for filing the First Return by every assessee. Further, returns have also been prescribed for a Composition taxpayer (in form GSTR-4), Non-resident foreign taxpayer (in form GSTR-5), Input Service Distributor (in form GSTR-6) and TDS deductor (in form GSTR-7). A registered taxable person is also required to file a Final Return in case of cancellation of registration. There is no provision for revising the returns, but rectification of errors/omissions is allowed upto a prescribed time period. It may be noted that levy for late fee for delay or non-filing of returns are prescribed.

Outward and Inward Supply

Outward supplies include details relating to zero-rated supplies, inter-state supplies, return of goods received in relation to/in pursuance of an inward supply, exports, debit notes, credit notes and supplementary invoices. The details of outward supplies for a tax period must be filed on or before **10th day** of the month succeeding such tax period, in form GSTR-1. The model law contemplates that the details of each of the outward supply made during a month must be communicated to the recipient within a specified timeframe. In our view, the communication to the recipient would be routed through GSTN as such the details would be auto-populated in the concerned tables of GSTR-2 of the recipient. No rectification can be carried out in form GSTR-1 after filing form GSTR-3 for the month of September of the subsequent financial year (FY) or after filing form GSTR-9, whichever is earlier.

A normal registered taxable person is required to verify, validate, modify or delete details relating to his inward supplies. He may also provide details of his inward supplies received by him, which have not been declared by supplier in his Return. He must furnish details of inward supplies of taxable goods/services, including inward supply of services on which tax is payable on reverse charge and inward supply of goods/services taxable under the IGST Act, received during a tax period on or before **15th day** of the month succeeding such tax period in form GSTR-2. Just like form GSTR-1, no rectification can be carried out in form GSTR-2 after filing form GSTR-3 for the month of September of the subsequent FY or after filing form GSTR-9, whichever is earlier.

An assessee is required to enter invoice level details for each of his transactions. Entering invoice level details is necessary for reconciliation of tax deposits and end-to-end reconciliation of ITC. Invoice level detailing would also help the Government in determining the share of tax attributable to destination state in case of an inter-state supply. This is going to be a cumbersome process for both small and large scale dealers. Small assessee may find it difficult to manually enter the details of invoices month on month and large assessee may face infrastructural bottleneck in uploading huge volume of data. The industry has raised some concern on the reconciliation of ITC at invoice level detail, calling it cumbersome and impractical. However, in

our view, in order to ensure compliance at all levels of the supply chain, and to eradicate evasion of tax and fraudulent transactions, the requirement of entering invoice level details would be imperative and worth the effort.

Consolidated Return

A consolidated return in form **GSTR-3** providing details of inward and outward supplies of goods/services, ITC availed, Tax payable, Tax paid and other relevant particulars are required to be filed by registered taxable person on or before **20th day** of the succeeding month. A registered taxable person shall not be allowed to furnish form GSTR-3 for a tax period if valid return for any previous tax period has not been furnished by him. It may be noted that the tax for the relevant tax period should be paid on or before the due date of filing of form GSTR-3. Furnishing of GSTR-3 without payment of full tax due as per such return shall not be treated as a valid return for allowing ITC in respect of supplies made by such person. The consequences of such conditional provision for allowing ITC are discussed in greater detail in later part of this article, under ITC matching.

Filing of GSTR-3 on monthly basis is mandatory whether or not any supplies of goods/services have been effected during such month. No rectification can be carried out in form GSTR-3 after due date of filing form GSTR-3 for the month of September or 2nd quarter of the subsequent FY or after filing form GSTR 8, whichever is earlier. A Composition taxpayer must furnish form **GSTR-4** for each quarter or part thereof within **18 days** after the end of each quarter. An ISD must furnish form **GSTR-6** within **13 days** after the end of the month. A registered taxable person deducting tax at source must furnish form **GSTR-7** and pay tax so deducted within **10 days** after the end of the month.

Annual Return

Form GSTR-9 is required to be furnished by every registered taxable person, other than ISD, TDS deductor, Casual taxable person and Non-resident taxable person on or before 31st December following the end of the FY. Persons required to get their accounts audited must also furnish annual return along with audited copy of annual accounts and reconciliation statement, reconciling the value of supplies declared in annual return with annual financial statement.

The Model GST law contemplates that a taxable person cannot take the credit of tax paid on goods and/or services after filing GSTR-3 for the month of September following the end of financial year to which such invoice pertains or filing of the relevant Annual Return (31st December), whichever is earlier.

First and Final Return

The concept of filing a First Return and Final Return have been newly introduced. These returns play an important role of providing details of the assessee at the time of entry into and exit from the GSTN. The First return is required to be furnished by every registered taxable person on whom the levy of GST applies. It contemplates for providing the details of:

- (a) outward supplies from the date on which he became liable to registration till the end of the month in which the registration is granted, and
- (b) inward supplies from the effective date of registration till the end of the month in which the registration is granted.

A Composition taxpayer is required to furnish the First Return for the period starting from the date on which he becomes a registered taxable person till the end of the quarter in which the registration is granted. Every registered taxable person applying for cancellation of registration shall furnish a Final Return within **3 months** of the date of cancellation or date of cancellation order, whichever is later.

The compliance schedule for filing of returns under GST can be summarized in the form of a table as under:

S. No	Form	Description	Due date of filing
1	GSTR-1	Outward supplies made by taxpayer (other than Composition taxpayer & ISD)	10 th of the next month
2	GSTR-2	Inward supplies received by a taxpayer (other than Composition taxpayer & ISD)	15 th of the next month
3	GSTR-3	Monthly return (other than Composition taxpayer & ISD)	20 th of the next month
4	GSTR-4	Quarterly return for Composition taxpayer	18 th of the month next to quarter
5	GSTR-5	Periodic return by non-resident foreign taxpayer	Last day of registration
6	GSTR-6	Return for ISD	13 th of the next month
7	GSTR-7	Return for TDS	10 th of the next month
8	GSTR-8	Return for TCS	10 th of the next month
9	GSTR-9	Annual Return (other than ISD, TDS, casual taxable person and non-resident taxable person)	By 31 st December of next FY
10	-	First Return in GSTR-3 includes GSTR-1 and 2 for normal taxpayer & GSTR-4 for Composition taxpayer	Similar to GSTR-1, 2, 3 and 4
11	GSTR-10	Final Return	Within 3 months from date of cancellation /order.

Penal Provisions Relating to Returns

If a registered taxable person fails to furnish form GSTR-9 or Final Return, he shall be served with a notice requiring him to furnish such the Return within a statutory timeframe. Any registered taxable person who fails to furnish form GSTR-1, GSTR-2, GSTR-3 or Final Return within the due dates, shall be liable to pay a late fee of Rs. 100 per day during which such failure continues, subject to maximum of Rs. 5,000. Similarly, any registered taxable person who fails to furnish form GSTR-9 within the due date, shall be liable to a late fee of Rs. 100 per day during which such failure continues, subject to maximum of an amount calculated @ 0.25% of his aggregate turnover.

Matching, Reversal and Reclaim of ITC

The concept of matching of ITC may not be new to the taxpayers, especially for the dealers who are currently operating under the Value Added Tax (VAT) regime. However, the same is alien or relatively new to non-VAT taxpayers and hence there is a need to understand the concepts of ITC matching, ITC reversals and re-claim of ITC in GST regime.

Before discussing the concept of ITC matching, it is imperative to understand the concept of Debit Notes in GST regime, as it has a bearing on reclaim of ITC.

The Model GST law provides that:

- Debit note can be issued by a taxable person who has **supplied goods and/or services** (Issue of Debit note by the recipient is not contemplated under GST regime).
- Debit note can be issued when the **value and/or tax** as shown in the tax invoice is **less than** the taxable value and/or tax in respect of supply of goods and/or services.

- The taxable person must already have **issued tax invoice** for supply of goods and/or services by indicating the taxable value and/or tax on the tax invoice.

Essentially, Debit Notes can be issued by the Supplier to the Recipient for differential portion of the value or tax or both. Having understood the basic aspects of Debit Note, let us move ahead to examine and understand the concepts of ITC matching and its related topics.

ITC Matching

On a broader analysis of the Report of Joint Committee on Business Process for GST on GST Returns read along with the Model GST law, the matching, reversal and reclaim of ITC can largely be understood as a fool proof mechanism to tap revenue leakage in the hands of the Government. In order to check for duplication of claim of ITC, the details of every inward supply furnished by the taxable person (i.e. the “recipient” of goods and/or services) in form GSTR-2 shall be matched:

- with the corresponding details of outward supply furnished by the corresponding taxable person (i.e. the “supplier” of goods and / or services) **in his valid return** for the same tax period or any preceding tax period; and
- with the additional duty of customs i.e. IGST paid by the recipient in respect of goods imported.

Therefore, the quintessential requirement for carrying out matching of ITC is that the supplier must have filed his valid returns for the corresponding or preceding tax period and/or the IGST has been paid by the recipient in case of import of goods.

Failure to file valid return by the Supplier (or failure to pay appropriate IGST by the recipient in case of import of goods) may lead to denial of ITC in the hands of the recipient. This is a horrid check proposed to be imposed on every taxable person in the GST regime. In our view, the precondition relating to payment of tax dues for allowing ITC in the hands of the recipient of goods/services is slightly harsh, as it casts an additional burden on the recipient to prove that the tax has been deposited by the supplier.

The matching of ITC may be better understood in the following steps:

Step 1: The Supplier supplies goods and/or services to the recipient.

Step 2: The Supplier declares the details of outward supplies **in his valid return** for the same tax period or preceding tax period and/or the recipient has paid appropriate IGST in respect of import of goods.

Apparent contradictions:

In terms of the provisions of the Model GST law, for the purpose of allowing ITC, a return may be considered to be **a valid return** only when the appropriate GST has been paid in full by the taxable person as shown in such return for a given tax period. Therefore, whether mere filing of GSTR-1 (by 10th the following month) without filing the relevant GSTR-3 (by 20th of the following month) for such tax period by the Supplier can be considered as valid return?

If the answer to the above question is negative, then what is relevance of the expression “**...in his valid return**” under Section 29(1)(a) of the Model GST law, considering that the matching of ITC should take place *vis-à-vis* valid return for a particular tax period?

The Model GST law provides that the ITC matching shall be carried out for a tax period **within the time prescribed**. Therefore, it is open for the Rules to provide whether the unmatched ITC must be communicated either before filing of GSTR-3 or after filing of GSTR-3 by the Recipient.

Step 3: Upon filing of form GSTR-1 or GSTR-3 by the Supplier, as the case may be, the details of outward supplies as filed by the Supplier shall flow as the details of inward supplies of the Recipient in his GSTR-2 (i.e. auto-population of details of ITC).

Step 4: The Recipient shall verify, validate, modify or delete the auto-populated details of ITC at the time of filing his GSTR-2 (by 15th of the following month) after considering the clerical or non-clerical errors, including changes to be made on account of issuance of Debit Notes.

It may be noted here that the recipient would be having a 5-day window period where he can verify, validate, modify or delete the details of his ITC, having cross reference to the details of outward supplies furnished by his Supplier.

Further, in terms of the Business Process Report on GST Returns, a responsibility is casted on the recipient to indicate the eligibility or non-eligibility of ITC in respect of each inward supply at the time of filing form GSTR-2.

Step 5: Assuming that form GSTR-1 of the recipient has already been filed within the due date, the recipient shall ascertain the eligible ITC and upload the details of every inward supplies in Form GSTR-2 within the due date.

Step 6: The recipient shall ascertain the net GST liability after considering his output tax liability on outward supplies made and eligible input tax credit available on inward supplies. Such net GST liability would have to be discharged by the recipient either using Electronic Cash or Credit Ledger (taking into consideration the Rules for utilization of ITC). Consequent to which, the recipient would be filing his GSTR-3.

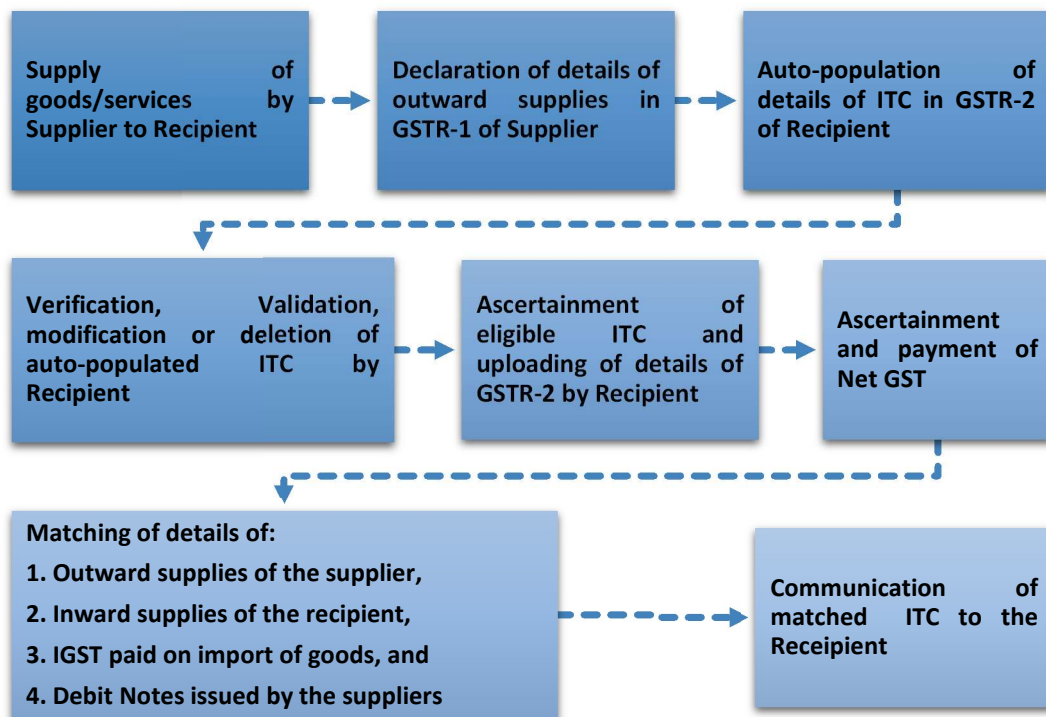
It may be noted that in terms the provisions of Model GST law, in case the taxable person has not furnished a valid return for the previous tax period, he shall not be allowed to furnish the return for the current period. Further, a taxable person who has not furnished a valid return **shall not be allowed to utilize the ITC** till he discharges the self-assessed tax liability. Thus, in effect, the utilization of ITC for any given tax period is always subject to furnishing of a “valid return” for pervious tax period by such taxable person.

Step 7: The matching of details of outward supplies of the supplier and corresponding details of inward supplies of the recipient, including IGST paid on import of goods and Debit Notes issued by the suppliers shall be carried out at system level.

In case the details match, then the ITC claimed by the recipient in his valid returns shall be considered as finally accepted and such acceptance shall be communicated to the recipient.

The question which arises here is whether the ITC as accepted above can be considered as eligible credit for all practical purposes? The answer to this lies in Section 29(2) of the Model GST law, which states that “...., *subject to the provision of Section 16*,”. Thus, the matched ITC which is finally accepted is only for the limited purpose of system matching, which can always be subject to manual scrutiny at later point of time.

The concept of ITC matching is depicted in the form of a flowchart hereunder (From Recipient's Perspective):



Reversal of ITC / Mismatch of ITC

In terms of the provisions of Model GST law, the reversal of ITC arises when:

- there is excess claim of ITC by the recipient as against the tax declared by the supplier, or
- the outward supply is not declared by the Supplier, or
- there is a duplication of claim of ITC by the recipient.

Excess claim of ITC

In case the ITC claimed by the recipient **is in excess of the tax declared** by the supplier or where the details of outward supply are **not declared by the supplier** in his valid returns, the discrepancy shall be communicated to both the supplier and the recipient. Similarly, in case, there is duplication of claim of ITC, the same shall be communicated to the recipient. It may be noted that in case the ITC claimed by the recipient **is less than** the tax declared by the supplier, there may not be any communications to either Supplier or the recipient.

The Supplier will be asked to rectify the discrepancy of excess claim of ITC and in case the Supplier has not rectified the discrepancy communicated in his valid returns for the month in which discrepancy is communicated then such excess ITC as claimed by the recipient **shall be added to the output tax liability** of the recipient in the succeeding month. Such excess ITC claimed is added back to output tax liability of the recipient could be for the reason that the Supplier can issue **Debit Note** only when the **value and/or tax** as shown in the tax invoice is **less than** the taxable value and/or tax in respect of supply of goods and/or services. Issuance of Debit Note by the supplier nullifies the effect of excess availment of ITC by the supplier. Similarly, duplication of ITC claimed by the recipient shall be added to the output tax liability of the recipient in the month in which such duplication is communicated.

The recipient shall be liable to pay interest on the excess or duplicate ITC added back to the output tax liability of the recipient from the date of availing of ITC till the corresponding additions are made in their returns. In GST regime, the reversal of ITC refers to adding back either the excess claim of ITC or duplication of ITC to the output tax liability of the recipient. Thus, the person

who claims the excess ITC shall have bear to brunt of Interest till such excess ITC is accepted at system level.

Re-claim of ITC

Re-claim of ITC refers to taking back the ITC reversed in the Electronic Credit Ledger of the recipient by way of reducing the output tax liability. Such re-claim can be made by the supplier only in case the supplier declares the details of invoice and/or Debit Notes in his valid return within the prescribed timeframe. In such case, the interest paid by the recipient shall be refunded to him by way of crediting the amount to his Electronic Cash Ledger.

However, it may be noted that no refund of interest would arise in case the excess ITC reversed was on account of duplication of ITC claim, as the same would be considered to be contravention of the GST provisions, where refund is allowable.

Compliance Rating under GST

GST proposes to bring in a new system of compliance rating score for every taxable person, based on the record of compliance with provisions of law. This score shall be determined on the basis of certain parameters such as timely furnishing of returns, accuracy of data furnished, timely payment of taxes, etc. The GST compliance rating score is somewhat similar to the concept of the Denied Entities List (DEL, earlier called 'Black List') under the provision of Rule 7 of the Foreign Trade (Regulation) Rules, 1993, wherein a total of 14 conditions have been described for invocation DEL before a company can be refused a license by the Directorate General of Foreign Trade.

The GST compliance rating score shall be updated at periodic intervals and intimated to the taxable person and also placed in the public domain. A prospective customer/client can view his supplier's GST compliance rating score and take appropriate decisions whether to deal with a particular supplier or not. It is therefore important for every taxable person to ensure adequate level of compliance, which will not only facilitate ease of doing his business, buy will also have a bearing on his reputation.

Professional Opportunity for Members

The concept of Goods and Services Tax is relatively new to India. Members specializing in the field of indirect taxes, particularly in the area of Service Tax and VAT may explore opportunities of undertaking a compliance review for their clients, especially with regard to the transitional provisions. The advantage of conducting such review is not only to help the clients in identifying their weaknesses in a timely manner, but also help them mitigate penal provisions by reason of non-compliance.

GST law provides for submission of annual returns along with the audited copy of the annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the year with the audited financial statement. The law also provides for approval of Tax Return Preparers (TRP). A registered taxable person may authorised a TRP to file returns; however, the responsibility for correctness of the particulars furnished in the return shall be on the registered taxable person. Chartered Accountants may explore the opportunity of providing attestation services and also to be enrolled as TRPs for preparation of returns under GST.

Chartered Accountants may also conduct GST impact study for their clients for ensuring smooth transition into the GST regime and also help clients review contracts with the customers based on the change in the structure of taxation. Audits may be conducted in the core areas dealing with eligibility of ITC, classification of goods/services, valuation (related party transactions), distribution of ITC, etc.

Conclusion

The time is right for the Industry to assess the impact of GST on their business and plan the transition in a progressive and phased manner. The level of compliance would multiply with number of states from which a registered taxable person makes taxable supply of goods and/or services. Such enhanced compliance requirements would increase the compliance burden on the industry. The Industry is therefore advised to gear up their IT infrastructure and train their tax team to meet these compliance requirements under GST. The Government is presently seeking feedback/suggestions on the Model law. The Industry should seize the opportunity by putting forward their suggestions on the model GST law to ensure that their concerns are addressed well before the final law comes into force.

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