

# THE SPEAKING ARROW



Frequently asked questions in GST

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## Background

Goods & Services Tax – the most significant indirect tax reform of India which subsumed more than 9 indirect taxes was introduced with the purpose to curb the cascading effect of taxes and lower the cost.

It was government's attempt to standardize the indirect tax system across the states and improve tax collection by eliminating tax evasions.



GST came into effect on 1<sup>st</sup> July 2017. It has now been more than a year since it is in action, but still there are many questions and queries in the minds of the people.

In the initial months of GST, taxpayers faced many difficulties like understanding the new law, adapting the inconstant return filing procedures, going through the often-technical glitches etc. Due to such issues, many taxpayers have committed errors/mistakes either while filing their returns or complying with other GST provisions. Such errors come with a cost. It is important for everyone to know about the consequences of such errors and a method to rectify them, if any.

The purpose of this report is to address common queries on GST.

It also covers few common mistakes committed by the taxpayers in complying with the GST Act. The objective of this report is to make people aware about such errors, guide them on the rectification of such errors and avoid committing them.

## Common questions on GST compliance

1. In what scenarios is your application for GST registration cancelled?

The application for GST registration will be cancelled in the below cases:

- In case the application is not completed within 15 days of its generation
- In case the applicant does not reply to the clarifications demanded by the tax officer in Form GST REG-03 (REG-03 is a notice seeking additional information relating to application for registration) within the stipulated time
- In case the officer is not satisfied with the clarifications.

2. What happens when there is a mismatch of details between the purchase invoice and entry as per GSTR-2A?

After GSTR-2 becomes functional, the taxpayer can modify the purchase entry in the said return. The same modification will be subject to acceptance by the supplier. However, since GSTR-2 is currently not functional, the taxpayer will have to intimate the dealer and get the entry amended in his subsequent GSTR-1 in Table 9A – Amended B2B invoices.

Example: In August 2018, Mr. A purchased goods of Rs.236 (Taxable value – Rs. 200 & GST – Rs. 36) from Mr. B. Mr. B has reported only Rs. 118 in his GSTR-1 of August 2018. When Mr. A sees this entry in his GSTR-2A, Mr. A can ask Mr. B to make the amendment in Table 9A of September 2018 GSTR-1.

3. Can a registered person who has opted for regular registration opt for composition scheme in future and vice versa?

Yes. A registered taxpayer can opt for composition scheme by providing an intimation in the Form GST CMP-02 within the prescribed time limit.

[31<sup>st</sup> March 2018 was the last date to opt into Composition scheme for F.Y. 2018-19]

A composition dealer can opt out from composition scheme by providing an intimation for withdrawal in the Form GST CMP-04.

4. What happens when books of account/invoices are not maintained?

If any taxable goods are found to be stored without any valid documents, the proper officer shall determine the amount of tax payable on such goods as if such goods have been supplied by the registered person.

5. What happens when one fails to generate an e-way bill while making movement of goods?

The consequences of not generating & carrying the E-way Bill can result in both monetary and non-monetary losses to the taxpayer.

Consequences:

- Penalty of Rs. 10,000 or amount of tax sought to be evaded whichever is higher
- Detention & seizure of such vehicle which will lead to delay in delivery of goods.

## Questions regarding GST department

6. In which cases can the department conduct a field visit?

A Joint Commissioner (or an officer of higher rank) may have “reasons to believe” that in order to evade tax, any person has done the following-

- Suppressed any transaction of supply
- Suppressed stock in hand
- Claimed input tax credit in excess
- Violated of any of the provisions
- Any transporter or owner/operator of a warehouse has kept goods which have escaped tax payment or has kept accounts and/or goods in such a way as to evade tax.

7. When can the GST registration be cancelled by the department?

The GST registration can be cancelled by the tax officer if the taxpayer,

- Does not conduct any business from the declared place of business OR
- Issues invoice or bill without supply of goods/services (i.e., in violation of the provisions) OR
- Violates the anti-profiteering provisions (for example, not passing on benefit of ITC to customers) OR
- Does not file GST returns for more than 6 months

8. How will a return under scrutiny be intimated to the taxpayer?

The proper officer shall issue a notice to the taxpayer in the form GST ASMT-10 informing him of such discrepancy and seeking his explanations.

9. How to get a guidance/clarity on the HSN code, applicable GST rate or any other information?

A taxpayer seeking clarity on applicability of GST shall apply for advance ruling and obtain certainty in tax liability in advance and reduce litigation.

10. Can goods be sold at nominal values to related parties also?

No. In case of transactions between related parties, valuation rules shall apply and GST output tax shall be payable on the value determined as per the valuation rules and not on the nominal value.

## Questions relating to errors committed while complying with GST returns

### 11. What happens when errors are committed while filing GSTR-1?

There is an option to amend the tables of GSTR-1 while filing GSTR-1 of subsequent tax periods (In Table 9A). However, such amendments shall be allowed only before the due date of filing the return of September following the end of the financial year or filing of Annual return of preceding financial year, whichever is earlier.

Example: In GSTR-1 of August 2017, Mr. A has erroneously reported invoice number as GST-001 instead of GST-010. Mr. A can amend the invoice number in any of the subsequent GSTR-1. However, the last return available to make such amendments pertaining to the F.Y. 2017-18 will be September 2018.

### 12. What happens when one provides incorrect details at the time of GST registration?

- If the application for the registration is approved, then the taxpayer can file an application for amendment of his registration. (only core & non-core fields can be amended)
- If the applicant receives a show cause notice against the application of registration (i.e. before approval of application) the applicant must reply to the notice online by using his temporary reference number (generated at the time of application)

### 13. What happens when one:

- a) Misses to claim input tax credit in GSTR-3B
- b) Misses to discharge liability in GSTR-3B
- c) Claims excess GST input tax credit

Any correction in GSTR-3B can be done while filing GSTR-3B of the subsequent tax period.

- a) Claim the missed-out ITC in the subsequent GSTR-3B
- b) Discharge the liability in the subsequent GSTR-3B along with interest
- c) Reverse the excess ITC in subsequent GSTR-3B along with interest (irrespective whether it is utilized or not)

### 14. What happens when zero rated supplies are reported as nil rated or exempted supplies while filing GSTR-3B?

This is a serious mistake for an exporter, as he shall not be eligible for claiming GST refund. Further department might demand for reversal of ITC attributable towards nil rated or exempted supplies.

Solution - The amounts entered erroneously will have to be adjusted in the GST returns of subsequent months (as per Circular 26/26/2017-GST)

## GST trigger on certain practical issues

15. Will GST be applicable on any interest charged for payment after the credit period?

Interest, penalty or late fees charged by the customer for delayed payment (no other reason) of any supply shall be included in the value of original supply. Further, GST liability on such values can be paid only on receipt of such additional amounts. The recipient can claim the input tax credit on the GST paid to the supplier on such additional amounts.

16. Mr. A who is registered under the GST Act in Karnataka is organizing an exhibition in Maharashtra. Is Mr. A required to get himself registered in Maharashtra?

As per Section 2(20) of the CGST Act, Mr. A fits into the definition of casual taxable person. (A casual taxable person is the one who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business) Therefore, he shall obtain a registration as a Casual Taxable Person in the state of Maharashtra. Further, he shall also deposit tax in advance (estimated tax liability) for the exhibition to be conducted in Maharashtra. If the final liability turns out to be lesser than the tax deposited in advance, the casual taxable person shall be eligible for refund of such balance tax amount. Registration as a casual taxable person shall be valid for a period not exceeding 90 days. However, the validity may be extended by filing a form GST REG-11.

17. What happens when you export goods/services without payment of taxes and without LUT?

As per circular 37/11/2018-GST, the delay in furnishing of LUT in cases where zero-rated supplies have been made before filing the LUT and refund claims for unutilized input tax credit (ITC) have been filed, may be condoned.

18. Is reversal of input tax credit required when goods are sold at nominal value?

No, input tax credit is to be reversed only when the goods are lost, stolen, destroyed, written off, scrapped off or disposed of by way of gift or free samples. (i.e. removal of goods for reasons other than sale)

19. The threshold limit for obtaining GST registration is Rs.20 Lakhs. Is this threshold available to all the suppliers?

As per Section 24 of the CGST Act 2017, there are certain categories of suppliers who shall mandatorily get registered under the GST Act irrespective of whether their aggregate turnover exceeds the threshold limit or not. Examples of people covered under Section 24:

- Casual taxable persons
- Non resident taxable persons
- Persons required to pay tax under reverse charge
- Persons making inter-state supply of goods

20. A person is involved in making sales exclusively to SEZ units. Is he still liable to get registered under GST?

Sales made to SEZ units are zero-rated supplies. Section 23 of the CGST Act, 2017 exempts persons from GST registration only if he is engaged exclusively in the business of exempt supplies. Therefore, person involved in making sales exclusively to SEZ units are liable to get registered under GST.

21. Will GST be applicable on any interest charged for payment after the credit period?

Interest, penalty or late fees charged by the customer for delayed payment of any supply shall be included in the value of original supply. Further, GST liability on such values can be paid only on receipt of such additional amounts. The recipient can claim the input tax credit on the GST paid to the supplier on such additional amounts.

22. In case of transfer of business as a going concern, what will happen to input tax credit in the books of transferor?

In case of transfer of business on going concern, input tax credit which remains unutilized in the electronic credit ledger of the transferor shall be transferred in the electronic credit ledger of the transferee by filing form ITC-02.

23. What happens when one renders services outside India but receives money in INR?

A service when rendered outside India qualifies to be an export only if its consideration is specifically received in convertible foreign currency.

In case the consideration is received in INR, the service shall be treated as an inter-state supply of services. Such service will not be qualified as zero rated supply. Therefore, it is not an export and tax is to be paid at the respective rates.

Export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non-resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan.

However, if the services are provided to Nepal/Bhutan and consideration is received in INR, then such services shall be treated as export of services.

## Other miscellaneous questions

24. Is GST applicable on sale of constructed building?

No. GST is not applicable on completed property. As per Para of Schedule-3 of the CGST Act, 2017 sale of a constructed building is neither a supply of goods nor a supply of services. (Only if the entire consideration has been received after issuance of completion certificate by the competent authority or after its first occupation, whichever is earlier.)

25. If the supply is made without consideration, will such supply come under the purview of GST?

Only the activities which are specified in Schedule 1 of the CGST Act, 2017 shall be treated as supply even if made without consideration.

Few activities covered under Schedul-1:

- Supply of goods or services or both between related persons or between distinct persons
- Supply of goods by principal to agent or from agent to principal.

26. Is rental income from immovable property liable to GST?

If the immovable property is rented out for residential purpose, such rental income shall be exempted. In other cases, it shall be liable to GST.

Rented out for:	GST applicability
Residential purpose	Exempt
Commercial purpose	Taxable

27. Is cross-utilization among CGST, SGST & IGST electronic cash ledger allowed?

No. Electronic cash ledger is a separate ledger maintained on the GST portal for all the cash deposited by payment challans & utilization of such cash. The cash deposited under one head shall be utilized for payment of liability of the same head only.

If a taxpayer has committed a mistake while depositing money into the electronic cash ledger, he can apply for refund of such amount deposited. However, this mistake will result in blockage of working capital.

28. What is the impact of GST on sale of capital assets?

GST shall be paid on the sale price of the capital asset at its applicable rate. In addition to this, the input tax credit availed at the time of its purchase shall be reversed in accordance with Rule 44 of CGST Rules.

29. What is the time limit for claiming input tax credits which have been missed in the previous month?

The missed out GST credit can be availed anytime before:

- Due date of filing of return for September month of the subsequent financial year or
- Date of filing of Annual Return (GSTR-9), whichever is earlier.

Once the time limit has passed, the input tax credit lapses.

30. Can the recipient claim the input tax credit if his GSTIN is not mentioned on the invoice?

No. Reference of GSTIN of the recipient on the invoice is one of the requisites for claiming GST ITC. However, the recipient can request the supplier to update the invoice & amend GSTR-1 (if already filed) in order to avoid credit loss.

31. Are gifts provided by employer to employee taxable under GST?

Gifts provided by employer to employee not exceeding Rs.50,000 shall be exempt from GST. If the value of gifts exceed Rs.50,000 it shall be subject to valuation rules and further GST would be applicable on such supply.

32. Is GST input eligible on travelling expenditure (For business purpose)?

Yes. The GST input paid on the travel expenditure (Eg: Airfares) is eligible for claiming GST credit.

33. Can a taxpayer claim input tax credit on the hotel accommodation invoices?  
(Accommodation for business purpose)

The answer depends on the state in which the taxpayer is holding the GST registration. If he has registration in the state in which the hotel is situated, then he can claim the credit. In other cases, the credit is not allowed. As per the place of supply provisions, for services by way of lodging accommodation by a hotel, inn, guest house, home stay, club or campsite or whatever name called, the place of supply shall be the location of such immovable property. Example – The taxpayer has obtained GST registration in the state of Karnataka. If he stays in a hotel in Delhi, the place of supply is Delhi. The taxpayer cannot claim credit if the place of supply is any state other than the state in which he has obtained the GST registration.

State of GST registration	Place of supply	GST Eligibility
Karnataka	Delhi	Ineligible
Karnataka	Karnataka	Eligible

## Special points for cautious GST compliance

### 34. What are the special points a taxpayer must give importance to, while maintaining books or filing GST returns?

In order to ease return filing and ensure correct return filing, every taxpayer must pay attention to the following points:

- Check the accuracy of GSTIN and the type of taxpayer before conducting business with new vendors (purchase/sale)
- Record & claim GST credit only after the receipt of a valid tax invoice
- Checking the eligibility of GST credit (i.e. not restricted under Section 17(5) of CGST Act or Rule 43 / 44 of CGST Rules)
- Maintain proper classification of inputs, input services & capital goods
- Record the HSN, GSTIN & invoice number correctly while booking all purchase/expense invoices
- Monthly reconciliation with GSTR-2A and following-up with the vendors if entries are missing in GSTR-2A
- Keep a close look at payable report and pay the vendors within 180 days of purchase
- Expensing off the GST paid if the place of supply is any state other than the state in which the taxpayer is registered
- Monthly matching of the input tax credit ledger balances between books of accounts and GST portal
- In case of imports & exports of goods, capturing the shipping bill number, date & port code in the books of account
- In case of advance receipt from customers, capture the amount received as advances and take them into consideration while filing GST returns
- Match GSTR-3B workings with GSTR-1 before filing GSTR-3B
- Keep the contact details updated at the GST portal. As any notice against the entity shall be intimated by way of an E-mail
- Raising of self-invoices for the taxes paid under reverse charge. (Only when goods/services are procured from unregistered dealer – suspended till 30<sup>th</sup> September 2019)
- Regularly verifying E-way bill portal to ensure there are no E-way bills raised from unknown sources. (If the taxpayer does not take action within 72 hours of the generation of the E-way bill, it will be considered as deemed acceptance)



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