



Tax Bar Association

(Registered under the Societies Registration Act, 1860)

Sreeram Market, 2nd Floor
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Email: taxbarghy1977@gmail.com

To
Hon'ble Finance Minister
Govt. of India
New Delhi

June 14, 2019

Respected Madam,

Sub : Issues and Suggestions regarding Annual Return-GSTR-9, 9A & GSTR-9C

Tax Bar Association, Guwahati is a prestigious professional association having membership strength of 400+ members consisting of Chartered Accountants, Company Secretaries, Cost Accountants, Advocates and Tax Consultants.

With reference to the subject cited above, we would like to bring to your kind notice the following issues:

- a) GSTN has made available GSTR-9, 9A & 9C online in March, 2019 and offline utility in April, 2019 only, whereby giving only 3 (three) months to the tax payers to understand the most complex return form in the history of Indian Taxation.
- b) Data auto populated from GSTR-2A in table 8A of GSTR-9 doesn't match with sum of input as per monthly GSTR-2A downloaded from the portal. Reconciliation of GSTR-2A is done with monthly GSTR-2A downloaded (with bill wise details), however, the amount shown in table 8A of GSTR-9 is different, and hence the reconciliation becomes useless.
- c) Data auto populated from GSTR-2A in table 8A of GSTR-9 doesn't match with sum of input as per monthly GSTR-2A reflected in return tab **"Comparison of ITC Claimed and Due"**.
- d) Data auto populated in GSTR-9 in table 8A is giving figures which could not be reconciled for the reason that no where it is mentioned that what figures are considered while uploading auto populated data. In some cases, auto populated figure is considering invoice uploaded by supplier in the GSTR-1 returns from April, 2018 to March, 2019. In some cases, it is not considering the figures. It is unknown whether auto populated figure in Table 8A of GSTR-9 is considering amendment in invoice level data or not.

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- e) In the data for Debit Note/Credit Note downloaded in monthly GSTR-1 PDF file, value of debit notes and credit notes are clubbed together as a positive figure which has to be manually segregated for our return filing working.
- f) There is no provision to adjust ITC paid **on import of goods** in 2017-18 and availed in 2018-19. Recently a clarification has been issued by CBEC to report the figure in para 6E. However, this also results into difference in Para No: 6J & 6O. The difference will unnecessary create confusion.
- g) There is very little clarity on treatment of information furnished in Table 12 & 13 for ITC claimed / reversed in FY 2018-19 by the GSTN Portal and how it will be treated in harmony with Table 6,7 and 9 as it is not included in Table 14. These aspects need clarity.
- h) The Govt. has recommended that the short payment of tax, if any, pertaining to F.Y. 2017-18 has to be paid through Cash ledger only. But this is contrary to the statutory provisions of Section 49(4) which allows a registered taxable person to pay output tax by adjustment with the Input tax credit available. So the instruction appended to the form and further the Press release issued appears to be contrary to the statutory provisions of the law. Moreover, if we look at the Form DRC-03 it allows one to pay /adjust payable tax with the Input Tax credit balance. So, on both the footing, the recommendations of Govt. in cash payment are contrary to the statutory provisions. The provisions needs to be aligned in this regard and clear instruction needs to be given as to ITC of which period can be utilized for payment of liabilities of 2017-18.
- i) The Press release seems to be adding some more confusion. At Para (e) of the same, it is clarified that additional liability can be paid in Form GSTR 9. But in Para (h), it is clarifying that, said payment will not be accounted for Form GSTR 9 but it will be reported in Form GSTR 9C. Thus Para (e) and (h), both seems to be contradicting with each other. We feel, one more press release required for clarification of this point and to understand what is exact intention of Government.



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- j) Some of Table rows in Form GSTR 9 are auto populated. However, as per structure of form, only details as per Table Entry 6A and Table Entry 8A is compulsory for Government to provide for. Other auto populated details appearing in Form GSTR 9 is only for convenience. This fact is clarified in the Press release dated: 03.06.2019 now. However last line of clarification is again confusing. It says, in Form GSTR 9, **“Taxpayers shall report the data as per their books of account or returns filed during the financial year.”** So again, with this clarification, they have confused whether to fill GSTR 9 as per books of accounts or Returns. This clarification is of confusion nature.
- k) Although as per instructions the Tax Payable and ITC adjusted as auto populated in GSTR-9 should match with GSTR-3B filed for July-17 to March -18, but in few cases it is observed that the details do not match.
- l) There is no place in the form to show RCM of F.Y.2017-18 paid in 2018-19. Though the form has table for reporting any transactions pertaining to 2017-18 paid or disclosed in 2018-19 needs to be reflected in column 10 to 13. If we add RCM liability in column 10 the problem is it increases taxable sale also.
- m) Requirement of HSN Wise summary of Inward and Outward Supply in GSTR-9 is almost difficult for Medium and small business units to maintain and provide the details.
- n) As per the provision of law and instruction for filling GSTR-9, HSN wise summary for turnover between 1.5 Crore to 5 crore is to be reported upto 2 digit HSN code. However online portal is showing error in such cases. Rather it demands 8 digits HSN which a registered taxable person has never maintained.
- o) Further the inward supply from composition taxable person and from registered taxable person having turnover upto 1.5 crore do not have any HSN on the face of the invoice. So in absence of any details, it is practically impossible to extract HSN of each and every invoice and then report.



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- p) The bifurcation of Input claimed (ITC) further into Capital goods, Services and Inputs is also subjective and cumbersome task. Had it been the intention of Govt. then it should have informed the Trade and Industry well before the introduction of law. Now, as on date no one has kept or maintained such bifurcation so digging the old records is a time consuming task.
- q) In case of SAC code GSTR-9 is accepting only 6 digit SAC code which is not required as per Law.
- r) Various clarifications are being issued by CBIC with regard to filling of GSTR-9 & GSTR-9C recently. The stake holders are understating the complex format of returns with the help of these clarifications issued in May & June 19. As such the due date for filling GSTR-9 & GSTR-9C i.e 30th June 2019 is unreasonable.
- s) There is no provision of report and pay Input Tax Credit excess claimed in 2017-18 in GSTR-3B which was later on reversed in GSTR-3B of 2018-19.
- t) The Form-9C is asking auditor to certify "True and correct" instead of "True and fair". So the age old concept of audit has now undergone a significant change in the form GSTR-9C. Hence it is not justified to get the certification from auditor that the records are true and correct. "To err is human" and Govt. must understand this fact that auditors are not GOD and they have limited time, energy and resources to complete the audit assignment. So the concept of "true and fair" must be brought back.
- u) Form 9C has included Cash Flow Statement as a part of Audited Financial Statements, whereas, it is prepared as part of Audited Financial Statements by very few entities. The said Statement is also not prescribed for preparing mandatorily under GST law; hence the said Statement is not available for filing by most entities except specified companies. It should be clarified that Cash Flow Statements, wherever applicable under some other law, only needs to be filed with GSTR 9C.



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Considering the above facts there are sufficient cause and reason for the extension and modification in the Annual Return GSTR-9 & 9A and Audit report GSTR-9C to make it more objective based.

Suggestion/Request

- a) It is suggested that the due date of filing of GSTR 9, 9A and 9C for FY 2017-18 and 2018-19 should be notified as same, so that a total reconciliation can be done for both the years for which proper infrastructure and details were not available and the law was totally new. This will help in better compliance and reporting.
- b) Alternatively, the due date for filing GSTR-9, 9A & GSTR-9C for the year 2017-18 should be extended by atleast 4 months i.e. 31st October, 2019.
- c) All problems explained above, should be resolved by providing clear instructions in line with the prescribed law and the Forms should be simplified. The present form and law are not in agreement at certain places and are cumbersome, ambiguous, unreasonably complex and prone to error and mistake which will only deteriorate the present situation due to chaos that occurred in 2017-18.
- d) Requirements of HSN wise summary of Inward and outward summary should be relaxed for first two years.

For Tax Bar Association

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Copy to :

- 1) Prime Minister's Office, New Delhi
- 2) The Revenue Secretary, Govt. of India, New Delhi
- 3) GST Council
- 4) The Commissioner of Central Taxes, Assam
- 5) The Commissioner of State Taxes, Assam