



The Institute of Chartered Accountants of India  
(Set up by an Act of Parliament)

# AMRITSAR BRANCH OF NIRC NEWSLETTER OCTOBER 2020

FRESH CLAIM OF DEDUCTION IN PROCEEDINGS U/S 153A  
& ANNUAL RETURN UNDER GST



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## CONTENTS

Chairman Message.....	2
Secretary Message.....	3
CA DN Sehgal (Our Mentor)	4
CA SK GUPTA (Our Mentor)	5
Fresh Claim of deduction in Proceeding u/s 153A	6-11
The FCRA Amendment Bill 2020 was introduced in Lok Sabha on Sept 20, 2020.	12
GSTR 9 Annual Return under GST	13-20



- सर्व मंगला मांगल्ये – To auspiciousness of all auspiciousness  
शिवे – to the Good  
सर्वार्थ साधिके – to the accomplisher of all objectives  
शरण्ये – to the Source of Refuge  
त्र्यम्बके – to the mother of the three worlds.  
गौरी – to the Goddess who is Rays of Light  
नारायणी – Exposer of consciousness  
नमोस्तुते – We bow to you again and again. We worship you.



## *From the Desk of the Chairman.*

### **Esteemed Professional Colleagues**

### **जय श्री राम**

I hope that this communication finds you and your loved ones safe & healthy in these unprecedented times. The key learning of COVID-19 and resultant Lockdowns comes in the form of a shift to the virtual world. The shift from personal meetings to video calls and seminars to webinars is a from normal to the new normal. We are likely to see changes in working of branches as well as ICAI due to brutal pandemic.

This issue of E-Newsletter covers “Fresh/Revised claim of Deduction in Proceedings under 153A & GST Audit”. I am grateful to our Senior member & Taxation Committee's Chairman CA Padam Bahl Ji, for sharing valuable content covering several instances where new claim share arises u/s 153A along with various Judgements. GST is one tax regime impelled by government to promote a unitary basis of transacting business in India. It enables assessee to Self-assess his tax liability and file timely returns to government without any major intervention of any tax official. As the regime majorly stresses on Self-assessment procedures it puts up a need for rigorous Audit –Mechanism, which will ensure effective measurement and compliance of all the legal associated provisions by every Taxpayer.

Friends, it fills my heart with great pride in informing you that we are in the process of signing MOU with Khalsa College, Amritsar(KCA) and our parent body ICAI for extending the necessary support to deliver guest lectures to the students of KCA on the technology trends and in house requirements. As a result, ICAI Amritsar Branch may depute its personnel as visiting faculty at KCA to teach any subject/specialized course for the students of KCA. Draft Memorandum has already been sent by KCA and ICAI required changes in some clauses by the respective committee. We are trying our level best to get it implemented so that our GST expert and other faculties can share their valuable knowledge with KCA Students. Thereafter we will follow with other Educational Institutions with similar MOU's.

We all need a sense a festivity in our lives considering the times we have all evolved from, as we begin with the festive season, I wish you all Happy Navratri and Vijaydashmi. Let the spirit of love gently fill our heart and homes. May the victory of good over evil inspire you towards your own victory.

Stay Safe Stay Healthy

October, 2020

With Warm regards.  
**CA SANJAY ARORA**  
B.Com., F.C.A., D.I.S.A., (ICAI)  
**Chairman, 2020-21**  
**Amritsar Branch of NIRC of ICAI**

Chairman



## *From the Desk of the Secretary...*



**Respected Members,**

**Warm Greetings,**

First of all, We with immense delight present our members a special edition on the Topic one- Fresh/ Revised Claim of Deductions in proceedings u/s 153A of Income Tax Act, 1961 and other on GST Audit for the month of October 2020.

As per section 153A of the Income Tax Act, in the case of a person where a search is initiated under section 132 the Assessing Officer shall issue notice to file return of Income and assess or reassess the total income of six assessment years. Now question arises that during the assessment proceeding u/s 153A, can assessee claim fresh claims of deductions? Which is held as YES in some land mark judgements of various Courts. One of them is held by Bombay High court in case of PCIT Vs JSW Steel Ltd (Bombay High Court) Dt 05.02.20. This topic has been discussed in detail by our hon'ble Senior members.

Our other topic is GST Annual return and Audit. As we know the Govt has recently extended the due date of filing of Annual GST return and audit to 31st Oct. 2020. Many of our members are busy in GST Audit for the F.Y. 2018-19. Section 35 of the CGST Act, deals with the maintenance of books of accounts, documents and records. Section 35(5) read with Section 44(2) of the CGST Act and the corresponding Rule 80(3) of the CGST Rules relates to audit. In terms of the said section / rule, every registered person whose turnover in a financial year exceeds five crore rupees has to get his accounts audited by either a Chartered Accountant or a Cost Accountant for the F.Y. 2018-19. I hope in this financial year complications will be less as compared to the GST audit for the preceding year. I hope both the topics in this news letter will a knowledge boosters for all members and students.

Members, Now Covid pandemic is slowly going down and Central Govt has launched unlock-5 and most of the business activities are being continued smoothly. We are hopeful the Covid will end soon and we have to accelerate our professional working alongwith keeping ourself safe and healthy, as due dates of Tax Audit and GST Audit are approaching. In October we are filing or has filed MEF form of ICAI also.

Dear Students,

Most of you will be busy in your studies as Exams will be held in next month of Novemebr and hopefully ICAI has completed his arrangements for upcoming exams. ICAI is very much promising this time to conduct exams. So all of you should concentrate on your studies with your best efforts. Do not leave any stone unturned to crack the upcoming exams. Forget the future and keep your eye on the upcoming exam only. As I told ealier You have to justify the quote "Accept the challenges so that you can feel the exhilaration of victory". Every one of you is going through a challenge to crack this a very noble Professional CA course. So keep going and circumstances will be in your favour. Best of luck for the Nov 2020 Exams.

Keep yourself safe and stay healthy in the pandemic.

With Warm regards.

Sd/-

**CA Shashi Pal**

Editor in Chief

Secretary, ICAI Amritsar Branch

October, 2020

Secretary



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## OUR MENTOR

Mr. D.N. Sehgal embarked on his journey to become a Chartered Accountant when he was a minor and started doing his Articleship, even before the age of 18 years and became part of the fraternity in 1960 and after doing a job, focused solely on practicing from 1969. He struggled and sacrificed and became a master of Income Tax and has been actively engaged in arguing matters before the Amritsar as well as the Chandigarh Income Tax Commissionerate.

Simple living and high thinking is not just a proverb but a way of life for him. His life is a manifestation of principals such as honesty, modesty, truth, simplicity, generosity, to name a few, and follows them, not only in day-to-day life but also, his career. He advocates and preaches the same to his off springs as well as the young aspirants.



**CA SK GUPTA**

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## OUR MENTOR

Sh. S.K. Gupta is practicing since 24-09-1969. He specialized in litigative practice in direct and indirect taxes. He has been instrumental in bringing about many trader friendly changes in direct and indirect taxes. He has been actively engaged in implementing assessee friendly measures through Tax Payers Committee under the Amritsar Income Tax Commissionerate.

His life is manifestation of principals being followed not only in percept but also in practice of daily life. He has touched and shaped many a lives to motivate them to follow the path of truthfulness in professional and personal life.



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### **Fresh Claim of deduction in Proceedings u/s 153A**

The new claim u/s 153A after Search can be of two kinds:-

- I. The first can be of a deduction made for the first time.
- II. The second can be of a claim of deduction against income comprised in the unaccounted transaction of regular business for which evidence was found in the search proceedings.

### **There can be Several instances where new claims share arise. Some instance can be as under:-**

1. Where in regular assessment deduction under chapter VIA was not claimed under a mistaken impression of law, whether such a deduction can be claimed for the first time in the return filed u/s 153A.
2. Another situation could be where assessee claimed deduction under chapter VIA in the regular return which was allowed. But during search assessee admits of additional income based on the search material from the same source of business. The question is whether enhanced benefit under Chapter VIA can be claimed on the additional income admitted.
3. Whether enhanced claim for depreciation can be made in the return filed u/s 153A e.g depreciation was claimed at a lower rate say @ 15% instead of higher rate of 40% when all the facts regarding purchase of asset are already on record.
4. There could be a case where deduction under chapter VIA was examined & allowed during Scrutiny proceedings for an assessment year falling within the six assessment years which could be opened u/s 153A post the search. Whether the Assessing Officer can withdraw the deduction in the proceedings u/s 153A on the ground that it was wrongly allowed in the regular Assessment.

The following decision of Gujrat High Court supports the contention that deduction u/s 80/A(4) allowed during regular assessment cannot be reconsidered & withdrawn in assessment u/s 153A.

Where no incriminating evidence had been found during search, **(Principal CIT Vs. Desai Construction (P) Ltd (2017) 81 taxmann. com 271 (Gujarat).**



The issue whether such deduction or allowance is admissible in the assessment u/s 153A has not yet attained finality though Several High Courts have held that new claim of deduction is admissible u/s 153A. In case of **CIT Vs. Sun Engineering Works Pvt Ltd.(1992) 64, Taxman 442 (SC)**, it was held that reassessment is for the benefit of the revenue.

The revenue will cite this judgement to advocate the view that a search assessment is also for the benefit of revenue.

This decision was rendered in the context of reopened assessment u/s 147 of Income Tax Act. The reassessment u/s 147 was reopened u/s 147 to consider offer, of assessee to access hundi loans to tax. The loans were accepted as unexplained income & assessment was completed. The assessee claimed benefit of loss in the original belated return, which was denied as return filed was late & Assessing Officer did not allow the set off.

On the above facts, the Apex Court held that Assessing Officer's Jurisdiction was restricted to only the escaped income in a reassessment proceedings. It did not extend to the issues concluded in the regular assessment.

The Court observed that the object of the proceeding u/s 147 are for the benefit of the revenue & not for the assessee. The assessee cannot be permitted to convert the same as his appeal or revision in disguise & seek relief in respect of items earlier rejected or claim relief in respect of items not claimed in the original assessment proceedings unless relateable to "escaped income". The income during reassessment proceedings cannot be reduced beyond the income originally assessed.

### **Issue:-**

Whether New claim for deduction under Chapter VI can be made in proceedings u/s 153A?. One view is that assessment u/s 153A is like a reassessment, particularly with regard to concluded assessments.

The Contrary view is that decision of Apex Court in Sun Engineering case is not applicable to an assessment made u/s 153A. The reasons advocated are as under:-



- (i) The reassessment proceeding u/s 147 & assessment proceedings u/s 153A are different due to reasons that the heading of Section 147 talks of “Income escaping assessment & of Section 153A talks of “Income in case of search or requisition”.
- (ii) The heading of Section 147 is restrictive but not so in Sec 153A. Many restrictions are placed in sec 147 such as period it can cover, Monetary limit, taking of Sanction from higher authority etc.
- (iii) The provisions of Section 147 & Section 153A operate in their respective fields & there is no conflict between the two. The decision of Mumbai Tribunal in the case of **Dy. CIT Vs. Eversmile Construction Co. (P) Ltd (2013) 33 taxmann. com 657 (Mumbai- Trib)**, the Apex Court Case of Sun Engineering was distinguished.

It was held that conditions for invoking the provision of Section 147 & Section 153A are materially different . The Assessing Officer has to record reasons before reopening the Case. The case can be reopened by the Assessing Officer on the basis of Some tangible material . In the provision of Sec 153A, the Search action itself reopens past six Year assessment & mandates the Assessing Officer to pass assessment orders, whether or not any concealed income has been found during the Search or not.

- (iv) Explanation to Section 153A provides that except Section 153B & 153C, all other provisions of the Act shall apply to the assessment made under this Section.

It is opined that purpose of the explanation is to remove ambiguity in a provision.

- (v) The Computation has to be made in accordance with definition of income u/s 2(45) of Income Tax Act. Total Income means the total income as per Section 5 of the Income Tax Act. Section 80A provides that assessee is entitled to deduction & allowance under Chapter VI A.

The next issue is regarding claim of deduction under chapter VI A for the first time in the return u/s 153A.

There is a direct decision of Chennai-Tribunal on this issue in the case of **Astt. CIT Vs V.N Devadoss (2013)32 taxmann.com 133/57 SOT 67(URO) (Chennai-Trib.)**





In this case the deduction under chapter VI A has been discussed in detail. The assessee filed returns of income after search but before issue of notice u/s 153A. Later assessee filed returns in response to notice u/s 153A. In the subsequent returns assessee claimed deduction u/s 801B(10) for the first time. The Assessing Officer disallowed the claim. The ITAT allowed the claim & held as under:-

- (i) The returns filed before notice u/s 153A cease to be operational & only returns in response to Section 153A are to be acted upon.
- (ii) The returns filed in response to Section 153A notice satisfy requirements of Section 139(1).

Explanation to Section 153A provides that all the provisions of Income Tax Act shall apply to returns filed in response to notice u/s 153A. So there can not be any clash between Section 139(1) & Section 153A.

- (iii) Section 153A starts with a non obstante clause. It overrides all other provisions on issue of filing the return.
- (iv) Notime limit is prescribed u/s 153A. It is left to the discretion of Assessing Officer who can also extend the time.

It was thus held in this case that what needs to be seen is whether or not the assessee had filed the return in time u/s 153A. Once this condition is satisfied, the assessee is entitled to claim deduction u/s 80-1B(10).

So the above decision lays down that returns u/s 153A should be filed in time or within the extended time. The belated returns filed u/s 153A will not be treated as returns u/s 153A & Consequently u/s 139(1) & assessee shall forfeit his right to claim deduction under chapter VI A.

**Again in CIT vs Vijay Infrastructure Ltd (2018) 402 ITR 463 (All. )** it was held that return u/s 153A is an original return & not a revised return. Therefore if assessee is other wise entitled to deduction u/s 80/A. He can make a claim for the first time u/s 153A.



The Bombay High Court in case of **CIT Vs. B.G.Shirke Construction Technology (P) Ltd. (2017) 79 taxmann.com 306/246 Taxman 300 (Bombay.)** has held that a return filed in response to notice u/s 153A is a furnished in response to notice u/s 139. The assessee had made a fresh claim relateable to defect liability withheld by Customers which was not claimed in the original return.

The decision of Apex Court in **Goetze (India) Ltd vs CIT (2006) 157 Taxman 1 (SC)** was applied by the Assessing Officer. The High Court observed that reliance by the department on the Apex Court decision was misplaced.

The Courts have given similar decisions in the following cases also:-

1. **CIT vs Continental Warehousing Corporation (NHAVA SHEVA) Ltd. [2015] 374 ITR 645 (Bom).**(affirming Special Bench decision in case of Act cargo global Logistics Ltd)
2. **PCIT vs. JSW Steel Ltd. [2020] 422 ITR 71 (Bom)** Additional claim of deduction under chapter VI A. It has been held in the following cases that additional claim of deduction under chapter VI A in the return filed u/s 153A shall be allowed.
  - (i) **Malpani Estates Vs ACIT (2014) 44 taxmann.com 242/64 SOT 105 (URO) (Pune-Tribunal)** in the case assessee had been allowed deduction u/s 80B(10) in the regular assessment . During Search assessee offered additional income u/s 132(4) claimed deduction u/s 80-1B (10) on the Same.  
The Assessing Officer & CIT (A) did not allow the relief by following the principles laid down by Apex Court in Sun Engineering case. The ITAT held that deduction u/s 80-1B(10) would be allowable by distinguishing the Apex Court decision.
  - (ii) **Naresh T. Wadhvani vs. Dy. CIT [2014] 52 taxmann.com 360/[2015] 68 SOT 235 (Pune-Trib.).**
  - (iii) **ITO Vs Gairaj Constructions (2015) 62 taxmann.com 18/70 SOT 634 (Pune-Trib.)**  
However in the case of Jodhpur ITAT in the case of **Suncity Alloys (P) Ltd Vs. ACIT (2009) 124 TTJ 674 (Jodhpur-Trib.)**, The Assessee claimed Sales tax incentive as a Capital receipt u/s 153A which was not claimed in return u/s 139(1). This Claim was made based on a Mumbai ITAT decision. The Assessing officer did not allow the same by relying on Sun



Engineering. The ITAT held assessment or reassessment made u/s 153A are not denovo assessment & upheld Assessing Officer disallowance.

However the issue regarding making new claim of deduction under chapter VI A is far from Settled.

In the case of **CIT vs Kabul Chawla (2015) 61 Taxmann.com 412/234 Taxman 300 (Delhi)**. Several decisions on the issue have been discussed holding that provisions of Section 147 & Section 153A operate in different fields. That provisions of Section 153A are not restrictive in scope and that they are not only for the benefit of revenue.

Most of the High Court have held Similarly. However a final pronouncement from the apex Court on the issue is awaited.

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**The FCRA Amendment Bill 2020 was introduced in Lok Sabha on Sept 20, 2020.**  
**The Bill amends the FCR Act 2010 & was passed on Sept 21, 2020 by Lok Sabha.**

The proposed changes are as Under:-

**1. Prohibition to accept foreign Contribution :-**

The Bill extends the Prohibition to accept foreign contribution to public Servants (as defined in IPC).

**2. Transfer of foreign Contribution :-** The Bill amends to prohibit the transfer of foreign Contribution to any other person. The term person includes an individual, an association or a registered Company. Earlier transfer could be made to another FCRA registered person.

**3. Adhar for Registration :-** The new Bill now adds that any person seeking prior permission or registration or renewal of registration must provide Adhar number of all its office bearers directors or key functionaries as an identification document. If a foreigner he has to provide a Copy of Passport & OCI Card for identification.

**4. FCRA Account :-** The Bill amends to state that foreign contribution must be received only in account designated by the bank as "FCRA Account" in Such Branch of the State Bank of India, New Delhi as notified by the Central govt. Only foreign Contribution would be deposited or received in that account. The person may open another FCRA A/c in any other Scheduled Bank of his Choice for utilizing the contribution.

**5. Renewal of licence :-** The Bill provides that the govt may conduct an enquiry before renewing the certificate to ensure that person making the application :-

- i. Is not fictitious or Benami.
- ii. Has not been prosecuted or convicted for creating communal tension or indulging in activities aimed at religious conversion and
- iii. Has not been found guilty of diversion or misutilisation of funds.

**6. Reduction in use of foreign contribution for Administrative purposes :-**

Presently the person could use upto 50% of the contribution for meeting administrative expenses. The Bill reduces this limit to 20%

**7. Surrender of Certificate :-** The Bill adds a provision allowing the Central govt. to permit a person to Surrender its registration certificate. The govt may do So, post an enquiry, that no provisions of the FCRA Act have been Contravened by the person.

**8. Suspension of Registration :-** Presently the govt may Suspend the registration of a person for upto 180 days. The Bill adds that such Suspension may be extended upto the additional 180 days. So the purpose of the new amendments is to give further powers to the government to control the receipt & utilization of foreign contributions.

So most of the Societies, Trusts etc are likely to be affected by the amendments mentioned at Serial No 3,4,5 & 6, as under :-

- i. Adhar No of office bearers has to be given at the time of renewal of registration of the FCRA license.
- i. A new Bank A/c i.e "FCRA A/c" has to be opened in State Bank of India in New Delhi. The govt. shall announce the Branch where the Account needs to be opened.
- i. As per S.No 5 amendment, the govt shall have the power to conduct an enquiry before renewing the FCRA license to ensure fulfillment of three conditions mentioned in the amendment.
- i. The amount which can be spent on Administrative expenses out of foreign Contribution is proposed to be reduced from 50% of the donation to only 20%.

**FCRA has received assent of president & has become law by now.**



**CA Rakesh Chawla**  
B.Com, FCA, DISA

## **GSTR 9 ANNUAL RETURN UNDER GST**

As per **section 44(1) of the CGST Act, 2017 read with rule 80 (1) of the CGST Rules, 2017** every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return for every financial year electronically in Form GSTR-9 through the common portal either directly or through a Facilitation Centre notified by the Commissioner. The said Form should be filed on or before the thirty-first day of December following the end of such financial year. However, the said due date has extended several times for filing the annual return for the financial years 2017–18 and 2018–19.

### **Consequences of failure to submit the annual return**

**(a) Notice to defaulters** - Section 46 of the CGST Act provides 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.

**(b) Late Fee for delayed filing** - Section 47(2) of the CGST Act provides for levy of a late fee of Rs 100/- per day for delay in furnishing annual return in Form GSTR-9, subject to a maximum amount of quarter percent (0.25%) of the turnover in the State or Union Territory. Similar provisions for levy of late fee exist under the State / Union Territory GST Act, 2017.

### **(c) General Penalty for Contravention of Provisions**

As per section 125, any person, who contravenes any of the provisions of this Act or any rules made thereunder for which no penalty is separately

provided for in this Act, shall be liable to a penalty which may extend to twenty-five thousand rupees. An equal amount of penalty under the SGST/UTGST /IGST Act would also be applicable. To sum up, a penalty of up to Rs. 50,000/- could be levied. It is important to note that to impose a penalty under section 125 up to Rs 25,000, the ingredients such as willful default, etc., must be established by a process of adjudication allowing a reasonable opportunity to the taxable person and not imposed as a matter of routine.

### **Analysis of GSTR-9**

GSTR-9 is the relevant form prescribed in terms of Section 44 of the CGST Act. It consists of six parts and nineteen tables as listed below:

Part	Items
I	Basic Details
II	Details of Outward and inward supplies made during the financial year
III	Details of ITC for the financial year
IV	Details of tax paid as declared in returns filed during the financial year
V	Particulars of the transactions for the previous FY declared in returns of April to September of current FY or up to date of filing of annual return of previous FY whichever is earlier.
VI	Other Information

The GSTN portal provides the option to download system computed summary of Form GSTR-9, GSTR-1 and GSTR-3B. The downloaded Form is a consolidation of monthly returns, the consolidated figures of the taxable value, liabilities etc. as per the monthly returns filed by the assessee. However, the



auto-populated data fields are EDITABLE, except few fields in Table 6A & Table 8A of Part III of FORM GSTR-9. It is important to note here that GSTN is providing data from FORM GSTR-1 for reference purposes only which may be used while filing this form. But, this form is to be filled primarily based on the financial year, in which taxes were paid and ITC availed in 3B. This enables the registered person to correct the value and the liability for the reporting financial year. The registered person can pay any additional liability arising out of this FORM GSTR-9, through FORM GST DRC-03 by cash ledger only.

PART-I : Table No. 1 to 3B		
Pt No. 1	Basic Details	GSTR-9
1	Financial Year	<Auto>
2	GSTIN	<Auto>
3-A	Legal Name	<Auto>
3-B	Trade Name (if any)	<Auto>

The Part 1 of GSTR-9 comprises of Basic details of the assessee and hence not discussed in details.

#### PART-II : Table No. 4 (4A to 4N)

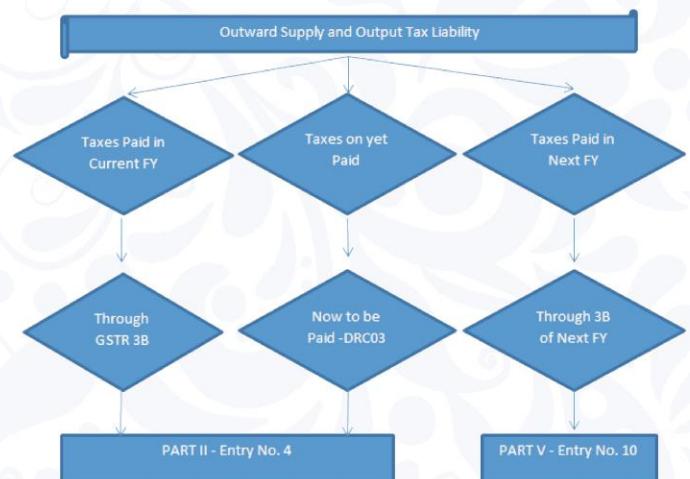
(Taxable Outward Supply, CDNR, Advances and RCM)

Part II of FORM GSTR-9 seeks to capture details of Outward Supply and Inward Supply liable to RCM made during the reporting financial year.

The most important question which arises here is that what transactions are to be reported here. The **instructions to form** provides that **any additional tax liability of the current FY, which has not been discharged till date i.e either in current FY or subsequent period MAY be** declared in this return through DRC-03 (and selecting the option of annual return in DRC-03). Therefore, it is implied that any supply made and invoice issued but totally omitted to be reported in GSTR 3B for which tax has not been paid shall also be included in this table.

This fact is further supported by reading instruction to S.No.7F of Form GSTR 9C (Audit). This Table 7 of GSTR 9C deals with Reconciliation of Taxable Turnover as per Books and as per Annual Return GSTR 9 and Item 7F requires putting in the amount of “Taxable Turnover as per Liability declared in GSTR9”

It is explained through the below Flow Chart:



#### Important Points to be taken care of while filing Table No. 4 of GSTR 9

1. The outward supplies register should be used as a basis for validating the amounts disclosed in the GST returns
2. Only Taxable supplies to be mentioned here and NIL rated or exempted supplies are not to be reported here.
3. Inward supplies on which RCM liability is payable are to be reported here but outward supplies on which RCM is payable by the recipient is not to be reported here.
4. Any commercial/accounting credit note which do not contain the charge of GST should not be adjusted for the calculation of taxable value and tax amounts.
5. Any supply of capital assets is to be carefully verified from the perspective of reporting as it is a Balance Sheet item



6. B2B and B2C transactions should include supply made through E-Commerce Operator .

7. Any stock transfer made between two units would have to be disclosed if made between two Registered Persons even though the same does not form part of the consolidated financial statements.

8. Only those supplies on which tax is payable should be reported. Any exports which are made without payment of tax under LUT or Bond would not be reported here.

**PART– II: Table No. 5 (5A to 5N)**

(No Tax Payable Transactions)

The Government intends to capture the details of all those outward supplies on which tax is not payable. CBIC vide Notification 56/2019- C.T. dated 14.11.2019 categorically stated that for FY 2017-18 & 2018-19, registered persons have an option to club the data for Exempted, Nil Rated and Non-GST Supply (incl. No Supply) in an Exempted row 5D.

**Important Points to be taken care of while filing Table No. 5 of GSTR 9**

1. Zero Rated Supplies on which no taxes have been paid are to be reported here.
2. Outward Supplies on which RCM is payable by recipient are to be reported here.
3. Exempted / Nil Rated / Non-GST Supplies are to be reported here.

**Part–III: Table No. 6 (Gross ITC Taken)**

As per section 16 of the CGST Act, 2017, every registered person is entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business.

The provisions related to this Part of GSTR 9 are explained as below:

S No	Heading	Explanation given in instructions to form	Remarks
6A.	Total amount of input tax credit availed through GSTR 3B (sum total of Table 4A of GSTR 3B)	Total input tax credit availed in Table 4A of FORM GSTR-3B for the taxpayer would be auto-populated here.	The column is auto populated from the returns filed during the year and thus, cannot be altered.
6B.	Inward supplies (other than imports and inward supplies liable to reverse charge but includes services received from SEZs)	Aggregate value of input tax credit availed on all inward supplies except those on which tax is payable on reverse charge basis but includes supply of services received from SEZs shall be declared here. It may be noted that the total ITC availed is to be classified as ITC on inputs, capital goods and input services. Table 4(A)(5) of FORM GSTR-3B may be used for filling up these details. This shall not include ITC which was availed, reversed and then reclaimed in the ITC ledger. This is to be declared separately under 6(H) below.	This Table should contain data which has been disclosed in GSTR 3B for the year. Therefore, there is no scope for revision / addition of data which is available in books of accounts but not disclosed in GSTR 3B. It is relevant to note that if the Regd Person has disclosed gross total ITC [including ineligible ITC u/s 17(5)] in Table 4A of GSTR 3B and reduced the ineligible ITC in Table 4B (2) of GSTR 3B, then he should disclose the gross total ITC [including ineligible ITC u/s 17(5)] in Table 6B of GSTR 9. The ineligible ITC u/s 17(5) would be disclosed in Table 7E of GSTR 9. It is to be noted here that no fresh ITC can be claimed through GSTR9.



6C.	Inward supplies received from <u>un-registered Persons</u> liable to reverse charge (other than B above) on which tax is paid and ITC availed	Aggregate value of input tax credit availed on all inward supplies received from <u>unregistered persons</u> (other than import of services) on which tax is payable on reverse charge basis shall be declared here. It may be noted that the total ITC availed is to be classified as ITC on inputs, capital goods and input services. Table 4(A)(3) of FORM GSTR-3B may be used for filling up these details.	This Table shall include information from total ITC availed in Table 4A (3) of GSTR 3B but it is important to note that column of 4A (3) of GSTR 3B contains tax paid under reverse charge u/s section 9(3) and section 9(4).
6D.	Inward supplies received from Registered person liable to reverse charge (other than B above) on which tax is paid and ITC availed	Table 6D of GSTR 9 contains the aggregate value of input tax credit availed on all inward supplies received from Registered Persons (other than B above) on which tax is payable on reverse charge basis.	<p>However, under Table 6C, only tax paid under reverse charge u/s 9(3) and 9(4) on supplies procured from an unregistered Person shall be disclosed.</p> <p>And tax paid on supplies liable to reverse charge u/s 9(3) of CGST Act and which are obtained from Registered Persons would be disclosed in this Table 6D.</p> <p>There is no scope for revision / addition of data which is available in books of accounts but not disclosed in GSTR 3B.</p>
6E.	Import of goods (including supplies from SEZs)	Details of input tax credit availed on import of goods including supply of goods received from SEZs shall be declared here. It may be noted that the total ITC availed is to be classified as ITC on inputs and capital goods. Table 4(A)(1) of FORM GSTR-3B may be used for filling up these details.	In this Table, the taxable person should report aggregate value of input tax credit availed on all imports (for inputs and capital goods) from outside India or SEZ units. Such data can be sourced from the bill of entry or other similar document for the assessment of Integrated tax on imports.
6F.	Import of services(excluding inward supplies from SEZs)	Details of input tax credit availed on import of services (excluding inward supplies from SEZs) shall be declared here. Table 4(A)(2) of FORM GSTR3B	In this Table, the Registered Person should report aggregate value of input tax credit availed on all import services received from outside India.
6G.	Input tax credit received from ISD	Aggregate value of input tax credit received from input service distributor shall be declared here. Table 4(A)(4) of FORM GSTR-3B may be used for filling up these details	The Registered Person should be in possession of invoice issued by ISD u/r 54(1) of CGST Rules. It is also relevant to note that the ineligible portion of ITC distributed should not be availed as ITC.





6H.	Amount of ITC reclaimed (other than B above) under the provisions of the Act	Aggregate value of input tax credit availed, reversed and reclaimed under the provisions of the Act shall be declared here	The Registered Person should report all input tax credit claimed, reversed and reclaimed by him during the period. <u>Example:</u> ITC reversed on account of non-payment to a vendor within 180 days. When payment is made, the Registered Person is eligible to reclaim the credit. Such credits are to be reported in Table 6H.
6I.	Sub-total (B to H above)	---	---
6J.	Difference (I – A above)	The difference between the total amount of input tax credit availed through FORM GSTR-3B and input tax credit declared in row B to H shall be declared here. Ideally, this amount should be zero.	---
6K.	Amount of ITC through TRAN – I	Details of transition credit received in the electronic credit ledger on filing of FORM GST TRAN-I including revision of TRAN-I (whether upwards or downwards), if any shall be declared here.	In 6K, the Registered Person should report the amount of credit received in the electronic credit ledger through FORM GST TRAN-I. Where the registered tax payer has revised GST TRAN-I, the credit claimed in the revised TRAN-I should be disclosed in this Table.
6L.	Transition Credit through TRAN – II	Details of transition credit received in the electronic credit ledger after filing of FORM GST TRAN-II shall be declared here	In 6L, the Registered Person should disclose the quantum of ITC received in the electronic credit ledger through FORM GST TRAN-II. It is to be noted that the credit through TRAN-II would have been credited to electronic credit ledger in the month in which TRAN-II was filed.
6M.	Any other ITC availed but not specified above	---	Sl. No. 6M of GSTR 9 contains details of the ITC availed but not covered under any of the heads specified under 6B to 6L above. It includes Credit availed under section 18(1)(a) to 18(1)(d) of the CGST Act, 2017 and credit availed under section 18(3) read with Rule 41(1) of CGST Rules, 2017 on account of sale, merger, demerger, amalgamation, lease or transfer of a business and is to be disclosed in table 6M



6N.	Sub-Total (6K to 6M above)	---	This contains the total of all the ITC availed through TRAN-I, TRAN-II and any other ITC availed during the relevant financial year
6O.	Total ITC availed (I+N above)	Total ITC availed as per GSTR-3B and other ITC credited directly to electronic credit ledger by filing TRAN-I, TRAN-II, ITC-01 and ITC-02	---

### Part-III: Table No. 7 (Reversals & Ineligible ITC)

As per instructions to the form, In Table 7A to 7H, details of input tax credit reversed due to ineligibility or reversals required under Rule 37, 39, 42 and 43 of the CGST Rules, 2017 shall be declared. This column should also contain details of any input tax credit reversed under section 17(5) of the CGST Act, 2017 and details of ineligible transition credit claimed under FORM GST TRAN-I or FORM GST TRAN-II and then subsequently reversed. Table 4(B) of FORM GSTR-3B may be used for filling up these details. Any ITC reversed through FORM ITC -03 shall be declared in 7H.

CBIC vide Notification 56/2019- C.T. dated 14.11.2019 categorically stated that for FY 2017-18 & 2018-19, registered persons have an option to club the data of reversal from 7A to 7E to be reported in 7H.

### Part-III: Table No. 8 (Comparison with Form GSTR-2A)

Entry 8 of FORM GSTR-9 contains two sections. The first section relates to the comparison of credit availed on forward charge by the registered person with the credit available as per inward supply uploaded by the suppliers in GSTR-1, duly reflected in FORM GSTR-2A (Clause A to F of Sl. No.8). The second section relates to the comparison of IGST paid on the import of goods with IGST availed on import of goods (Clause G to J of Sl. No. 8). The differences in both the cases (Clause K of Sl. No. 8) is sought 'to have lapsed'

Notification 56/2019- C.T. dated 14.11.2019 categorically stated that for FY 2017-18 & 2018-19, registered persons have an option to upload the details for the entries in Table 8A to 8D (Reconciliation of GSTR-2A with GSTR-3B) \*duly signed, in PDF format in Form GSTR-9C\* (without the CA certification)

**S No 8A** is an auto-populated detail & non-editable. The value of supplies along with relevant nature and amount of tax shall be auto-populated from Tables 3 and 5 of Form GSTR-2A. It is pertinent to mention here that the details of such amounts are now available on the common portal and could be downloaded and verified. This detail differs from the details available in GSTR 2A. Since 2A contains detail of all invoices which the supplier of the registered person has uploaded in his GSTR1 whereas the detail in 8A contains only those ITC which is available to the registered person as per provisions of the Act. It is important to mention here that for FY 2018-19, Table 8A contains the details of only those ITC, for which the supplier has filed his GSTR1 till 31/10/2019. Similarly, Table 8A also excludes those ITC which are not available to registered person as per the provisions of law.

**S No 8B** : The aggregate of input tax credit uploaded in Clause B and H of Entry No. 6 gets auto-populated in this clause.

**S No 8C** : ITC on inward supplies (other than imports and inward supplies liable to reverse charge but includes services received from SEZs) received during Current FY but availed in Next Year within the prescribed time i.e. April to September are to be



reported here. The values forming part of this clause must also form part of T13 (Pt. V of FORM GSTR-9) since Pt. V of FORM GSTR-9 provides for details of previous Financial year's transactions reported in the next Financial year.

**S No 8D :** There may be circumstances where the credit availed in Form GSTR-3B was greater than credit available in form GSTR-2A. In such cases, the value in row 8D shall be negative. Ideally, the value in this clause ought to be positive, since all inward supplies as reported in GSTR-2A may not be an eligible input tax credit. However, in case this clause derives a negative value, it could point to the fact that ITC has been availed by the recipient, but the supplier has failed to upload the invoices in his FORM GSTR-1, leading to the absence of corresponding credits and values in FORM GSTR-2A of the registered person. Hence, it is stressed that working sheets must be prepared based on inward register to determine and find out the exact cause of difference for initiation of remedial action either on the part of the registered person or on the part of suppliers of the registered person. **It is important to note that CBIC through twitter / Press release, on 18.10.2018 clarified that furnishing of outward details in FORM GSTR-1 by the corresponding supplier(s) & facility to view the same in FORM GSTR-2A by the recipient is in nature of registered person facilitation & does not impact the ability of a registered person to avail ITC on self-assessment basis.**

**S No 8E and 8F :** Difference value in S No. 8D when positive, may contain eligible credits that have not been availed by the registered person. It may be due to non availment of ITC due to any reasons. Input tax credit which is neither reflected in GSTR-2A nor claimed in FORM GSTR-3B but taken in books of accounts would not be eligible credit at all and hence the same is not to be entered in this clause.

**S No 8G :** The data to be punched here is to be derived from import register with the help of the Bill of entry and tax paid challans.

**S No 8H :** IGST credit on the import of goods including supplies from SEZ as reflected in 6E of FORM GSTR-9 is auto-populated into this entry. Errors like punching of IGST paid on imports under any other ITC while filling in data in FORM GSTR-3B could create problems for the taxpayer in Table 8.

**S No 8I :** The difference in Table 8I may either be a positive figure or a negative figure. The reason for the negative can be the mistakes committed in the preparation of the Form GSTR-3B.

**S No 8J** reads as 'ITC available but not availed on import of goods'. IGST paid on imported goods, available but not availed and credit is ineligible should also be entered here.

#### **Part-IV : Table No. 9 (Details of tax paid as declared in the returns filed during the Financial Year)**

The purpose of Table 9 in Part IV is to get the consolidated value of tax liability on self-assessed basis including tax payable on additional liability which has not been reported yet and tax paid, discharged through cash and ITC in the monthly returns i.e Form 3B by the Registered Person for the period for which the Annual Return is being filed. Details of tax paid i.e. payment through cash and payment through ITC is auto-populated in GSTR-9 table 9 and it is non- editable field Col 9(3) to 9(7). Tax payable in Col (2) is an editable field. The same must contain the amount of tax liability determined with taxable turnover in Sl.No.4, particularly 4M of GSTR-9.

It is pertinent to note here that where the amount of tax payable as per Col 9(2) is higher than the total of tax paid in Col 3-7, then it shows that there is additional liability to be discharged by the Registered person through DRC 03.

The tax payable as declared in Col 9(2) along with tax details declared in S No. 14 in Part V of the Form which tally with the total tax liability of the Registered person for the financial year. The details given in Part 4 and Part 5 becomes the basis of filing the reconciliation statement in FORM GSTR-9C for the Registered Person for calculating the actual tax liability for the financial year.



Besides, this table also contains the details of interest, penalties and late fee payable and paid by the registered person during the year under consideration.

#### **Part-V: Current Year's Transaction Reported in Next Financial Year**

For FY 2017-18 particulars of the transactions for the previous FY declared in returns of April 2018 till March 2019.

For FY 2018-19, particulars of the transactions for the FY 2018-19 declared in returns between April 2019 to September 2019.

Table 10 and Table 11 of Part V requires details of supplies to mentioned which have been reported in next Financial years and consequent taxes have been paid thereon through amendments in GSTR 1 and GSTR 3B. Table 10 contains the details of additive nature and table 11 contains the details of subtractive nature. The detailed impact of this table has been discussed in Part 4 of GSTR 9 above.

Table 12 requires to report reversal done in next FY pertaining to ITC availed during the current FY. This may pertain to reversal of wrong credit claimed u/s 17(5) or reversal under rule 42/43 done in next FY but pertaining to current FY.

Table 13 requires to report the ITC of current FY availed in next FY within the due date of filing of returns of September of subsequent FY or the date of Annual Return which ever is earlier as per section 16(4). The figure reported here must tally with the figure reported at Table 8C.

Table 14 aims to capture the details of differential tax liability, either increase or decrease, as the case may be, arising out of such reporting by the person filing the Annual Return. Table 14 also shows whether the relevant additional tax arising has been paid or not. The details of Interest in respect of any additional tax payable and paid in Table 14 are also required to be disclosed here.

#### **Part-VI: Other Information – (Table No. 15)**

Details of refund claimed, rejected, pending and sanctioned and also the demands raised and paid during the current FY are to be reported here.

CBIC vide Notification 56/2019- C.T. dated 14.11.2019 categorically stated that for FY 2017-18 & 2018-19, registered persons have an option not to report this information.

#### **Part-VI : Other Information - (Table No. 16,17,18,19)**

Information on supplies received from composition taxpayers, demand supply under section 143 and goods sent on approval basis and the HSN details of outward and inward supplies and late fees payable for belated filing of Annual Return is to be mentioned here.

CBIC vide Notification 56/2019 - C.T. dated 14.11.2019 categorically stated that for FY 2017-18 & 2018-19, registered persons have an option not to report this information.