

# An Exploratory Study on Procedural Compliance Under GST

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## Abstract

This paper attempts to study **compliance** and **procedural** part of GST India which was customized by each state (in VAT/ Sales Tax Regime) **according to model GST regime**. The implementation of the Goods and Services Tax (GST) has overhauled the indirect taxation system of India Inc. Prior to the GST, compliances were akin to a nightmare for an entity operating in multiple geographical locations. Multiple statutes, complex compliance mechanism, cascading effects of indirect taxes, classification disputes etc. were some of the bottlenecks for the trade and industry. At the time of its implementation, Prime Minister Narendra Modi addressed the GST as ‘Good and Simple Tax’. In the last three years, the government has tried its best to keep it good and simple. Several amendments, notifications and clarifications have led to the evolution of this tax regime. After decades of positive deliberation, India has finally accepted the idea of a common indirect tax regime- Goods and Services Tax (GST). Battered with multiplicity of Indirect taxes in the current regime, India Inc has more than welcomed the GST as it brings within its ambit the flavor of ‘*ease of doing business*’ in India, seamless credit flow and a vision of common market across India.

Various trade organizations argue that the government should tackle noncompliance with soft hands initially, rather than with imprisonment, since non-compliance could be erroneous rather than intentional. Navneet Agarwal, State General Secretary of Akhil Bharatiya Udyog Vyapar Mandal, Madhya Pradesh has expressed that, “the government should set a three-year period for transition from the current system to GST, and shouldn’t impose a penalty or punishment on those who commit mistakes in this period. This duration should be treated as a learning period”. The draft Indian Model GST Law<sup>[1]</sup> (‘Model GST Law’) which was made public on 3<sup>rd</sup> December 2015, underlines an overview of the Final GST Act. In this article, we have outlined the key compliance proposed in the Model GST Law and ascertain the ground reality of GST’s claim on considerable ease in doing business in India. Compared to earlier tax laws (i.e., Excise Duty, Service Tax, VAT), the GST tax regime contains a substantial increase in the maximum penalty levied. This indicates the seriousness of the government's intent to ensure GST compliance. However, the government also reserves the right to either fully or partially waive penalties. Moreover, GST law has not yet specified the penalty for breaching the anti-profiteering measure. Finance Minister Arun Jaitley has said that there would be no witch hunt, but no further clarity has been provided.

*Key words: GST, Excise Duty, Service Tax, VAT, compliance*

## Introduction

The largest tax reform of the nation yet, [the Goods and Service Tax \(GST\)](#) aims to bring the entire Indirect Tax market under one umbrella. With such a major reform introduced, some vital aspects of the transition into the new system, such as large-scale implementation methodologies, strict compliance and audit mechanisms are immensely important in ensuring a successful transition and implementation.

GST Compliance can be branched into two – Procedural Compliance and Records Compliance.

The Procedural Compliance of the GST Ecosystem can be further divided into Audit and Assessment.

### Audit

- Audit under GST is the examination of records maintained by the taxable person to verify the correctness of information declared, taxes paid and to assess the compliance with the provisions of GST.
- Every [registered taxable person](#) turnover during a financial year exceeds the prescribed limit [as per the draft rules turnover limit is above Rs 1 crore] must get his accounts audited by a CA or a CMA.
- Audit can be done by the taxpayer himself or by the tax authorities (authorised by the Commissioner of CGST/SGST) or Special audit can be initiated based on the opinion of the tax authorities that the value has not been correctly declared or the wrong credit has been availed.

### Assessment

Assessment means determination of how much tax that is mandated to be paid according to the transactions performed by the taxpayer. In accounting terminology, it is the determination of the tax liability under GST.

It covers-

- Self-assessment
- Provisional assessment
- Scrutiny of returns
- Summary assessment
- Best judgment assessment

Under GST, every registered taxable person shall assess the taxes payable by them on their own, and furnish a return for each tax period. An assessee can request the officer for provisional assessment if he is unable to determine value or rate of tax. The proper officer can allow the assessee to pay tax on a provisional basis at a rate or a value specified by him.

The proper officer can scrutinize the return to verify its correctness. It is a pre-adjudication process. The officer will ask for explanations on any discrepancies noticed in the returns. When the proper officer has evidence that there might be additional tax liability, he can assess the tax liability on a summarily with the prior permission of Additional / Joint Commissioner to protect the interest of the revenue. In the following two situations, Best Judgement Assessment is possible –

1. Assessment of non-filers of returns
2. Assessment of unregistered persons

In simpler terms, for taxation accounting, these accounts are to be mandatorily maintained (apart from regular records like sales, stock, purchases etc) –

1. Electronic Credit Ledger
2. Electronic Liability Ledger
3. Electronic Cash Ledger (to be maintained on Government GST portal to pay GST)

### Objective:

This paper intends to explore and analyze **GST Composition Scheme Rules** that are designed to ensure procedural **compliance** with regard to intimation for the scheme, restrictions and conditions of levy

### Audit under GST

Audit under GST is the examination of records maintained by a registered dealer. The aim is to verify the correctness of information declared, taxes paid and to assess the compliance with GST.



## Records Compliance

The Goods and Service Tax Law asks for the following Records/Accounts to be maintained –

Records	Information Required	By Whom?
Register of Goods Manufactured	Account should contain detail of goods manufactured in a factory or production house	Every assessee carrying out manufacturing activity
Purchase Register	All the purchases made within a tax period for manufacturing of goods or provision of services	All Assessee
Sales Register	Account of all the sales made within a tax period must be maintained	All Assessee
Stock Register	This register should contain a correct stock of inventory available at any given point of time	All Assessee
Input Tax Credit Availed	This register should maintain the details of Input Tax Credit availed for a given tax period	All Assessee
Output Tax Liability	This register should maintain the details of GST liability outstanding to be adjusted against input credit or paid out directly	All Assessee
Output Tax Paid	This register should maintain the details of GST paid for a particular tax period	All Assessee
Other Records Specified	Government can further specify by way of a notification, additional records and accounts to be maintained	Specific Businesses as notified by the govern

## Returns in GST regime

Every registered assessee will be required to file returns (including NIL returns). It is pertinent to note that there could be as many as 8 returns as under:

The return (including NIL return) filing formalities may increase by manifolds as far as periodicity, number of forms and multiplicity of compliances are concerned. Compliance requirement may further become cumbersome as invoice level details are expected to be provided in the returns. For example, a service taxpayer, covered by the Central Service Tax legislation, is currently required to file half yearly return and within the GST regime, same Service Tax assessee might be required to file as many as 61 returns (5 returns per month i.e. GSTR 1, 2,3,6,7 and GSTR 8 annual return).

## Rectification of Errors in return

Rectification of errors for any omission or incorrect particulars (other than as a result of audit, inspection or enforcement activity by the tax authorities) would be allowed in the return period in which such omission/incorrect particulars to specific restriction such as rectification / omission may not be allowed after filing of the return for the month of November following the end of the FY etc.

Given the aforesaid restrictions, it would be advisable that the taxpayers would need to have a robust mechanism to capture correctly the details of invoices, revenue, input invoices and other data in the original return itself. Thus, the taxpayers will have to strengthen their reporting processes and controls.

## Registration in GST regime

GST law on registration provides that a taxable person in the GST regime will be required to take State specific registration. Further, multiple registrations in a State for business verticals would also be permitted.

As per **Schedule III of the GST law**, every person who is registered or holds a license under an earlier law (i.e. current indirect tax regime) would be liable to be registered under GST regime. For new assessee (who is not registered under current indirect tax regime) a threshold (to be calculated on all India basis) of Turnover (as per section 2 (73) of the model GST law) including exports and exempted supplies below which any person engaged in supply of Goods or Services or both will not be required to take registration. Given this, there could be an ambiguity if a person already registered under earlier law if falls under threshold of turnover under GST then whether he is liable for registration under GST law?



As regards registrations, one can also apply voluntarily for GST registration. However, in case of person engaged in inter-state supplies, casual taxable persons or a person liable to GST under reverse charge, irrespective of turnover, registration would be compulsory.

### Payments in GST regime

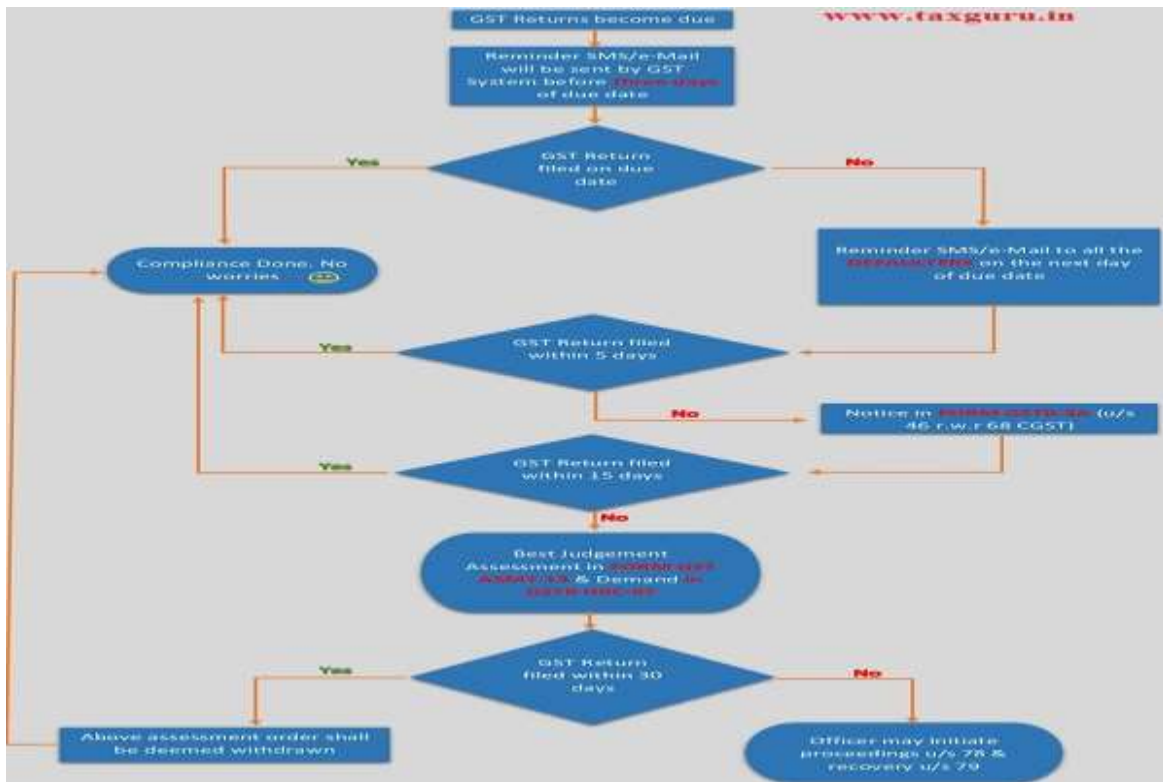
GST law provides that the taxable person will be required to make payment of tax (i.e. CGST, SGST, IGST and Additional Tax) including interest, penalty or fee through electronic cash/credit ledger.

It is worthwhile to know that cross utilisation of electronic cash/credit under IGST for CGST and SGST payment, electronic cash/credit under CGST for IGST payment and electronic cash/credit under SGST for IGST payment will be allowed. However, cross utilisation of cash/credit under CGST for payment of SGST and vice versa will not be allowed. The CGST Act also proposes the levy of late fees to facilitate better GST compliance:

Offense	Late Fee
A person fails to furnish details of outward or inward supplies, monthly return or final return by the due date [Sec 47].	Rs 100 per day while the failure continues, subject to a maximum of Rs 5,000 rupees.
A person fails to furnish the annual return by the due date [Sec 47]	Rs 100 per day while the failure continues, subject to a maximum of quarter percent of the person's turnover in the state where he/she is registered
Deductor fails to furnish TDS certificate to Deductee within 5 days of credit to govt. [Sec 51]	Rs 100 per day, subject to max of Rs 5,000

Further, as per section 47(6) of the Model GST law, where the amount available in the electronic cash or the credit ledger falls short of aggregate of tax, interest, penalty fee or any other amount due the said amount would be liable to be debited in following order:

1. Interest liability related to returns of previous tax periods
2. Tax liability related to returns of previous tax periods
3. Tax liability of current tax periods
4. Any other amount



*Compliance procedure for GST Returns*

**Tax deduction at source**

The Central or State government may mandate Central or State government department, Local authority, Governmental Agency, any category of entities as may be notified by the Central or a State government to deduct tax at the rate of 1% from the payment made or credited to the supplier of taxable goods and / or services as notified by the Central or a State government, where total value of such supply, under the contract, exceeds ₹ 10 lacs. The value of supply for TDS would be excluding the tax indicated on the invoice.

The tax deducted would be paid by the deductor within 10 days after the end of the month in which such deduction is made in the manner prescribed. The deductor would be furnish a certificate to the deductee within 5 days from crediting such tax at source to the appropriate government and default in furnishing of such certificate would be liable to late fee as prescribed under the Act.

Every deductor would be liable to take registration within specified period as prescribed and furnish the return in the form within due date as prescribed, failing which he would be liable to pay late fee of as prescribed under the Act.

## Conclusion

Although the compliances under multiple indirect tax levies such as Excise, VAT etc would cease and grant a relief to the taxpayer (especially manufacturer), the main pain point of reduction in compliances and achieving the objective of “Ease of doing business in India” does not appear to fully achieved given the manifold increase in compliances.

Thus given the drastic change and increase in number of compliances, it is advisable to work towards analysing the impact of the GST on business operations to ascertain the impact on tax, finance, working capital, contracts, operations and compliances to anticipate the changes in advance and gear up accordingly.

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