GOODS & SERVICE TAX

Contents

VALUATION OF SUPPLY

VALUATION OF SUPPLY [SECTION 15 (CGST ACT)]

Value of Supply of goods and/or service

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Transaction Value, subject to:
- Unrelated Parties
- Price is sole consideration

TRANSACTION VALUE

Value of supply shall include:

- Amount that supplier is liable to pay in relation to supply but which is paid by recipient, provided the same is not included in price paid or payable.

  For example, if recipient supplies some inputs free of cost, its value should be includible.

- Taxes and duties other than SGST , CGST or IGST

- Incidental costs/ expenses (such as commission, packing, royalties etc.)

- Subsidies linked to the supply

- Interest or late fee or penalty for delayed payment of any consideration for any supply.

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VALUATION OF SUPPLY [SECTION 15 (CGST ACT)]

TRANSACTION VALUE

Value of supply shall not include any discount given:

- Before or at the time of supply, as recorded in invoice

- After the supply has been affected if:

    i. Such discount gets established in terms of an agreement entered into at or before the time of such supply and linked to relevant invoices, and

    ii. Input Tax Credit (ITC) has been reversed by recipient of supply as is attributable to the discount.

Note:
Where the value of supply of goods or services cannot be determined as stated above, same shall be determined in such manner as may be prescribed.

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CASE LAW: M/S Southern Motors Vs. State Of Karnataka And Others [2017-TIOL-24-SC-VAT]

Held by the Supreme Court, that:

NO Whether mere deferment of actual quantification of trade discounts in the tax invoice due to stipulations of contract, would render the trade discount as fictitious?

NO Whether Rule 3(2)(c) of Karnataka VAT Rules is contradictory to the scheme of Sections 29 & 30 of Karnataka VAT Act, for purposes of ascertaining taxable turnover by enumerating permissible deductions from the total turnover?

YES Whether requirement of reference of discount in the tax invoice or bill of sale to qualify it for deduction, has to be construed in relation to the transaction resulting in the final sale/purchase price and not limited to the original sale sans the trade discount?

YES Whether transactions allowing such discount have to be proved on basis of contemporaneous records, and the final sale price after deducting trade discount must mandatorily be reflected in the accounts as stipulated under Rule 3(2)(c) of KVAT Rules?

GST Valuation (Determination of value of supply of goods & services) Rules, 2016

There are certain situations where the conditions as let down above are not satisfied and transaction value is to be determined as per GST Valuation Rules.

Such situations are given as follows:

❑ Consideration in wholly or partly is not in money.

❑ Transaction is between Related parties.

❑ Fact & circumstances of supply are such as the reliability of transaction suspect.

❑ Transactions of money changer, pure agent, insurer, air travel agent & distributor/ selling agent of lottery.

❑ Such other supply notified by Central Government or State Government from time to time.

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Rule 3: General Rule

Generally Accepted Value

- Transaction Value = Value determined in monetary terms.
- **Eg. M/s A.K Batra & Associates files return for Mr. X for Rs. 5000**

If Supply includes both taxable & non-taxable supplies

- Assessable Value = value attributable to taxable supplies.
- **Eg. Mr. A purchases cloth from a tailor for Rs. 150/meter, and wants to get it stitched from him.**

Transaction with Relatives

- Value = TV if price is not influenced by the relation.
- **Eg. M/s A.K Batra & Associates files return for Mr. X, who is the brother of the senior partner, for Rs. 1000**

Note: If value could not be determined by above then proceed to Rule 4 to 6 in sequence.

Rule 4: Determination of Value of Supply by Comparison

Value of supply = Transaction value of like, kind & quality supplied at or about the same time to other customer by adjusting following factors:

➢ Difference in dates of supply

➢ Difference in commercial levels and quantity levels

➢ Difference in composition, quality and design between the goods and/or services being valued and the goods and/or services with which they are compared

➢ Difference in freight and insurance charges depending on the place of supply

Rule 5: Computed Value Method
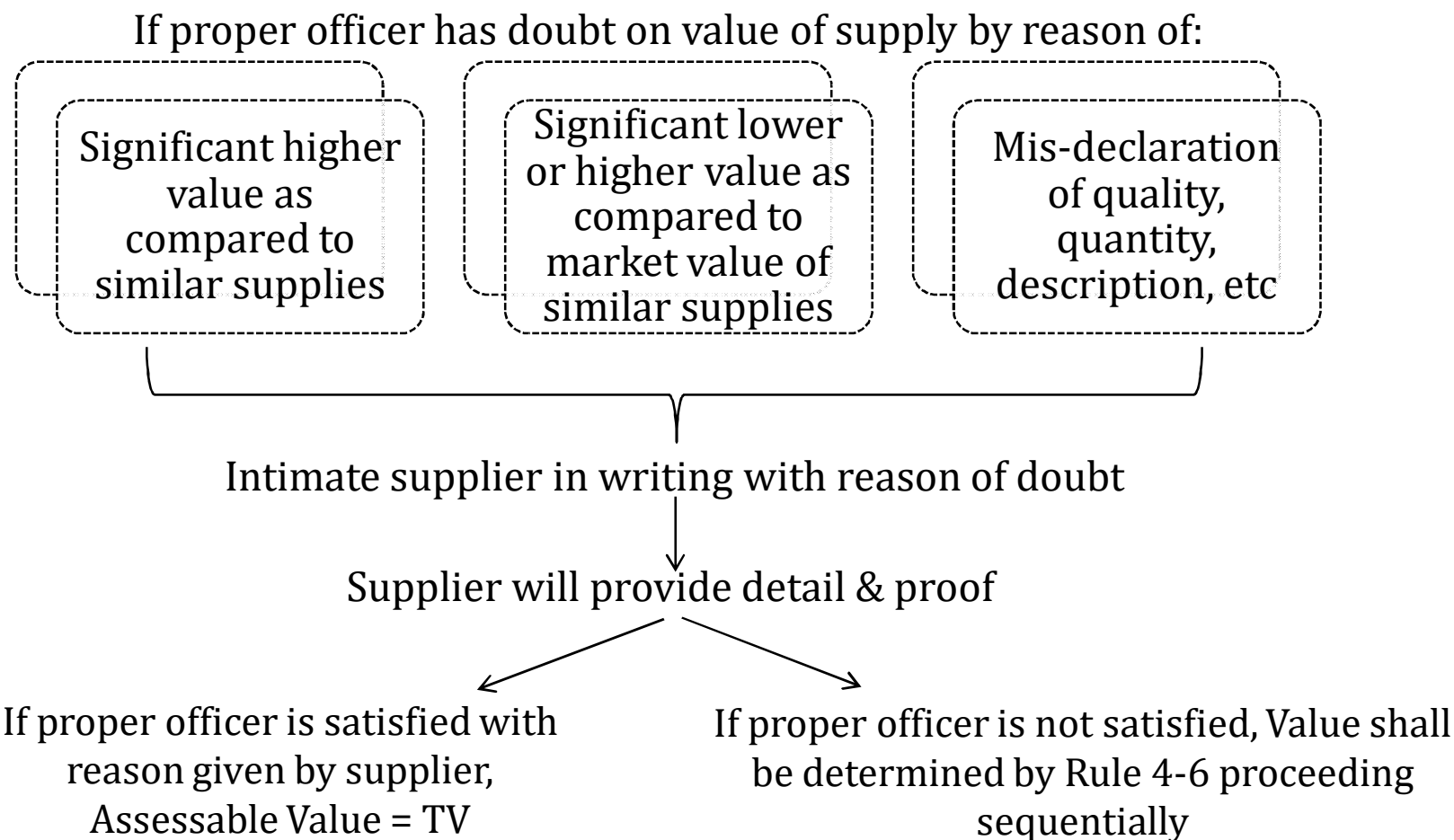
Value of supply = Value computed which includes:

(a) cost of production, manufacture or processing of the goods or,

(b) the cost of provision of the services;

(c) charges, if any, for the design or brand;

(d) an amount towards profit and general expenses equal to that usually charged for similar supply

Rule 6: Determination of Value by Reasonable Means

Where the value of the goods and/or services cannot be determined under the provisions of Rule 5, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules.

Rule 7: Rejection of declared value

This Rule does not provide any assessable value but only gives clarification regarding acceptance of assessable value by the proper officer.

If proper officer has doubt on value of supply by reason of:

| Significant higher value as compared to similar supplies | Significant lower or higher value as compared to market value of similar supplies | Mis-declaration of quality, quantity, description, etc |

Intimate supplier in writing with reason of doubt

Supplier will provide detail & proof

If proper officer is satisfied with reason given by supplier, Assessable Value = TV

If proper officer is not satisfied, Value shall be determined by Rule 4-6 proceeding sequentially

Rule 8: Valuation in certain cases

PURE AGENTS

To understand the this rule, lets take an example:

A is a PURE AGENT engaged in providing building & construction services to B (the recipient of his service). The construction services are provided in the state of Delhi. On B's demand, A is purchasing a House Entrance Gate from Gujarat from trader C.

NOTE: For the purposes of this sub-rule, "pure agent" means a person who–
a) enters into a contractual agreement with the recipient of service to act as his pure agent to incur expenditure or costs in the course of providing taxable service;
b) neither intends to hold nor holds any title to the goods and/or services so procured or provided as pure agent of the recipient of service;
c) does not use such goods and/or services so procured; and
d) receives only the actual amount incurred to procure such goods and/or services.

Contd..

Value of expenditure incurred by pure agent shall be excluded from value of service if all the following conditions are satisfied:

Acts as pure agent & makes payment of such expenditure to 3rd party. (i.e. A is making a payment to C)

Such goods/services are used by recipient of service & not by pure agent. (i.e. The gate will be used for building of B only not by any other recipient of services of A)

Recipient in known of transaction & he authorise pure agent to make payment on his behalf (i.e. B is known of all the facts of the transaction and he himself authorise A to make payment to C)

Such expenses should be separately show in the invoice of pure agent.

Pure agent recover only such amount as paid by him for such expenses. (i.e. A should not charge any commission or any income for such above transaction.)

RETURNS UNDER GST

WHO NEEDS TO FILE RETURN IN GST REGIME?

- Every Registered Taxable Person [RTP]
- Tax payer can file return either by himself or through a facilitation centre. For filing of return Taxpayer can take assistance of Tax Return Preparer (TRP) duly approved by Central or State tax administration.

WHAT IS THE PURPOSE OF THE RETURN?

A return is a statement of specified particulars relating to business activity undertaken by a taxable person during a prescribed period. Following are the various purposes of furnishing returns:

- Mode for transfer of information to tax administration.
- Compliance verification program of tax administration.
- Finalization of the tax liabilities of the taxpayer within stipulated period of limitation, to declare tax liability for a given period.
- Providing necessary inputs for taking policy decision.
- Management of audit and anti-evasion programs of tax administration.

LIST OF RETURNS / DETAILS IN GST

Form No.	Particulars
Form GSTR-1	Details of **outward supplies**
Form GSTR-2	Details of **inward supplies**
Form GSTR-3	**Monthly return** on the basis of finalization of details of outward supplies and inward supplies along with the payment of amount of tax
Form GSTR-4	Quarterly Return for **Composition Supplier**.
Form GSTR-5	Return for **Non-Resident taxable person**
Form GSTR-6	**ISD return**
Form GSTR-7	Return for authorities **deducting tax at source** (TDS)
Form GSTR-8	Details of supplies effected through **e-commerce operator** on which TCS is collected by the operator.
Form GSTR-9	**Annual return**
Form GSTR-10	**Final return**

FURNISHING DETAILS OF OUTWARD SUPPLIES
[GSTR-1]   [Section 32]

Who to file	Every Registered Taxable Person (RTP), except:- a) Input Service Distributor (ISD) b) Non- resident taxable person c) Person paying tax under Section 9 [Composition levy] d) Person who are required to deduct TDS [Section 46] and collect TCS [Section 56]
Time Limit	By 10th of succeeding month.
Details to mention in Outward Supply	Following details to include :- - details of invoices - debit notes, - credit notes and - revised invoices issued in relation to outward supplies made during any tax period.

Contd..

❖ **Time Limit for Correction [Section 32(3)]**

Earlier of-
(a) Furnishing of the return under section 34 for the month of September following the end of the financial year to which such details pertain, or
(b) Furnishing of the relevant annual return.

❖ **Procedural Matters [GST Rules, Return Formats]**

- **Scan copy of Invoices are not to be uploaded in GSTR-1.** Only certain prescribed fields of information from invoices need to be uploaded such as – Invoice No, Date, HSN Code, Accounting code, Value, Taxable value (in case of supply without consideration).

- **For B2B supplies**, details of all invoices, whether Intra-state or Interstate supplies, will have to be uploaded.

- **For B2C supplies**, state wise summaries need to be provided except for invoices above 2.5 Lakhs.

FURNISHING DETAILS OF INWARD SUPPLIES
[GSTR- 2]   [Section 33]

Who to file [Section 33]	Every Registered Taxable Person (RTP), except:- a) ISD b) Non- resident taxable person c) Person paying tax under Section 9 [Composition levy], Section 46 [TDS] and Section 56 [TCS]
Time Limit	After the 10th but on or before 15th of succeeding month
Details to mention in Inward Supply	• Details of inward supplies of taxable goods and/or services, **including inward supplies of services or goods on which the tax is payable on reverse charge basis** under this Act. • Inward supplies of goods and/or services taxable under the IGST Act, and • Credit or debit notes received in respect of such supplies during a tax period.
Special feature	Details of outward supplies furnished by supplier in GSTR-1 get <u>auto populated</u> in GSTR-2A which can be used by recipient to prepare its inward supply details. However some details have to be additionally fed by recipient in GSTR-2 namely, <u>details of imports, details of purchases from non-registered or composition suppliers and exempt/non-GST/nil GST supplies </u>etc.

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Procedural Matters

- In GSTR-2, recipient to specify **inward supplies in respect of which he is not eligible (fully/partially)** for input tax credit where such eligibility can be determined at the invoice level. [Rule 2(3)]

- Further, Recipient also needs to declare **quantum of ineligible input tax** credit on inward supplies which is relatable to non-taxable supplies or for purposes other than business and where such eligibility cannot be determined at the invoice level. [Rule 2(4)]

- If Invoices in GSTR-2 don't match with invoices of counter party in GSTR-1, such mismatch shall be communicated to both the parties. If mismatch continues even after communication, ITC of recipient shall be reversed. However if mismatch is due to non-uploading of invoices by supplier, then supplier needs to upload the invoice and pay the tax along with it in GSTR-3 of the month in which he uploads the invoice.

RETURNS [GSTR-3] [Section 34]

Who to file	Every Registered Taxable Person (RTP), except:-
	    a) ISD
	    b) Non- resident taxable person
	    c) Person paying tax under Section 9 [Composition levy], Section 46 [TDS] and Section 56 [TCS]
	 shall, for every calendar month or part thereof, furnish, a return on or before the 20th day of the succeeding month.

Others	**RTP paying tax under Section 9 [GSTR-4]**	By 18th of month succeeding end of quarter.
	ISD [GSTR-6]	By 13th of succeeding month .
	Person required to deduct TDS [GSTR-7]	By 10th of succeeding month .
	Non-resident taxable person [GSTR-5]	By 20th of succeeding month or within 7 days after the last day of the validity period of registration, whichever is earlier.

Details to mention in Return	• Details of inward and outward supplies of taxable goods and/or services. • Input tax credit availed. • Tax Payable • Tax Paid • Other particulars as may be prescribed

❖ **Special feature**

- Details uploaded under GSTR-1, GSTR-2, electronic credit/cash ledger and electronic liability register shall be auto-populated, which can be used by RTP to prepare its monthly / quarterly return (GSTR-3)

❖ **Procedural Matters**

- RTP shall not be allowed to furnish return for a tax period if **valid return** for any previous tax period has not been furnished by him.

- RTP shall furnish GSTR-3, for every tax period, whether or not any supplies have been effected during such period.

- Every RTP, who is required to file GSTR-3, shall pay to the credit of the appropriate government the tax due as per such return not later than the last date [20th of the succeeding month] on which he is required to furnish the return.

- GSTR-3 furnished, shall not be considered as a valid return unless full payment of tax has been made by the RTP.

- A notice in FORM GSTR-3A shall be issued, electronically, to a registered taxable person who fails to furnish return under Section 34 [Monthly return].

❖ Correction in Return

If any taxable person after furnishing a return in GSTR-3, <u>discovers any omission or incorrect particulars therein</u>, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the return to be filed for the month or quarter, as the case may be, during which such omission or incorrect particulars are noticed, subject to payment of interest, where applicable and as specified in the Act. There is no concept of revision of return under GST.

❖ Time Limit for Correction

Earlier of-

(a) Filing of the return under Section 34 for the month of September following the end of the financial year to which such details pertain, OR

(b) Filing of the relevant annual return.

HOW TO FILE GST RETURNS?

Step1:

- The taxpayer will upload the final GSTR-1 return form either **directly through data entry at the GST Common Portal** or by uploading the file containing the said GSTR-1 return form through **Apps by 10th day of month** succeeding the month during which supplies has been made.
- The increase / decrease (in supply invoices) would be allowed, within a period of 7 days.

Step2:

- GST Common Portal (GSTN) will **auto-draft the provisional GSTR-2** of taxpayer based on the supply invoice details reported by the counter-party taxpayer (supplier) on a near real-time basis.

Step3:

- Purchasing taxpayer will **accept / reject/ modify** such auto-drafted provisional GSTR-2.

Step 4:

- Purchasing taxpayer will also be able to **add additional purchase invoice details** in his GSTR-2 which have not been uploaded by counter-party taxpayer (supplier), provided he is in possession of valid invoices issued by counter-party taxpayer.

Step 5:
- Taxpayers will have the option to do **reconciliation of inward supplies** with counter-party taxpayers (suppliers) during the next 7 days by following up with their counter-party taxpayers for any missing supply invoices in the GSTR-1.
- All the invoices would be auto-populated in the ITC ledger of taxpayer.

Step 6:
- Taxpayers will finalize their GSTR-1and GSTR-2 by using **online facility at Common Portal** or using GSTN compliant **off-line facility** in their accounting applications, determine the liability on their supplies, determine the amount of eligible ITC on their purchases and then generate the net tax liability from the system for each type of tax.
- **Cash details** as per personal ledger/ carried forward from previous tax period, ITC carried forward from previous tax period, ITC reversal and associated Interest/Penalty, taxes paid during the current tax period etc. would get auto-populated in the GSTR-3.

Step 7:
- Taxpayers will **pay the amount** as shown in the draft GSTR-3 return generated automatically at the Portal post finalization of activities mentioned in Step 6 above.

Step 8:
- Taxpayer will **debit the ITC ledger and cash ledger** and mention the debit entry No. in the GSTR-3 return and would submit the same.

FIRST RETURN [SECTION 35]

Every RTP paying tax under the provisions of Section 8 (Levy and Collection of Central/State Goods and Services Tax) shall furnish the first return containing the details as follows-

	Outward supplies under Section 32, from the date on which he became liable to registration till the end of the month in which registration has been granted.	Inward supplies under Section 33, from the effective date of registration till the end of the month in which registration has been granted.

Provided that RTP, paying tax under the provisions of Section 9 [Composition Levy] shall furnish the first <u>return for the period starting from the date on which he becomes RTP till the end of the quarter in which the registration has been granted.</u>

RETURNS BY DIFFERENT CLASS OF TAX PAYERS

CATEGORY	PROVISION	TIME LIMIT
Composition Supplier **[GSTR-4]**	Every RTP paying tax under Section 9 shall furnish a quarterly return in <u>FORM GSTR-4.</u>	Within 18 days from the end of the Quarter [Tax period
Non-resident **[GSTR-5]**	Every registered non-resident taxable person shall furnish a return in <u>FORM GSTR-5.</u>	<u>Earliest of-</u> Within 20 days after the end of a tax period or within 7 days after the last day of the validity period of registration.
Input Service Distributor **[GSTR-6]**	Every ISD shall furnish electronically a return in FORM GSTR-6.	Within 13 days from the end of the month.

RETURNS BY DIFFERENT CLASS OF TAX PAYERS

SUPPLIER	PROVISION	TIME LIMIT
Person required to deduct tax at source **[GSTR-7]**	Every RTP required to deduct TDS u/s 46 shall furnish a return in <u>FORM GSTR-7</u>. The details furnished by the operator in GSTR -7 shall be made available electronically to each of the suppliers in Part C of FORM GSTR-2A on the Common Portal after the due date of filing of FORM GSTR-7.	Within 10 days from the end of the month.
E-Commerce Operator **[GSTR-8]**	Every e-Commerce operator required to collect tax at source under section 56 shall furnish a statement in <u>FORM GSTR-8</u>, containing details of supplies effected through such operator and the amount of tax collected. The details furnished by the operator above shall be made available electronically to each of the suppliers in Part D of FORM GSTR-2A on the Common Portal after the due date of filing of FORM GSTR-8.	Within 10 days from the end of the month.

ANNUAL RETURN [SECTION 39]

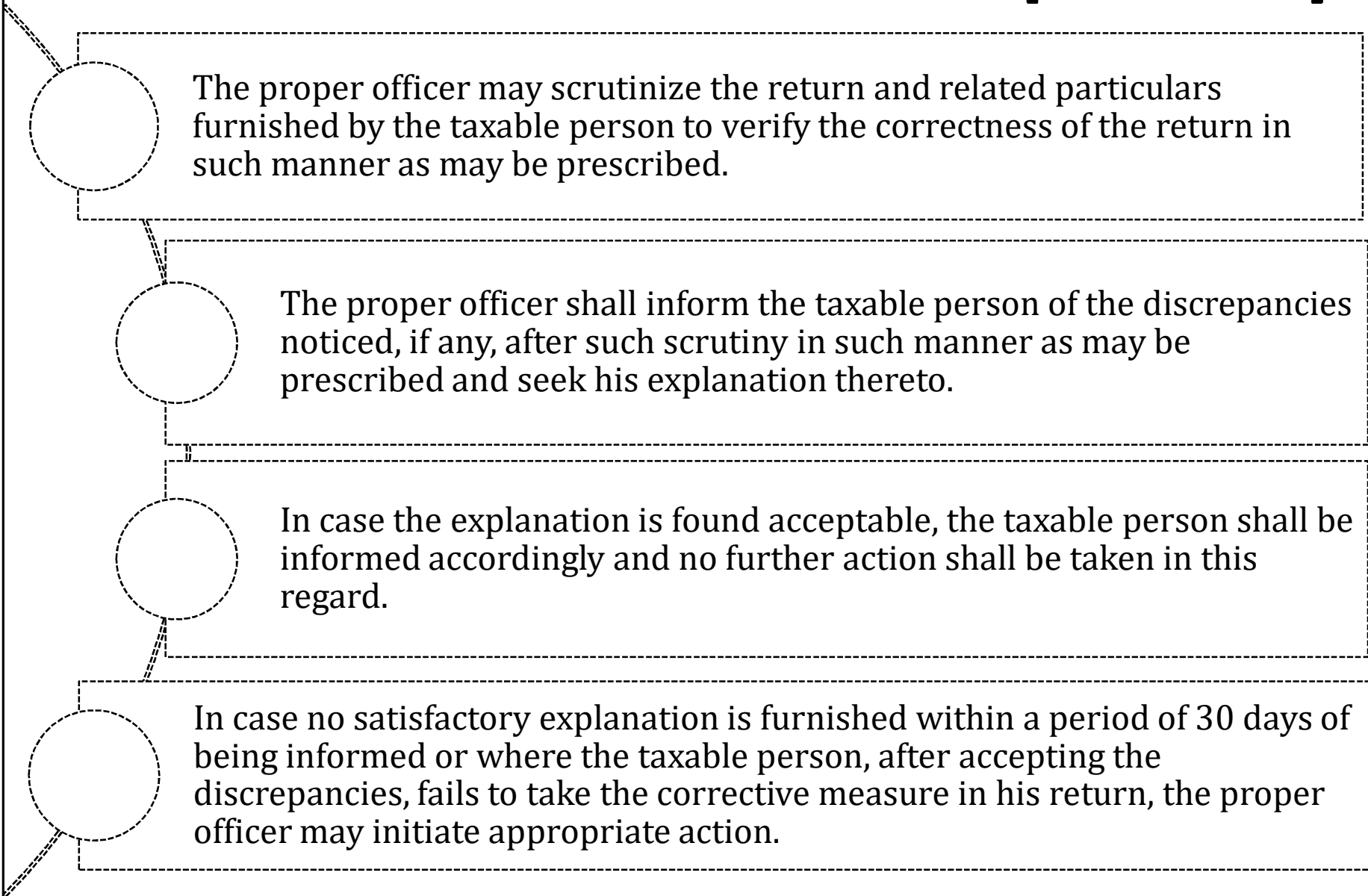|	
Who to file	Every RTP, except:- a) ISD b) Person who are required to deduct TDS [Section 46] and collect TCS [Section 56] c) Casual Taxable Person d) Non-resident Taxable Person
Time Limit	On or before 31st day of December following the end of such financial year.
Form	GSTR-9, except RTP, paying tax under Composition Levy (Section 9) shall furnish the annual return in FORM GSTR-9A.
Audit	Every RTP, whose aggregate turnover during a financial year exceeds the prescribed limit shall get his accounts audited and he shall furnish, electronically, following details- • Annual Return [GSTR-9] • Audited annual accounts and reconciliation statements [GSTR-9B] • Other particulars as may be prescribed.

FINAL RETURN
[SECTION 40]

Who to file	Every RTP, who <u>applies for cancellation of registration</u>.
Time Limit	Later of- Within 3 months of • Date of cancellation. • Date of cancellation order.
Form	GSTR- 10
Notice	A notice in FORM GSTR-3A shall be issued, electronically, to a registered taxable person who fails to furnish return under Section 34 and Section 40 [Final return].

LEVY OF LATE FEE
[SECTION 42]

S. No.	PARTICULARS	TIME LIMIT
1.	• Details of outward supplies [Section 32] • Details of inward supplies [Section 33] • Monthly Return [Section 34] • Final Return [Section 40]	Rs. 100/- per day during which such failure continues, subject to maximum of Rs. 5000/-
2.	• Annual Return [Section 39]	Rs. 100/- per day during which such failure continues, subject to maximum of quarter percent (0.25%) of turnover in the State.

SCRUTINY OF RETURNS [SECTION 59]

The proper officer may scrutinize the return and related particulars furnished by the taxable person to verify the correctness of the return in such manner as may be prescribed.

The proper officer shall inform the taxable person of the discrepancies noticed, if any, after such scrutiny in such manner as may be prescribed and seek his explanation thereto.

In case the explanation is found acceptable, the taxable person shall be informed accordingly and no further action shall be taken in this regard.

In case no satisfactory explanation is furnished within a period of 30 days of being informed or where the taxable person, after accepting the discrepancies, fails to take the corrective measure in his return, the proper officer may initiate appropriate action.