Nanubhai Desai & Co.

Compliances under Goods & Services Tax

About Nanubhai Desai & Co.

Nanubhai Desai & Co., established in 1950 in Mumbai, has evolved into a well-recognized high quality personalized services firm. Our extensive knowledge and expertise across various service areas, including Audit and Assurance, Direct Taxes, Accounting, International Tax, and Consultancy services, enable us to offer a "One Stop Platform" by setting a benchmark of excellence in each domain.

With years of experience, we cater to a diverse clientele, including multinational companies (MNCs), foreign companies and their Indian subsidiaries, as well as public and private enterprises spanning industries such as hospitality, trading, fund & private wealth management, IT, and more. Our team comprises dedicated professionals with diverse skills and proficiency, capable of serving clients of all sizes across different sectors.

NDCo embodies a harmonious mix of seasoned expertise and youthful vigour, united by a shared vision of delivering exceptional services and unwavering support to our clients. It's a source of great professional pride that we have attained high level of trust and confidence of our clients.

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TERMINOLOGY GUIDE

ARN	Application Reference Number
B2B	Business to Business
B2C	Business to Consumer
CGST	Central Goods and Services Tax
EWB	E-Way Bill
EVC	Electronic Verification Code
GST	Goods and Services Tax
HSN	Harmonized System of Nomenclature
ITC	Input Tax Credit
IGST	Integrated Goods and Services Tax
SAC	Service Accounting Code
SGST	State Goods and Services Tax
TCS	Tax Collected at Source
TDS	Tax Deducted at Source
TIN	Taxpayer Identification Number
UIN	Unique Identification Number

1. INTRODUCTION

The Goods and Services Tax (GST) is a unified, destination-based tax imposed on goods and services consumed within an economy. It aims to create a single, uniform indirect tax system across India, fostering a unified market. Since its introduction on July 1, 2017, complying with GST regulations has been a significant challenge for businesses. Compliance demands a deep understanding of tax laws, expertise, and technology due to its extensive, paperless, and data-driven nature, with nuances specific to different sectors. Digitalization has revolutionized tax administration and compliance processes.

The GST Council has established rules governing record-keeping, invoicing, reporting of purchases and sales, and tax payment and return filing procedures. Adhering to these regulations is essential for GST compliance, as non-compliance can result in substantial costs for businesses. The legislation also imposes severe penalties for errors leading to underpayment of taxes or incorrect utilization of tax credits.

The GST compliance rating, assigned by the government, reflects a business's level of compliance with tax regulations, enabling other businesses to gauge their compliance with the tax authorities. The new GST framework emphasizes compliance, mandating businesses to adhere to government-set compliance rules, which encompass registration, tax invoice issuance, and return filing requirements. Additionally, specific compliance obligations may vary depending on the nature of the business.

2. COMPLIANCES UNDER GST

a. Registration

Under Goods and Services Tax (GST) law, a supplier is required to obtain registration (subject to certain conditions) in every state from where he makes taxable supply of goods or services or both. The law provides for various conditions/situations/circumstances under which the supplier of goods or services (or both) is required to obtain registration. These are:

i. Registration based on aggregate turnover (Section 22)

→ Every supplier must register under this Act in the State or Union territory where they make taxable supplies of goods or services if their aggregate turnover in a financial year exceeds twenty lakh rupees, except for special category States.

→ If a supplier makes taxable supplies from any of the special category States, they must register if their aggregate turnover exceeds ten lakh rupees in a financial year.

→ Article 279A(4)(g) of the Constitution lists 11 Special Category States: Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh, and Uttarakhand.

→ However, for registration purposes, only Mizoram, Tripura, Manipur, and Nagaland are considered Special Category States, as per explanation (iii) to section 22. Therefore, the threshold limit of Rs. 10 lakh applies to Mizoram, Tripura, Manipur, and Nagaland.

→ Notification No. 10/2019 CT DATED 07.03.2019 exempts certain persons exclusively engaged in the supply of goods from obtaining registration if their aggregate turnover in the financial year does not exceed Rs. 40 lakhs.

→ The enhanced threshold limit of Rs. 40 lakhs apply to those exclusively engaged in the supply of goods, excluding those making intra-State supplies in specific states, those required for compulsory registration under section 24, and suppliers of specified items such as ice cream, pan masala, and tobacco.

ii. Mandatory registration (Section 24)

→ Persons making INTER-STATE TAXABLE SUPPLY

- Suppliers making inter-state supplies of taxable services, with aggregate turnover not exceeding Rs. 20 lakhs (Rs. 10 lakhs for special category), are exempt from registration.
- Inter-state supply of Handicraft Goods is exempt from registration if the aggregate annual value of all supplies PAN-India is less than Rs. 20 lakhs/10 lakhs.
- Job workers with turnover less than Rs. 20/10 lakhs are exempt from registration, except for specified categories like Jewelry manufacturing.

→ CASUAL TAXABLE PERSONS MAKING TAXABLE SUPPLY

- Casual taxable persons without a fixed place of business in the State are exempt from compulsory registration, except for supplying specified handicraft goods (Section 24(ii)).

→ Persons liable to pay tax under REVERSE CHARGE MECHANISM

- Persons required to pay tax under reverse charge mechanism, with exceptions like legal services provided by advocates to a business entity with aggregated turnover below the threshold limit u/s 22(1).

- → Persons required to pay tax under Section 9(5)
  - Tax paid by ECOs on behalf of suppliers for specific services, including transportation, accommodation, and housekeeping.
- → Non-Resident Taxable Person (NRTP)
  - Non-resident taxable persons making taxable supply, irrespective of turnover limits (Section 24(v)).
- → Persons required to DEDUCT TAX UNDER SECTION 51
  - TDS deductors under GST Act, including government departments, local authorities, PSUs, and other specified entities (Section 24(vi)).
- → AGENTS
  - Persons making taxable supplies on behalf of other taxable persons, with exceptions for C&F agents if turnover is below a specified limit (CBIC Circular No. 57/31/2018-GST).
- → Input Service Distributor (ISD)
  - Offices of suppliers receiving tax invoices for input services and distributing credit to suppliers with the same PAN (Section 24(viii)).
- → SUPPLYING THROUGH ECO
  - Suppliers using ECOs liable to collect tax at source, excluding specified supplies (Section 24(ix)).
- → ECO
  - Every ECO required to collect tax at source, irrespective of turnover (Section 24(x)).
- → Person supplying OIDAR services
  - Persons supplying online information and database access from outside India to persons in India, except registered persons (Section 24(xi)).
- → Notified Persons
  - Other persons or classes of persons as notified by the Government on the recommendations of the Council (Section 24(xii)).

iii. Voluntary registration

Voluntary registration provides option to a person to take GST registration even though he is not liable for GST registration under section 22 or section 24 of CGST Act, 2017 or SGST/UTGST Act, 2017.

iv. Persons exempted from obtaining registration (Section 23)

- → Person exclusively engaged in the supply of those goods/services, which are not liable to tax or wholly exempt from tax
- → An agriculturist to the extent of supply of produce out of cultivation of land
- → Person who are only engaged in making supplies of taxable goods or services or both, the total tax on which is liable to be paid on reverse charge basis by the recipient.

b. Invoice, Debit Note and Credit Note

i. Tax Invoice (Section 31)

Every registered person supplying goods or services is required to issue invoice within prescribed period.

Timelines for issuance of invoice

→ For supply of goods
- In cases where supply involves movement of goods, invoice is to be issued before or at the time of removal of goods
- In other cases, invoice is to be issued before or at the time of delivery of goods

→ For supply of service
- Within 30 days from the date of supply of services
- Within 45 days from the date of supply of services in case of insurer, banking company, financial institution and nonbanking financial companies (NBFCs)

→ For continuous supply of goods
- Where successive statements of accounts or successive payments are involved, the invoice shall be issued before or at the time each such statement is issued/payment is received

→ For continuous supply of services
- Where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before the due date of payment
- Where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment
- Where the payment is linked to the completion of an event, the invoice shall be issued on or before the date of completion of that event

ii. Credit Note (Section 34)

→ The supplier of goods/services may issue a credit note in below cases:
- Taxable value/tax charged on the invoice exceeds the actual taxable value/tax payable
- Goods returned by the customer
- Goods/services supplied by the supplier found to be deficient

→ Time-limit for taking tax adjustment in respect of credit notes
- The supplier would be eligible to reduce his output tax liability in respect of credit notes, if the credit notes have been issued and reported in, earliest of:
- Monthly return for the month in which such credit note has been issued (not later than the GST return for October of the next FY in which supply was made)
- Date of furnishing annual return for the year in which supply was made

iii. Debit Note (Section 34)

The supplier of goods/services is required to issue debit note where the value of taxable supply or tax charged on the invoice issued by him is found to be less than the actual value/tax payable in respect of such supply. Debit note is to be reported in the periodical returns for the month in which such debit note is issued. A single consolidated credit note/debit note can also be issued against multiple invoices.

iv. Bill of Supply (Section 31(3)(c))

A registered person supplying exempted goods/services or a supplier paying tax under composition scheme is required to issue bill of supply instead of a regular tax invoice.

v. Payment Voucher (Section 31(3)(g))

A registered person (recipient) is required to issue payment voucher at the time of making payment in respect of supplies covered under reverse charge. In addition to the above, the person receiving supplies covered under reverse charge, is also required to issue invoice (where the supplier is not registered).

vi. Receipt Voucher (Section 31(3)(e))

A receipt voucher is a document required to be issued for receipt of advance against the supply.

vii. Refund Voucher (Section 31(3)(c))

When the amount received in advance against supply is refunded by the supplier, refund voucher is required to be issued by the supplier.

viii. Invoice cum Bill of Supply (Rule 46A)

Where a registered person is supplying taxable as well as exempted goods or services or both to an unregistered person, a single invoice-cum-bill of supply can be issued for all such supplies.

ix. Electronic Invoicing

→ Applicability

- The registered persons whose aggregate turnover in a preceding FY exceeds INR 5 crore are required to issue e-invoice and generate IRN in respect of supply to registered persons (i.e. business-to-business or B2B transactions).

→ Exceptions

The following category of taxpayers are not required to generate IRN and QR code on their invoices:

- Insurer or a banking company or a financial institution including an NBFC
- Goods transport agency
- Passenger transportation service provider
- A registered person supplying services by way of admission to exhibition of cinematograph films in multiplex screens

→ Time Limit

- From May 1, 2023, businesses with an Annual Aggregate Turnover (AATO) of INR 100 crore or higher are required to generate e-invoices for tax invoices and credit-debit notes within 7 days of the invoice date. Failure to do so will render these invoices and CDNs non-compliant.

c. Accounts and Records

Accounts and Records to be maintained by the registered person:

- Inward and outward supplies of goods and services [Section 35 (1)]
- Production or manufacture of goods [Rule 56 (12)]
- Stock of goods [Rule 56 (2)]
- Input tax credit availed and output tax paid and payable [Rule 56 (4)]
- Register of documents [Rule 56 (4)]
- Other records [Rule 56 (5)]
- Records in relation to works contract [Rule 56 (14)]
- Accounts and records to be maintained by Agent [Rule 56 (11)]
- Records to be maintained by owner or operator of warehouse and transporters
- Maintenance of electronic records (Section 35 and Rule 57)

d. Input Tax Credit (ITC)

i. Meaning

Input tax credit (ITC) in GST laws has been defined to mean any tax (CGST, SGST or IGST) charged on any supply received by the recipient. In addition to this, it also includes.

→ IGST charged on import of goods
→ Taxes paid under reverse charge mechanism
→ But it excludes tax paid under composition levy

ii. Conditions of Availment of ITC

→ Possession of Tax invoice or other document
→ Receipt of goods or services or both
→ Payment of tax to government by supplier
→ Filing of return by recipient

iii. Restrictions on Availment of ITC

A registered person would not be entitled to claim/take ITC in respect of:

→ Taxes paid in respect of non-business supplies
→ Taxes paid in respect of exempted supplies
→ Taxes paid in respect of certain inward supplies mentioned in Section 17(5) of the CGST Act (blocked credits)

iv. Blocked Credit [17(5)]

→ Motor vehicles, vessels, and aircraft

a) Motor vehicles with an approved seating capacity of up to 13 persons used for passenger transportation are eligible for input tax credit if used for:
   - Transportation of passengers.
   - Further supply of such vehicles.
   - Providing driving training.

b) Vessels and aircraft are eligible for input tax credit if used for:
   - Transportation of passengers.
   - Transportation of goods.
   - Further supply of such vessels and aircraft.
   - Providing navigation or flying training.

→ Service relating to general insurance/servicing/repair and maintenance of motor vehicles, vessels, or aircraft:

a) ITC is available for such services when received by taxable persons engaged in:
   - Manufacture of such vehicles/vessels/aircraft.
   - Supply of general insurance services for such vehicles/vessels/aircraft.

b) Input tax credit is also available when vehicles/vessels/aircraft are used for the specified purposes.

→ Leasing or Renting or hiring of motor vehicles/vessels/aircraft

Input tax credit is available when vehicles/vessels/aircraft are used for the specified purposes.

→ Others

a) Works contract service for construction of an immovable property (excluding plant and machinery) is eligible for ITC if it's used for further supply of works contract service.

b) Goods or services received for construction of an immovable property (excluding plant and machinery) are not eligible for credit, except when used for furtherance of business.

c) Goods or services received under section 10 (composition scheme) or by a non-resident taxable person are not eligible for credit.

d) Credit is not available for goods or services used for personal consumption or for specified purposes like gifts, free samples, or certain taxed events.

e) Credit is not available for certain taxed events under sections 74, 129, and 130.

f) Credit is not available for specified categories like food, beverages, catering, beauty treatments, health services, insurance, club memberships, travel benefits for employees, etc.

g) Input tax credit is available when goods or services are used for making taxable outward supply of the same category or as part of a taxable composite/mixed supply.

e. GST Returns

The various types of GST return that need to be filed under the Goods and Services Tax (GST) regime are:

i. **GSTR-1 (Outward Supplies Return):** This return includes details of outward supplies made by the registered taxpayer. It needs to be filed by the 11th of the succeeding month.

ii. **GSTR-3B (Monthly Summary Return):** This is a monthly self-declaration summary return to report summary details of outward and inward supplies along with the payment of tax. It needs to be filed by the 20th of the succeeding month.

iii. **GSTR-4 (Quarterly Return for Composition Taxpayers):** Composition scheme taxpayers file this quarterly return to declare their turnover and pay tax at a fixed rate. It needs to be filed by the 18th of the month succeeding the quarter.

iv. **GSTR-5 (Return for Non-Resident Foreign Taxpayers):** Non-resident taxpayers file this monthly return to furnish details of their inward and outward supplies. It needs to be filed within 20 days after the end of the month or within 7 days after the last day of validity of registration, whichever is earlier.

v. **GSTR-6 (Input Service Distributor Return):** This return is filed by Input Service Distributors (ISD) to distribute the input tax credit to units receiving input services. It needs to be filed by the 13th of the succeeding month.

vi. **GSTR-7 (Return for Tax Deducted at Source):** This return is filed by taxpayers who are required to deduct tax at source (TDS). It contains details of TDS deducted, payable, and paid. It needs to be filed by the 10th of the succeeding month.

vii. **GSTR-8 (E-Commerce Operator Return):** E-commerce operators file this return to furnish details of supplies made through their platform and the tax collected. It needs to be filed by the 10th of the succeeding month.

viii. **GSTR-9 (Annual Return):** This is an annual return filed by regular taxpayers containing details of outward and inward supplies, tax paid, ITC availed, etc., for the financial year. It needs to be filed by the 31st of December of the succeeding financial year.

ix. **GSTR-9C (Reconciliation Statement):** This is a reconciliation statement filed along with the annual return (GSTR-9) by taxpayers whose turnover exceeds Rs. 2 crores in a financial year. It needs to be filed by the 31st of December of the succeeding financial year.

x. **GSTR-10 (Final Return):** This return is filed by taxpayers whose GST registration has been cancelled or surrendered. It needs to be filed within three months from the date of cancellation or surrender.

f. Export, Imports and Related procedure

i. Meaning

→ Export of goods

- Export of goods with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India

→ Export of services

- Export of services means the supply of any services subject to fulfilment of certain conditions. These conditions are given below:

Supplier of service	located in India
Recipient of service	located outside India
Place of supply of service	outside India
Payment	convertible foreign exchange (or in INR wherever permitted by RBI)
Supplier and recipient of services	not merely establishment of a same legal entity

ii. Options for effecting zero rated supplies

→ Without payment of IGST under the cover of Bond/LUT (refund can be claimed for accumulated ITC)

→ With payment of IGST (refund can be claimed for IGST paid)

iii. Letter of Undertaking (LUT)

→ Furnishing of LUT in place of Bond

- All registered person under GST law shall furnish LUT in place of bond if: The said registered person has not been prosecuted for any offence under the CGST Act, 2017 or the IGST Act, 2017 or any of the existing laws in force in a case where the amount of tax evaded exceeds INR 250 lakh

→ Validity of LUTs

- LUT shall be valid for whole FY in which it is tendered.

→ Withdrawal of LUT facility

- LUT facility shall be withdrawn if goods are not exported within three months or extended period as may be allowed by the commissioner and specified amount of tax due along with interest is not paid and such facility will be restored after payment of such tax and interest.
- Meanwhile, exports shall be either on payment of tax or under bond with bank guarantee.

iv. Furnishing of bond

→ Applicability

- Every exporter opting to export goods or services without payment of IGST and who is not eligible to furnish LUT

→ Procedure

- A running bond shall be furnished on non-judicial stamp paper of the amount equals to self-assessed estimated tax liability on the export and in case amount is not sufficient, a fresh bond is required to furnish.
- Bond along with complete documents submitted by the exporter shall be accepted within a period of three working days from the date of submission.
- Bond in all cases shall be accompanied by a bank guarantee of the 15% of bond amount.

v. Deemed Exports

The notified goods would be deemed to be exported, if such goods are manufactured in India although they do not leave India and payments are received in Indian rupees or convertible foreign exchange.

The central government has notified the following supplies of goods as deemed export:

- Supply of goods by a registered person against advance authorization
- Supply of capital goods by a registered person against export promotion capital goods (EPCG) authorization
- Supply of goods by a registered person to export oriented unit (EOU)
- Supply of gold by a bank or public sector undertaking against advance authorization

g. E-Way Bill

Every registered person causing movement of goods of value more than INR 50,000

→ In relation to a supply or

→ For reasons other than supply or

→ Due to inward supply from an unregistered person shall before such movement fill Part A of FORM GST EWB-01, electronically, on the common portal.

The transporter on an authorization received from the registered person, may furnish information in Part A of FORM GST EWB-01, electronically, on the common portal and a unique number will be generated on the said portal.

3. CONSEQUENCES OF NON-COMPLIANCE UNDER GST

Non-compliance with GST regulations can result in various consequences, ranging from penalties to legal actions. Here are the potential consequences of non-compliance under GST:

a. **Penalties:** GST authorities may impose penalties for various types of non-compliance, including late filing of returns, incorrect filing, or failure to register under GST.

b. **Interest:** In addition to penalties, interest may be levied on overdue tax payments or late filing of returns.

c. **Cancellation of Registration:** GST registration may be canceled if a taxpayer consistently fails to comply with GST regulations or fails to file returns for an extended period.

d. **Seizure of Goods:** In cases of serious non-compliance, GST authorities may seize goods or assets of the taxpayer to recover tax dues.

e. **Legal Proceedings:** Non-compliance with GST may lead to legal proceedings, including prosecution of the taxpayer for tax evasion or fraudulent activities.

f. **Loss of Reputation:** Non-compliance can damage the reputation of the taxpayer and their business, affecting relationships with customers, suppliers, and other stakeholders.

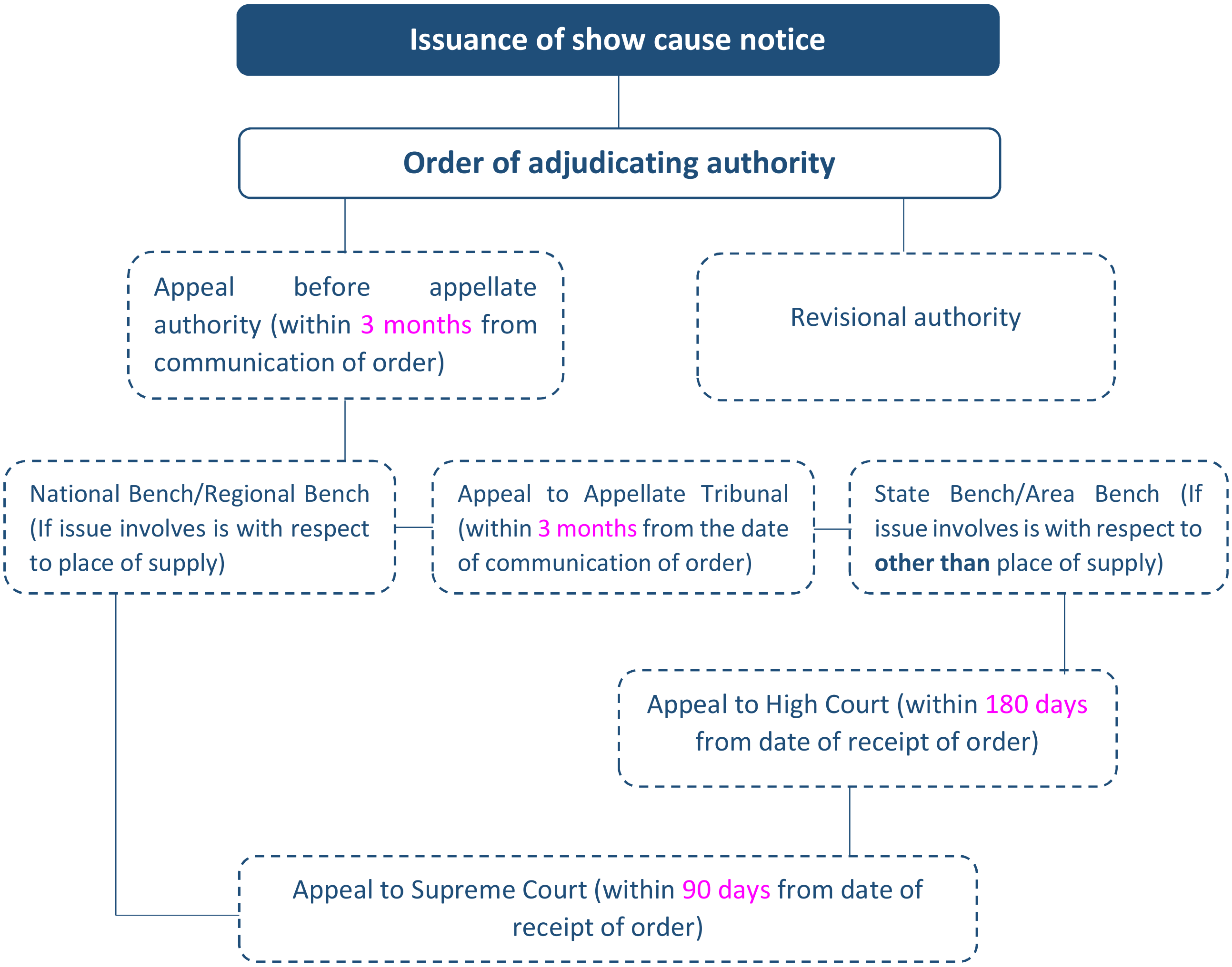
g. **Inability to Claim Input Tax Credit (ITC):** Taxpayers who fail to comply with GST regulations may lose the ability to claim Input Tax Credit (ITC), resulting in increased costs for their business.

h. **Barred from Government Contracts:** Non-compliant taxpayers may be barred from participating in government contracts or tenders, limiting their business opportunities.

i. **Business Disruption:** Severe non-compliance with GST regulations can disrupt business operations, leading to financial losses and potential closure of the business.

j. **Reputational Damage:** Non-compliance with GST can harm the reputation of the business, leading to loss of trust among customers, suppliers, and other stakeholders.

4. LITIGATION UNDER GST



What support do we offer?

→ Assist clients in obtaining GST registration by guiding them through the registration process, verifying documents, and ensuring compliance with registration requirements.

→ Provide strategic tax planning advice to minimize tax liabilities and optimize benefits under GST, including structuring transactions to maximize Input Tax Credit (ITC) and availing of applicable exemptions or concessions.

→ Conduct regular compliance reviews to ensure timely and accurate filing of GST returns, including GSTR-1, GSTR-3B, and annual returns (GSTR-9), while identifying and rectifying any discrepancies or errors.

→ Help clients maintain comprehensive records of transactions, invoices, and other relevant documents in compliance with GST regulations, facilitating seamless audits and assessments.

→ Assist clients in reconciling Input Tax Credit (ITC) availed with supplier invoices and GST returns to ensure accurate claim of credits and compliance with GST provisions.

→ Prepare and file GST returns on behalf of clients, ensuring compliance with filing deadlines and submission requirements while minimizing the risk of penalties or interest.

→ Provide support during GST audits conducted by tax authorities, including preparation of audit documentation, representation before tax authorities, and resolution of audit findings.

→ Keep clients informed about changes in GST laws, regulations, and compliance requirements through regular updates and advisory services, enabling proactive compliance and risk management.

→ Conduct training sessions and workshops for clients and their staff to enhance understanding of GST laws, compliance procedures, and best practices, empowering them to maintain compliance independently.

→ Represent clients before GST authorities for inquiries, assessments, appeals, and other proceedings, ensuring effective resolution of tax disputes and issues.

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