



Webinar on Tax Deduction at Source (TDS) Provisions in GST Regime

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**In association with
National e Governance Division,
Department of Electronics & Information
Technology**

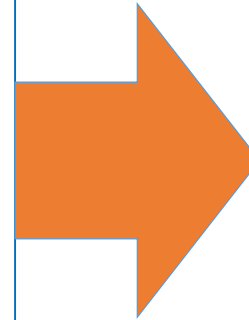
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Brief about GSTN



Goods and Services Tax Network (GSTN): The IT Backbone of GST

- a. 70 to 80 Lakhs taxpayers;
- b. 260 to 300 Crores B2B invoice data per month
- c. More than 120,000 tax officials to work
- d. Monthly filing of returns
- e. Credit of ITC
- f. Creation of Business Intelligence reports and Analytics
- g. Both Central and States Tax Departments



- Strong IT Infrastructure
- Independent
- Flexibility of Pvt Sector
- Strategic Control of Govt

- Goods and Services Tax Network (GSTN) is a not-for-profit, non government company
- Promoted jointly by the Central and State Governments
- To provide shared IT infrastructure and services to both the Governments and Tax Payers and other stake holders.
- The Frontend services of Registration, Returns, Payments, etc. to all taxpayers will be provided by GSTN.
- Interface between the government and the taxpayers.
- Provide settlement mechanism amongst the States and the Centre.
- Created as a SPV (Special Purpose Vehicle) for implementing the Common Portal of GST.
- Non- Government Structure with Government equity of 49% (Centre-24.5% and States- 24.5%)
- Key parameters are independence of management, strategic control of Government, flexibility in organizational structure, agility in decision making and ability to hire and retain competent human resources.



Services to be rendered by GSTN (through common portal)

- (a) Registration (including existing taxpayer migration, a process which began on 8th Nov 2016);*
- (b) Payment management including payment Gateways and integration with banking systems;*
- (c) Return filing and processing;*
- (d) Taxpayer management, including account management, notifications, information, and status tracking;*
- (e) Tax authority account and ledger Management;*
- (f) Computation of settlement (including IGST Settlement) between the Centre and States; Clearing house for IGST;*
- (g) Processing and reconciliation of GST on import and integration with EDI systems of Customs;*
- (h) MIS including need based information and business intelligence;*
- (i) Maintenance of interfaces between the Common GST Portal and tax administration systems;*
- (j) Provide training to stakeholders;*
- (k) Provide Analytics and Business Intelligence to tax authorities; and*
- (l) Carry out research and study best practices.*



- Strategic Control with the Government.
- The Board of Directors of GSTN comprise 14 Directors with 3 Directors from the Centre, 3 from the States, a Chairman of the Board of Directors appointed through a joint approval mechanism of Centre and States, 3 Directors from private equity stake holders , 3 independent Directors who would be persons of eminence and a CEO of the GSTN selected through an open selection process.
- Relaxation in the relevant rules to enable deputation of Government Officers to the GSTN for exercise of strategic control and for bringing in the necessary domain expertise.
- Equity Structure of GSTN
 - *Central Govt* 24.5%
 - *State Govts* 24.5%
 - *HDFC* 10%
 - *HDFC Bank* 10%
 - *ICICI Bank* 10%
 - *NSE Strategic Investment Co* 10%
 - *LIC Housing Finance Ltd* 11%



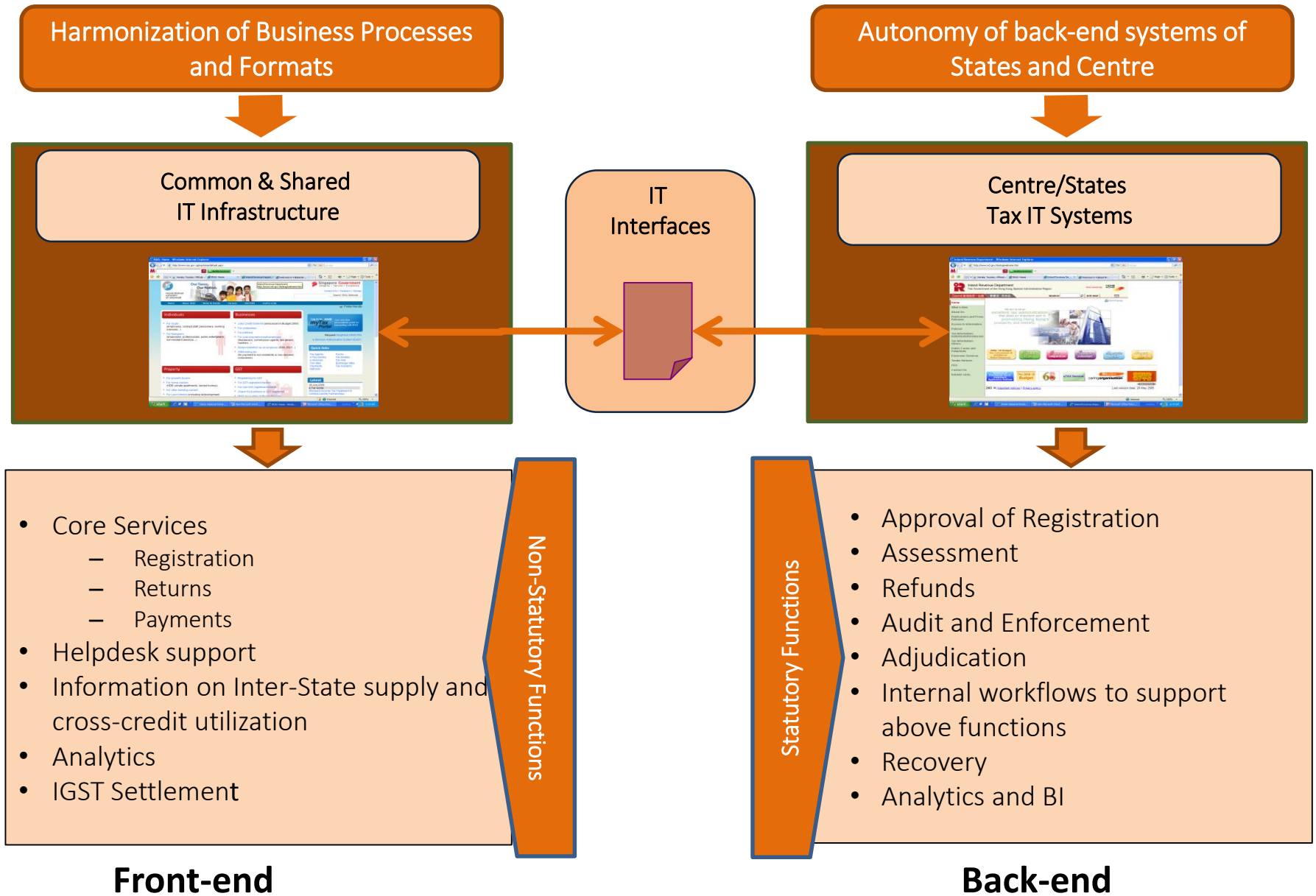
Forms/Annexures/Challans etc. under VAT/CST/ Central Excise/Service Tax



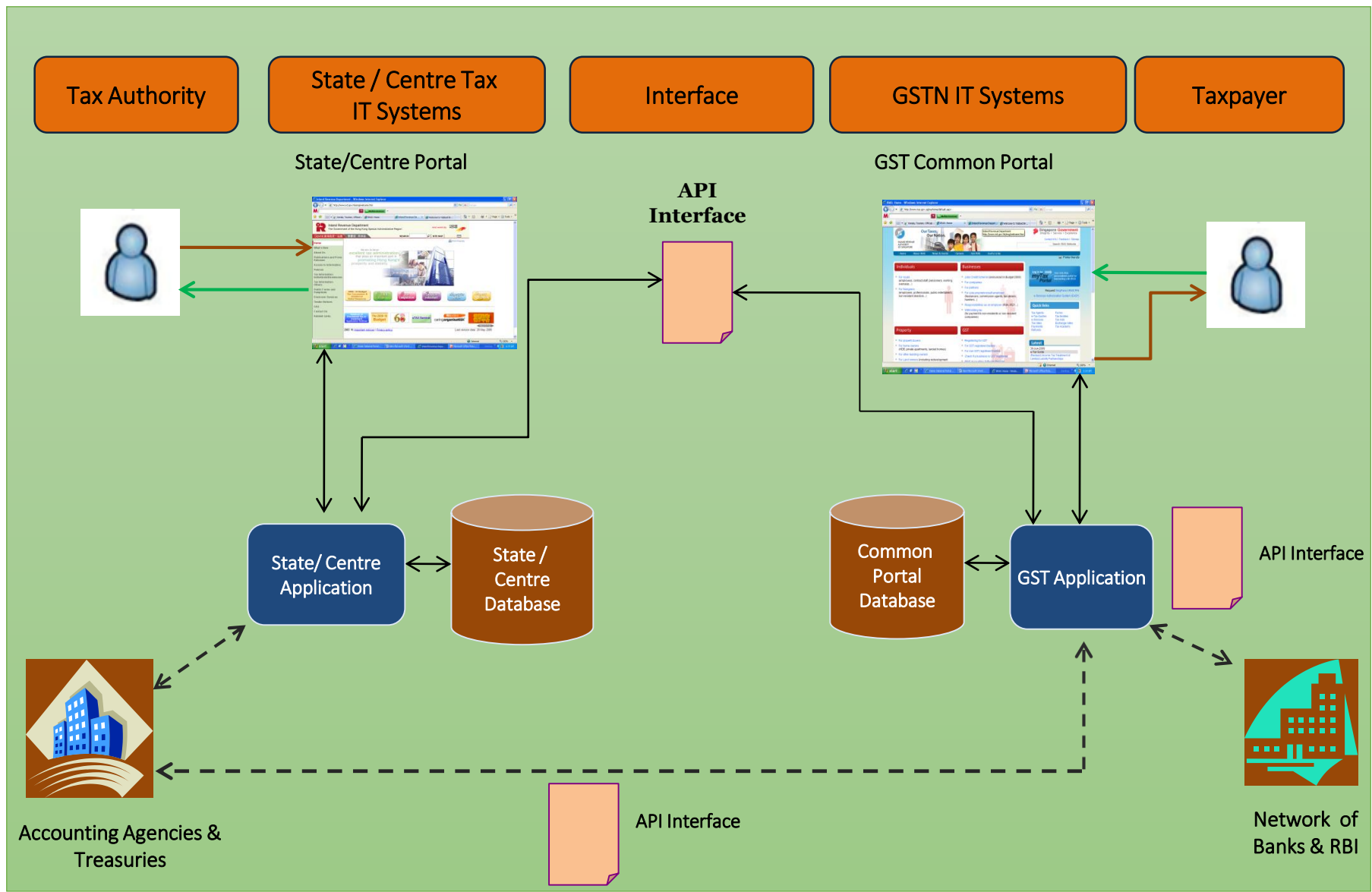
Type	VAT / CST	Central Excise	Service Tax	Total
Annexure	317			317
Challan	10	1	1	12
Declaration	28	1	3	32
Form	97	13	2	112
Requisition Form	10			10
Transit Pass	2			2
Worksheet	4			4
Invoice Format	5			5
Register		1		1
Total	473	16	6	495

	Forms	Annexures	Challan
GST	12	10	1





GST IT Strategy



1	Andhra Pradesh
2	Goa
3	Haryana
4	Karnataka
5	Kerala
6	Maharashtra
7	Meghalaya
8	Sikkim
9	Tamil Nadu
10	Central Board of Excise & Customs



TDS Provisions under Income Tax



- In GST Law, the concept of Tax Deduction at Source (TDS) has been adopted in the lines of Income Tax provisions.
- Tax Deduction Account Number or Tax Collection Account Number is a 10 digit alpha-numeric number issued by the Income-Tax Department.
- TAN to be obtained by all persons who are responsible for deducting tax at source (TDS) or who are required to collect tax at source.



- As per section 203A of the Income-tax Act, 1961, every person who deducts or collects tax at source has to apply for the allotment of TAN.
- Section 203A also makes it mandatory to quote TAN in following documents:
 - (a) TDS statements i.e. return
 - (b) TCS statements i.e. return
 - (c) Annual Information Return
 - (d) Challans for payment of TDS/TCS
 - (e) TDS/TCS certificates
 - (f) Other documents as may be prescribed



- Government deductors are also liable to obtain TAN
- PAN cannot be quoted in place of TAN
- Taxpayer cannot hold more than one TAN
- Different branches/ divisions of an entity may, however, have separate TAN.
- In case more than one TAN have been allotted, then the TAN which is being used regularly should be continued and the other TAN(s) should immediately be surrendered by using “Form for changes or correction in TAN”.



Registration of Tax Deductors under GST



State Code		Tax Deduction Account No. (TAN)										Entity Code	Blank	Check Digit
1	2	D	E	L	M	1	2	3	4	5	L	13	14	15

Structure of TAN

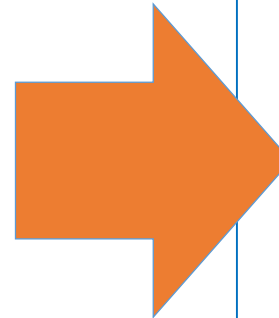
- First 4 digits of TAN are alphabets, the next 5 digits of TAN are numeric and last digit is an alphabet.
- First 3 alphabets of TAN represent the jurisdiction code, 4th alphabet is the initial of the name of the TAN holder who can be a company, firm, individual, etc.
- For example, TAN allotted to Mr. Mahesh of Delhi may appear as under:

DEL M 12345 L
Jurisdiction Code Name of deductee



The Government may mandate

- (a) a department or establishment of the Central Government or State Government; or**
- (b) local authority; or**
- (c) Governmental agencies; or**
- (d) such persons or category of persons as may be notified by the Government on the recommendations of the Council**



- As specified Deductor of Tax



- **Section 24 (6)** of CGST Act 2017- persons who are required to deduct tax U/S 52 are required to be registered
- In place of PAN, such persons may indicate their TAN in the registration application (**section 25(6)**)
- Obtaining TAN (Tax Deduction Account Number) issued under income tax act is MANDATORY
- They shall electronically submit an application, duly signed, in **FORM GST REG-07** for grant of registration through the Common Portal, either directly or from a Facilitation Centre notified by the Commissioner.
- The proper officer may grant registration after due verification and issue a certificate of registration in **FORM GST REG-06** within 3 working days from the date of submission of application or clarification to be sought from the applicant within 3 days.



Cancellation of Registration Certificate

- For any change in information furnished in the application, Amendment application to be submitted by the Deductor in Form GST REG-13 along with the documents
- **As per Draft Registration Rules, Rule 5(3)**

*Where, upon an enquiry or pursuant to any other proceeding under the Act, the proper officer is satisfied that a person to whom a certificate of registration in **FORM GST REG-06** has been issued is **no longer liable to deduct tax at source** under section 51 or collect tax at source under section 52, the said officer may cancel the registration issued under sub-rule (2) and such cancellation shall be communicated to the said person in **FORM GST REG-08**:*

Provided that the proper officer **shall follow the procedure prescribed** in rule 14 for cancellation of registration.

TDS under GST



- Tax to be deducted at the **rate of one percent** (1%) from the payment made or credited to the supplier (deductee) of taxable goods or services or both , (similar provision in SGST Law) in case of intra-state supply
- Where the **total value of such supply** under a contract **exceeds two lakh and fifty thousand rupees**.
- **No Tax Deduction at source** if the **location** of the supplier and the place of supply is in a State/U.T **different** from the State/U.T of the registration of the Recipient.
- The **Value of supply** shall **exclude** the central tax, state tax, U.T tax, Integrated Tax and Cess indicated in the invoice.



- **Similar provision** of TDS as in CGST Act have been retained in SGST Bill and UTGST Act.
- In case of **Interstate Supply**, as per Section 20 of IGST Act, the **tax to be deducted at the rate of two percent** from the payment made or credited to the supplier.

Payment of TDS to the Government

- The amount deducted as Tax to be paid to the Govt. by the Deductee **within 10 days after the month** in which such deduction is made, in the prescribed manner. (Sec. 51(2) of CGST Act)



Return for Tax Deductor



- As per Section 39(3) of CGST Act, every registered person required to deduct tax at source under section 51 shall furnish a return in **FORM GSTR-7** electronically through the Common Portal, within ten days after the end of such month
- The details furnished by the deductor under sub-rule (1) 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**
- The certificate referred to in sub-section (3) of section 51 shall be made available electronically to the deductee on the Common Portal in **FORM GSTR-7A** on the basis of the return furnished under sub-rule (1)



- Section 51(3) of CGST Act provides for issuance of TDS Certificate to the Deductee, by the Deductor, **within 5 days of crediting** the amount so deducted, to the appropriate government
- The Certificate will indicate the contract value, rate of deduction, amount deducted, amount paid to the Government and other prescribed particulars.
- In case of **Failure to furnish TDS Certificate** to the Deductee, within 5 days of crediting the amount so deducted to the Government, **late fee** of Rs. 100/- per day, until the failure is rectified, subject to maximum amount of Rs. 5,000/-, is payable by Deductor



Miscellaneous Provisions of GST



The amount deducted as tax shall be paid to the Government **within 10 days** after the end of the month in which such deduction is made, in the prescribed manner.

Failure of Deductor to pay the amount of TDS to the credit of appropriate Govt.



Interest shall be paid in addition to the amount of tax deducted

The amount of default shall be determined in the manner specified in the Section 73 or Section 74 of CGST Law



- The amount deducted under Section 51 or the other taxes shall be paid by debiting the electronic cash ledger maintained (rule 3) and the electronic tax liability register shall be credited accordingly (Rule 1(4) of draft payment Rules.)
- Any amount deducted under Section 51 or collected under Section 52 and claimed in **FORM GSTR-02** by the registered taxable person from whom the said amount was deducted or collected, shall be credited to his electronic cash ledger. (Rule 3 (9) of draft payment Rules)
- Interest up to 18% for delayed payment of tax (Section 50 of CGST Act).



- As per Section 51 (8) of CGST Act 2017, the refund to the deductor or the deductee, arising on account of excess or erroneous deduction shall be dealt with in accordance with the provisions of section 54
- Provided that no refund to the deductor shall be granted, if the amount deducted has been credited to the electronic cash ledger of the deductee.



- Where the tax deductor **fails to deduct** the tax in accordance with the provisions of sub-section (1) of Section 51, or
- Deducts an amount which is **less** than the amount required to be deducted under the said sub-section or
- Where he **fails to pay** to the Government under sub-section(2) thereof, the amount deducted as Tax,

he shall be liable to pay a penalty of ten thousand rupees or an amount equivalent to the tax evaded or the tax not deducted under section 51 or short deducted or deducted but not paid to the Government

- Section 73 of CGST Act, provides for issue of show cause notice for demand of the amount not paid/short paid, or erroneously refunded, or where input tax credit has been wrongly availed or utilized for any reason except other than fraud or wilful misstatement or suppression of facts to evade tax.
- The notice for payment of tax along with interest payable and penalty to be issued at least 3 months prior to the time limit specified for issuance of order.
- Statements to be issued for demand for subsequent period if notice for previous period on similar grounds has been issue.
- No notice shall be served if entire amount along with interest is paid on own ascertainment by the party.
- Penalty of Rs. 10,000/- or ten percent of tax which ever is higher , may be imposed.
- Order to be issued within 3 years from the date of due date for furnishing of annual return for the subject financial year.



- Where non payment/short payment of tax is due to reason of fraud, wilful misstatement, or suppression of facts. (demand for tax, interest and penalty equal to the tax amount).
- Issue of notice at least 6 months prior to the time limit specified for issue of order.
- No notice shall be served if entire amount along with interest and penalty equivalent to 15% of tax is paid on own ascertainment by the party.
- Even after issuance of notice, option to pay tax, interest and penalty equivalent to 25% of tax amount, (within 30 days of issue of Notice.)
- Time limit of order is 5 years from the due date of furnishing of annual return, or within 5 years of date of erroneous refund.



Where a supplier has made **any sale of goods** in respect of which tax was required to be deducted at source under any law of a State or Union territory relating to Value Added Tax and has also **issued an invoice** for the same **before** the appointed day, no deduction of tax at source under section 51 shall be made by the deductor under the said section where payment to the said supplier is made on or after the appointed day.



Thank You!

