2017

# Form GSTR-3B of GST- Boon or Curse

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# Form GSTR-3B of GST - Boon or Curse

Form GSTR--3B is summary return inserted by Government vide Rule 61 of the CGST Rules,2017 in lieu of Form –GSTR-3 . It is a summary return in place of GSTR-3. Form was introduced as time gap arrangement to collect the tax from the payer of tax. Since all the periodical monthly return were delayed and tax payers were not able to understand and file the returns on time. Government has come out with the temporary solution to introduce Form-3B and start collecting the tax. This return was not thought of at the time of making the GST Act. Moreover this return is so poorly drafted which is full of deficiency. One of the most dangerous part of the return is that after submit the return you can not make changes. Pay off section of the return is made after the submission of the return means thereby if you did any mistake and then you are caught and struck. Now I will elaborate the history of introduction of this Forms with relevant Section and Notifications on the same. Main aspect is how this form will be used in future with the latest amendment in GST Council meeting on 6.10.2017 when the Government has issued 41 notification in single day on 13.10.2017.

**History of GSTR- 3B**

GSTR-3B was first born by Notification No. 21 dated 08.08.2017 where it is said that this form shall be filed for the month of July and August,2017 by 20th of the following month.

After that Notification no. 23 dated 17.08.2017 was issued in which it was stated that Every registered person furnishing the return in FORM GSTR-3B shall, subject to the provisions of section 49 of the said Act, discharge his liability towards tax, interest, penalty, fees or any other amount payable under the Act by debiting the electronic cash ledger or electronic credit ledger .

After that notification no. 24 dated 21.08.2017 was issued to amend the Notification no.21 dated 08.08.2017.

After that Notification no. 35 dated 15.09.2017 was issued where the date of filing the Form GSTR-3B was extended to December,2017.

After that in GST council meeting dated 10.11.2017 it is said that all taxpayers would file return in FORM GSTR-3B along with payment of tax by 20th of the succeeding month till March, 2018

Looking at the history it may be said that this great anomaly of the Government that this temporary return was adopted as tool for collecting the payment because normal return GSTR-1,2,and 3 could not have been filed because of the deferment of due dates.

## Standing of GSTR -3B in CGST Act ad Rules ,2017

**As per the CGST Rules ,2017 , Clause 5 of the Rules 61 States that where the time limit for furnishing the return GSTR-1 and GSTR-2 mentioned in section 37 and Section -38 respectively is extended** and the circumstances so warrant , the commissioner may by notification specify the manner and condition subject to which Form GSTR-3B can be filed.

From the foregoing paragraph it is evident that Government has already made provision of this return while framing CGST Rules ,2017 and inserted the same intention in Rules 61.

### Duplication of Work for Tax Payers

First of all ,one need to file Form- GSTR-3B and then File GSTR-1,2 and 3 and make reconciliation of GSTR-3B with all three returns of the months like with GTSR-1,2 and 3. Was this volume of return was not enough so that on top of all these bulky returns this form -3B was also loaded to bang the tax payer and make the total volume of return to 37 instead of 28 for the FY 2017-18 [ For Nine Months ]

### Wrong Frame Work of GSTR-3B

After everything as discussed above , if some one commit any mistake in preparing this return and the mistake figure out after submission of the return , one stand no where. Fine example of the same is if you have placed the figure in clause -4 which is section of Eligible ITC , for claiming ITC you have to fill the figure in sub clause –v of clause -4 and instead by mistake you fill the figure one line down which is of clause –B-1 then impact of the same shall be double. Instead of claiming ITC the same shall convert in to liability. Suppose you fill the figure of Rs. 10000 wrongly in clause-B then liability shall be increased by 20000. And if you submitted the return and next stage is payoff . For the said mistake you need to pay Rs. 20000 first and then you can file the GSTR- 3B. Means thereby a small mistake can lead you to pay heavy amount and there is no recourse to it. Moreover there is no provision of filing the revised return.

Why I am saying it is wrong frame work. First of all one should prepare the return fully including the pay off portion. Means thereby total liability under the return should have been knock off by ITC or out of cash as the case may be. And after the preview section , return should be allowed to be submitted and filed. But it is structured in other way round. First return is submitted and then pay off window is being opened with late fees where you have to pay late fees with separate challan and then file the return.

### Analysis of Notification No. 35 and GST Council meeting on 6.10.2017 and 10.11.2017

In the above notification no. 35 , GSTR-3B is to filed till December,2017 which has been extended till March,2018 as per the GST council recommendation in the meeting held on 10.11.2017. It means this is taken as guaranteed that GSTR -1, 2 and 3 will not file on due date as mentioned in Section 37, 38 and 39 of the CGST Act,2017 because of the following provision contained in Rule 61[5]of the CGST Rules,2017.

**"As per the CGST Rules ,2017 , Clause 5 of the Rules 61 States that where the time limit for furnishing the return GSTR-1 and GSTR-2 mentioned in section 37 and Section -38 respectively is extended"**

Means thereby it is presumed that none of the above said returns will be filed on due date till 31.3.2018.

## Provision of Quarterly Return to be filed by small and medium businesses Clashing with Form -3B

**Contents of GST council Meeting on 06.10.2017**

To facilitate the ease of payment and return filing for small and medium businesses with annual aggregate turnover up to Rs. 1.5 crore , it has been decided that such taxpayers shall be required to file quarterly returns in FORM GSTR-1,2 & 3 and **pay taxes** only **on a quarterly basis**, starting from the Third Quarter of this Financial Year i.e. October-December, 2017. The registered buyers from such small taxpayers would be eligible to avail ITC on a monthly basis. The due dates for filing the quarterly returns for such taxpayers shall be announced in due course. **Meanwhile, all taxpayers will be required to file FORM GSTR-3B on a monthly basis till December, 2017**. All taxpayers are also required to file FORM GSTR-1, 2 & 3 for the months of July, August and September, 2017. Due dates for filing the returns for the month of July, 2017 have already been announced. The due dates for the months of August and September, 2017 will be announced in due course.

**Now in GST council meeting held on 10.11.2017, Form -3B has been extended till March,2018. Now the question arises is when the due date of GSTR-1,2 and 3 for small and medium business has been made on quarterly basis from third quarter i.e. October to December ,2017 , and due dates for the above three return shall be 10.01.2018 , 15.01.2018 and 20.1.2018. It means that Form 3B in these cases can not be filed as due date is yet to be approached and it can not be presumed to be extended as on date which has not been fallen due . As per Rule 61[5] of the CGST Rules,2017 which clearly state that when due dates of GSTR -1 and 2 extends only Form-3B need to be filed.**

**Moreover, Payment in case of quarterly return shall be on quarterly basis means that for the Quarter October to December,2017 the payment shall be due on 20.1.2018. If the Form -3B to be filed by all taxpayer including the quarterly taxpayer one need to pay the taxes on monthly basis. This is totally contradictory to provision of GST act and rules thereof.**

## Matching Concept on Stake

Once the return of small and medium business started filing on quarterly basis how the GSTR-2 shall be auto drafted . Registered Person buying from the small dealer can not be matched as small dealer will files their return on Quarterly basis. One registered person is filing return on monthly basis and another is filing on quarterly basis where the matching concept stands and how the GSTR-2A will be created. So auto drafted concept of GST will be in loop and basic fundamental concept behind the GST will collapse. It is very clear that all the decision of recent GST council is in air and nothing material has so far produced . Government need to seriously plan and implement. One need not to rush in hurry where there is chances of bouncing back the decisions.

## Conclusion

**Looking at the said ambiguity it is clear that which way the GST council is heading it is not clear. It is moreover confusing the professional and tax payers. Kind of changes GST council is doing every month is unimaginable. Issuing 41 notification on 13.10.2017 is fine example of the same. On top of everything is amendment of one notification by another notification has become a routine and no consistency is being adopted and applied which reflects short vision of the Government. It also shows short term planning of the GST council and Government . No professional can keep track of changes and CGST Rules has become mockery of situation because till date in less than 4 month of GST implementation 11th amendment of CGST Rules has been done. This depict the child brain of the Bureaucrats and Politician. These issue's raises serious question mark on the so called think tank (GST council) of the Government. I am sure If this trend continues, all professional and taxpayer shall be confused and messed .**

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