

Annual GST return made non-mandatory for small business...Should we file or not?

G.S.T. council after its 37th Meeting recommended that the **Annual Return (GSTR 9 and 9A)** under the G.S.T. should be made optional considering the fact, it is a new regime and there are problems faced by the tax payers in filling it for *those registered persons whose aggregate turnover in a financial year does not exceed two crore rupees and who have not furnished the annual return.* CBIC wide **notification no 47/2019, dt. 9th October, 2019** (nearly 1 Month, 21 days earlier than my expectation..... as usually the notification on the recommendations comes on the last day!!!) has given relaxation from filling the annual GST returns for the Financial year 2017-18 and 2018-19 to those *registered persons whose aggregate turnover in a financial year does not exceed two crore rupees and who have not furnished the annual return.*

I have produced below relevant extract of notification **notification no 47/2019, dt. 9th October, 2019** for the interest of readers-

*“G.S.R.....(E).— In exercise of the powers conferred by section 148 of the **Central Goods and Services Tax Act, 2017** (12 of 2017) (hereinafter referred to as the said Act), the Central Government, on the recommendations of the Council, hereby notifies those registered persons whose aggregate turnover in a financial year does not exceed two crore rupees and who have not furnished the annual return under sub-section (1) of section 44 of the said Act read with sub-rule (1) of rule 80 of the **Central Goods and Services Tax Rules, 2017** (hereinafter referred to as the said rules) before the due date, as the class of registered persons who shall, in respect of financial years 2017-18 and 2018-19, follow the special procedure such that the said persons shall have the option to furnish the annual return under sub-section (1) of section 44 of the said Act read with sub-rule (1) of rule 80 of the said rules:*

Provided that the said return shall be deemed to be furnished on the due date if it has not been furnished before the due date. “

On interpretation of the same it can be understood that the relaxation for filling Annual Return is applicable if following conditions are satisfied.

1. The turnover of registered person should not exceed 2 Crores in a financial year.

And

2. Registered person has not furnished annual return before the due date of filling annual return.

What happens if a Registered Persons doesn't file the Annual Return:

If a registered person satisfying both the above condition doesn't file annual return on or before the due date (30th November 2019 for 2017 18 and 31st December 2019 for 2018 19) the return shall be deemed to be filled for that financial year.

What effect this deeming fiction may put???

What will be the situation if a registered person doesn't file the return within the time limits for filling annual return?

Time limit for filling annual returns:

For F Y 2017 18	30.11.2019
For F Y 2018 19	31.12.2019

Now with this deeming fiction if the annual return is not filled, in my view, **the summary of the annual return which is being auto generated** (Which we are presently able to see) shall be deemed to be the return filled U/s 44 of the Goods and Service Tax Act, 2017.

Friend as per my experience, not more than 10% return, for 2017-18 and not more than 50% for the F Y 2018-19, shall be having correct figures in those auto generated summary. The reason of this mistake is the initial periods of G.S.T. implementation, we all had faced major issues in filling our GSTR 1. As per the various press release for the clarification of GSTR 9 (Actually these clarification has created lots of confusion), it may be understood that there is practically no importance of GSTR 1 in filling of GSTR 9. Where there is difference in GSTR 3B and GSTR 1, practically the GSTR 3B data (On which the tax liability has been discharged) has to be considered. Even now the summary is fetching data from GSTR 1 filled up to March 2018 for the year, 2017-18. For 2018 19 the data being fetched from GSTR 9 filled for the period of March 19.

In my view this deeming fiction shall be dangerous and one needs to check whether the auto populated summary generated is correct???. If it is not correct, in my view, one should still to file his annual return with the correct figures. **Unless a registered person files his annual return, it shall be the auto populated summary which shall be deemed to be a GSTR 9 filled.** This will create a bigger problem if the registered person case is

selected in Audit or scrutiny. In my personal opinion, if there is just a clerical mistake in filling the GSTR 1, and no fresh liability to pay tax arises, the proper officer shall follow the lenient view regarding the same.

Conclusion:

Thus, in my view, though the **notification 47/2019** to make the annual return non mandatory may look a relief but is a pain in disguise. Even as the return filling has been made non mandatory, there are chances that the annual return due date which stands today, shall not be extended further.

To summarize the notification in term of the practical aspects, we can say that GSTR 9, 9A are not to be mandatorily filled only if.....

1. The turnover of a registered person is up to 2 Crores,
2. There is no mistake in filling the monthly/quarterly return in form GSTR 1 and monthly return in GSTR 3B during 2017 18 and 2018 19.
3. The auto populated summary generated is perfect.

Now friends, just evaluate the above conditions. Do you feel any of your client shall be having all the three condition satisfied???? Just make a list and I am sure there may not be many clients who shall be able to get benefit of exemption....

At the end, I will beg your pardon as this article may have spoiled the mood of this festive season Diwali. To end the article in a lighter note... This exemption reminds me of an sign board at a shop which I loved it. **Instead of displaying the board, That we don't give our goods on credit, the board stated, "Our Shop policy is to give credit to our valued customers...who are senior citizens and they come to our shop with their grandparents"**

Source courtesy:  taxguru.in