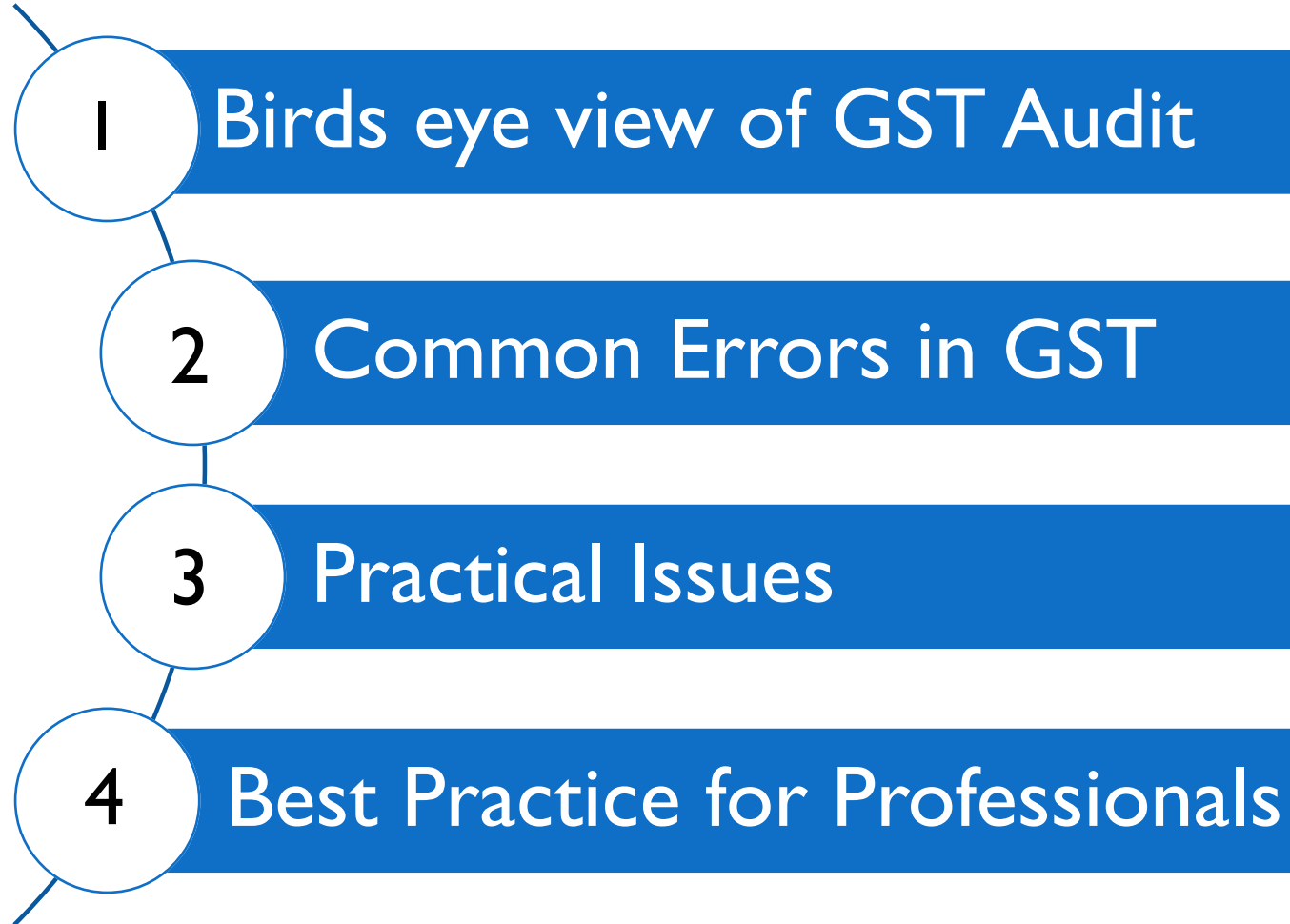


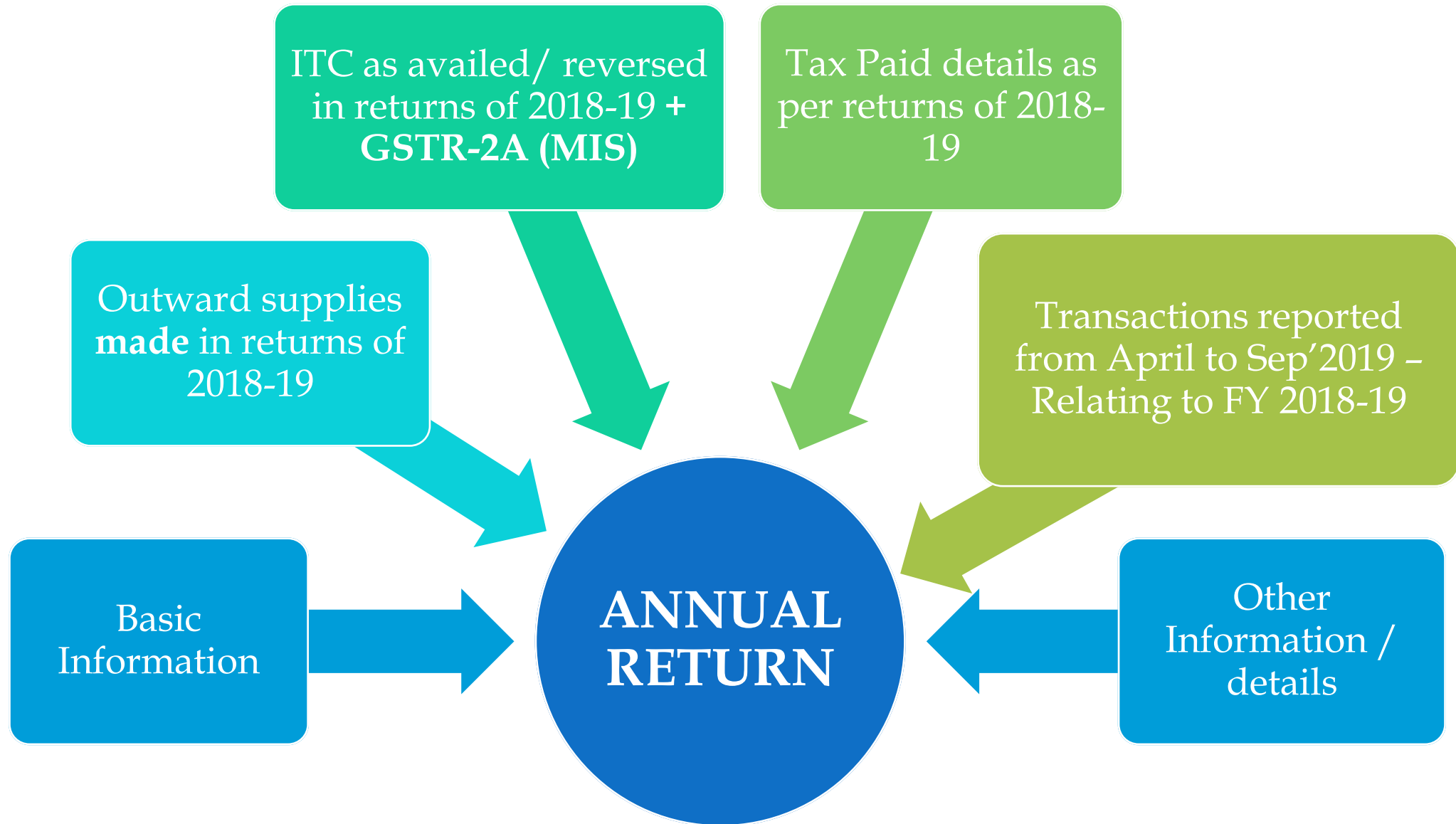
Overview and Professional Approach towards GST Audit

CA Sudhir V S

Objective of session

- 
- 1 Birds eye view of GST Audit
 - 2 Common Errors in GST
 - 3 Practical Issues
 - 4 Best Practice for Professionals

Summary of Annual Returns (GSTR-9)



Need for Annual Returns

- Opportunity to make corrections
- Can be filed even if no applicable ($< 2\text{crs}$) if correction is required
- Short payment to be paid by DRC-03
- Excess paid – cannot be adjusted – Refund to be explored
- Excess ITC to be reversed by DRC-03
- Short availed – lost
- Payment cannot be made in ITC – System allows and no restriction as per the Act.

Applicability of Annual Returns

Normal registered person

- In GSTR-9 (< 2crs T/o Optional for 17-18 & 18-19)

Person registered under section 10 of CGST

- In GSTR-9A

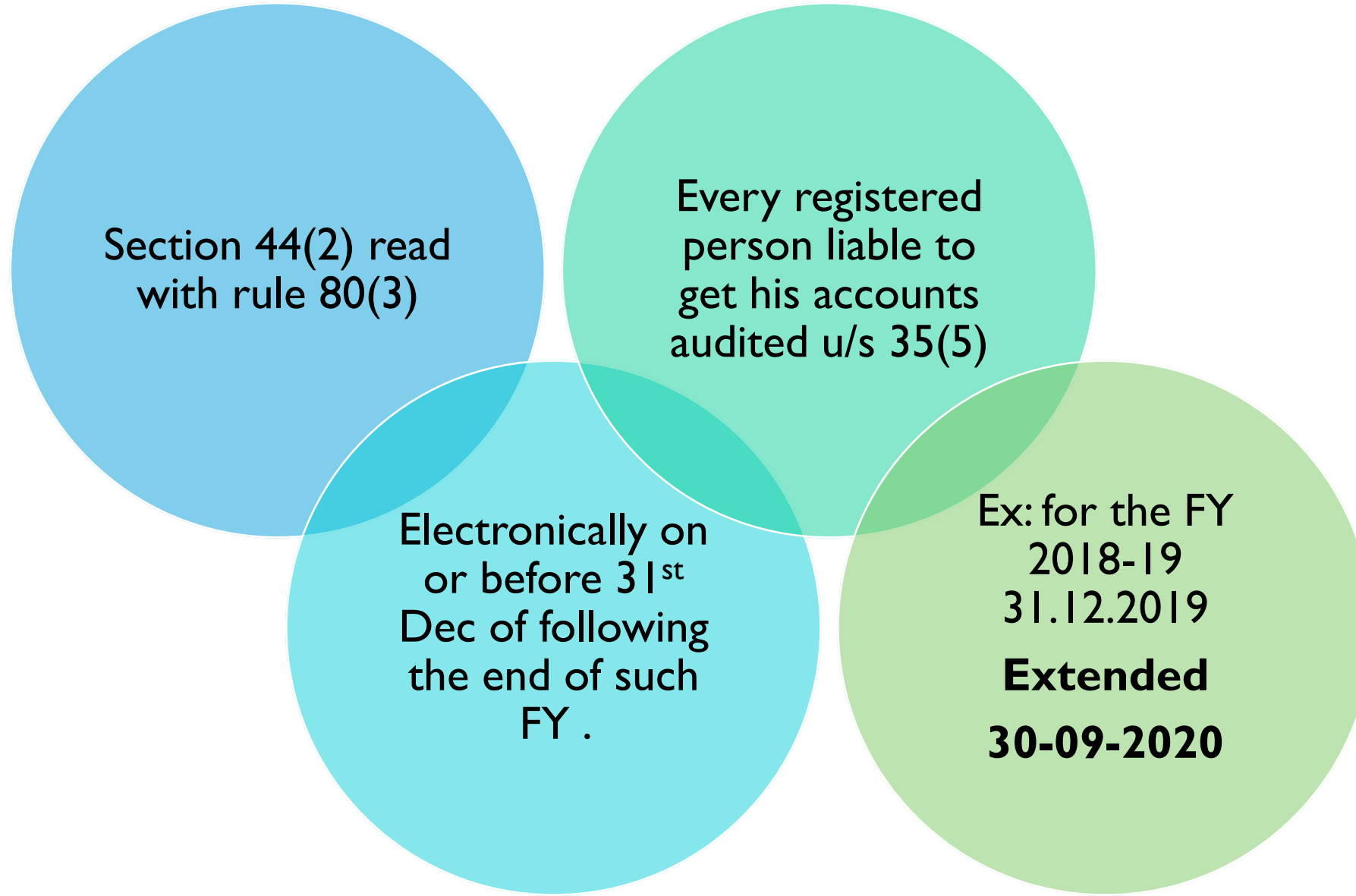
E-Commerce Operator

- In GSTR-9B

Aggr. T/O > 5 Cr for 18-19

- In addition to GSTR-9 file GSTR-9C Reconciliation and Audited FS

Applicability of certification by the auditor



Who are liable to get Audit ?

- **Section 35(5)** - Every registered person whose turnover during a financial year exceeds the prescribed turnover limit shall get his accounts audited by a chartered accountant or a cost accountant and shall submit
 - Copy of audited annual accounts,
 - Reconciliation statement under 44 (2) and
 - *Such other documents in such form and manner as may be prescribed* ?????
- **Rule 80(3)** - Every registered person whose aggregate turnover during a financial year exceeds two crore rupees shall get his accounts audited as specified under sub-section (5) of section 35 and he shall furnish
 - A copy of audited annual accounts and
 - A reconciliation statement, duly certified, in FORM GSTR-9C, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner

Audit

Audit means 2(13) -

- Examination of records, returns and other documents
- To verify the correctness of turnover declared, taxes paid, refund claimed, and ITC availed
- To assess the compliances with the provisions of the Act.

Failure to file the returns

1. Due date for filing 9 & 9C: Due date to file GSTR 9 along with 9C for the FY 18-19 is 31st December, 2019 (Sec 44 (1) of CGST Act, 2017). Extended up to 30th Sept 2020.

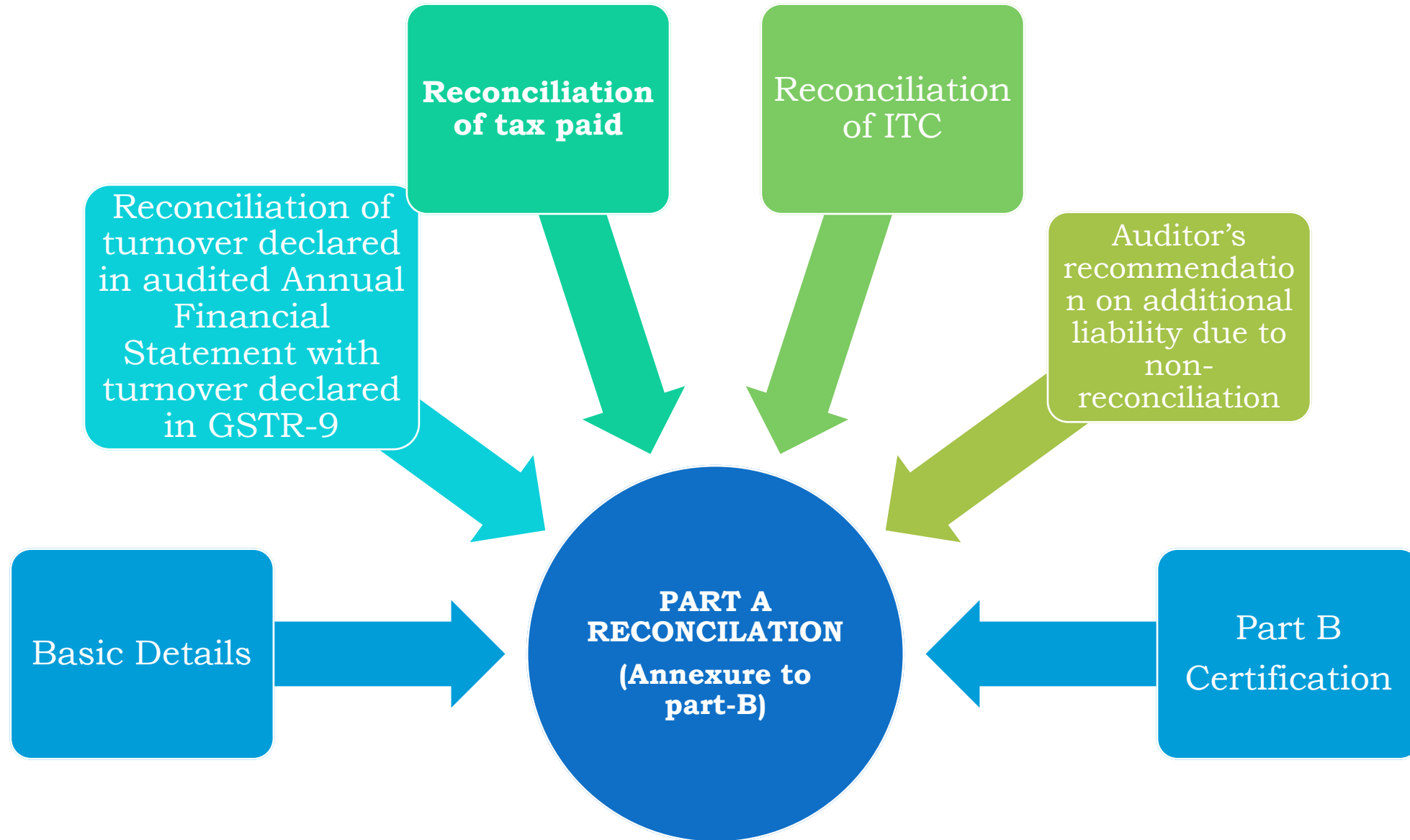
2. Failure to file the returns: As per section 47 (2) of CGST Act, 2017, if the returns are not filed within the due date then the tax payer is liable to pay a late fee of Rs. 200/- per day (CGST Rs. 100/- and SGST Rs. 100/-) subject to a maximum amount of 0.5% (0.25% CGST and 0.25% SGST) of turnover.

3. Failure to file audit report: Section 122 of CGST/ SGST Act - Rs.50,000/- (Total)

Basic steps in GSTR-9C

1. Start with reconciliation between Books Vs. GSTR-3B Vs. GSTR-1
2. Turnover and ITC to be reconciled for each GSTIN separately
3. Ascertain reasons for differences in Turnover and ITC
4. Additional liabilities, if any, to be discharged. Only in Cash. Funds planning necessary. Delay could result in extra interest & penalty.
5. Extra taxes, if any, to be claimed as refund
6. ITC claimed extra, if any, to be paid back
7. Short claim of ITC - Cost to auditee
8. If needed take expert opinion for interpretational issues

PARTS OF RECONCILIATION STATEMENT



Common Errors in GST

CONCEPTUAL ERRORS

Errors as a result of wrong understanding of Law

- Incorrect classification of goods or services.
- Deduction claimed as pure agent without satisfying all the conditions.
- Incorrect determination of place of supply which could lead to incorrect charging of type of tax or even taxing a non-taxable transaction or vice versa.
- Wrong type of tax paid i.e. IGST instead of CGST & SGST vice versa.
- Opting to pay GST with input tax credit benefit though absolutely exempted , credit could be denied.

CONCEPTUAL ERRORS

- Not remitting GST to government after collecting from customers which could invoke demand under Section 74 resulting in denial of credit to customers as well.
- Unregistered and composition dealers are prohibited from collecting any tax – Sale of MRP (MRP is inclusive of all taxes) by a retailer opted for composition
- Claiming exemption or payment of GST at concessional rate without fulfilling the conditions attached to it.
- Considering all payments received in foreign currency as exports/zero rated supplies without satisfying other prescribed conditions.

CONCEPTUAL ERRORS

- Considering ITC balance to payoff liability under reverse charge.
- Treating exempted goods/services as export of goods/services (export condition not fulfilled) and availing eligible ITC related to same.
- Non-reversal of input tax credit along with interest in cases where payment is not made to supplier within 180 days from invoice date.
- Non-payment of GST on advance money received towards taxable supply of services.

CONCEPTUAL ERRORS

- GST deduction claimed on post sale discounts which are agreed post sale against the conditions prescribed in Section 15 for valuation.
- Non-payment of GST on transactions covered in Schedule I of CGST Act.
- Mixed supply could be classified as composite supply and vice versa leading to excess/short payment of GST.
- Tax not discharged on exemptions discontinued under GST which were present in earlier tax regime.
- Availing ITC on supplies which are blocked under Section 17(5) of CGST Act.

CONCEPTUAL ERRORS

- Availing credit on basis of photocopy of invoices/debit note/BOE without having the original invoices/debit note/BOE.
- Claiming benefit of zero rated supplies to SEZ without executing LUT or bond.
- Availing ITC merely on receipt of invoice without actual receipt of goods/services.
- Non-reversal of proportionate input tax credit in respect of exempted supplies and non-business use.

CONCEPTUAL ERRORS

- Non-reversal of credit in respect of goods lost, stolen, destroyed, written off or distributed as gifts/free samples.
- Non-payment of GST on goods sent for job work not received within due date.
- Non-payment of GST on waste or scrap generated during job work.
- Failure to distribute the common credits to other locations under ISD concept.
- Not considering non-monetary consideration for arriving at the value for paying GST.

CONCEPTUAL ERRORS

- GST not paid on interest/penalty collected for delayed receipt of consideration.
- Reversing ITC on common inputs & capital goods using the same formula though different provisions exist in CGST provisions resulting in short or excess reversal of credits.

SYSTEM ERRORS

Errors which occur due to lack of good internal control system in the organization.

SYSTEM ERRORS

- Making accounting entries on gross basis and passing entries for eligible credit or tax payable at the end of the month.
- Failure to have a system of reconciliation of procurements or outward supplies to ensure complete credit availment or tax paid.
- Absence of system of recording entry in job work control register when inputs/capital goods are being sent for job work to ensure receipt within due dates.
- Absence of system of providing regular training to those involved in GST compliance.

SYSTEM ERRORS

- No proper system to determine place of supply, type of tax for various sales transactions.
- ERP or other accounting package system of an enterprise not linked with the taxation aspect resulting in complications during return filing.
- Lack of control and absence of proper reconciliation system between financial records and tax records.
- Not having a system to ensure that vendors are filing returns and paying GST in time.
- Issue of invoice instead of bill of supply for GST exempted supplies.

SYSTEM ERRORS

- Not keeping tracker for correspondences with tax department especially ensuring replies to proper authority.
- Not accounting the inward invoices on regular basis.
- Credit notes not issued within time limit specified in case of excess amount/GST rate charge, purchase returns due to no system of tracking such instances.
- System of identification of inputs/input services/capital goods used exclusively for taxable, non-taxable activities not present.

FEW FAQ

Practical Issues

- **Is GSTR-9C amendable?**
 - ☐ No amendment provided in Statute
 - ☐ In case there is an error, it is prudent that the Auditor should send the same in writing to the jurisdictional officer.
- **Mr. X is a composition dealer who has opted out of the composition scheme during the current financial year. Whether he needs to declare the turnover separately when he was covered under composition scheme?**
 - ☐ The turnover in the financial statements would include the entire turnover (i.e. T/O under composition scheme and T/O as a normal taxpayer).
 - ☐ Under Table 5L of GSTR-9C a separate disclosure for the T/O for the period under composition scheme is required to be made.

Practical Issues

- **Whether un-reconciled T/O necessarily result in additional liability?**
 - ☐ Unreconciled turnover does not necessarily in all case result in liability.
 - ☐ Reason to assessed
 - ☐ If liable needs to be compute the liability
 - ☐ If not liable the difference can be explained

Practical Issues

- **Disclosure of incomes which do not amount to supply e.g. Dividend income**
 - ☐ Difference may be taken in Table 5O (Other reasons) of GSTR-9C.
 - ☐ Tax payer to disclose the same in 5F (non-GST supply) of GSTR - 9
- **Whether the eligible credit availed in books of accounts but missed in monthly returns requires disclosure in the reconciliation statement?**
 - ☐ Cannot avail the credit now
 - ☐ Difference to be disclosed in 12 F (un reconciled ITC)
 - ☐ Reason to be given in 13 of GSTR-9C.
 - ☐ Credit beyond 30th of Sept 2012 for FY 18-19 is lost. Challenged in M/s. Bagmane Developers (P) Ltd., V. UOI Kar HC - WP 9430/2020 heard on 28th August 2020

Practical Issues

- **Whether any additional tax amount payable on reconciliation can be paid through form GSTR-9C?**
 - ☐ Yes, Table 11 of Part III of the form.
- **Whether additional liability declared in the GSTR-9C may be paid by utilizing the credit where there is sufficient balance of credits available with the assessee?**
 - ☐ No, any additional liability declared under table 11, on account of non reconciliation, shall be paid only in cash
- **Vendor not paid within 180days but paid as on date of audit. ITC neither reversed nor re-availed?**
 - Disclose the interest payment and not required reversal. To Explain
- **Non-payment of Tax /ITC availed on interpretational issues**
 - Take Expert Opinion /MRL and not to disclose the same.



Best Practices

Basic documentation – Best practices

- Assess risk before offering. More risk involved. Convey the intention clearly to auditee on reporting aspects.
- Offer letter to take care of aspects such as scope, management responsibility and limitation. Of course fee + GSTIN covered
- Check and ensure that no conflict in accepting the offer. Ex: Internal auditor/ book keeping not eligible for audit
- Engagement letter (signed by auditor and auditee) [SA 210 – Terms of Audit engagement]
- Appointment letter from auditee
- Management representation letter [SA 580 – Written representation]. Refer Technical guide of ICAI.
- At times where auditor cannot get the documentation from any other sources – due to inherent limitation of audit – MRL to be relied.

Other best practices

- MRL alone not conclusive evidence but additional confirmation of completeness, accuracy of information provided to us. Transactions with related parties, goods issued as samples cannot be verified
- Limit the audit to scope of audit as needed in GST provisions
- Sample size should increase as we need to certify the correctness. Sample size should cover all different transactions
- Important to have audit program + audit checklist. Team should be clearly briefed about the audit reporting requirements. Sample provided in last slide
- For observations, have evidence. Observations should not be vague or based on just oral explanations of auditee
- Quantify to the extent possible. Otherwise, should be part of limitation + MRL

Other best practices

- Important auditing standards to be applied such as SA 620, SA 320, SA 520, SA 530
- Have a list of common errors in GST including documentation errors. Industry specific helps a lot
- Annual return has clause on anti-profiteering. Auditor to check if complied. If not possible, then MRL should be taken to this effect.
- Check the systems / internal controls to assess the risks involved. Interaction with person in-charge can help auditor in assessing the compliance level
- Convert the certification assignments to interim audits including certification

Other best practices

- Auditor if held grossly negligible, then matter can be referred to ICAI. Even the qualified assistant could be held responsible. Communicate.
- Multi-locational units – Following to be taken care
 - Take unit-wise trial balance
 - Take access to books of accounts
 - Look for support services + movement of goods using delivery challans / way bills
 - Reconciliation of credits, advance money, unbilled revenues etc. for each registrations
 - Verify ISD mechanism + cross charge including valuation mechanism
 - **Checklist should cover above aspects**

THANK YOU

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For any clarification

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