

PART-I

SPECIAL AUDIT UNDER GST

According Sec 2(13) of CGST Act 'Audit' means the examination of records, returns and other documents maintained or furnished by the GST registered person under this Act (CGST/SGST) or the (CGST/SGST) rules made thereunder or under any other law for the time being in force to verify the correctness of turnover declared, taxes paid, refund claimed and Input tax credit availed, and to assess his compliance with the provisions of CGST/SGST Act or the (CGST/SGST) rules made thereunder;

From the above it is very clear that meaning of audit includes the following:

- Examination of books of accounts
- Maintenance of GST returns and
- Any of the documents maintained by the taxable person under the Act

Special audits under the GST are conducted by professionals appointed by the Commissioner under Section 66 of the CGST Act, 2017 read with Rule 102 of the CGST Rules, 2017.

An officer not below the rank of Assistant Commissioner, to direct a registered person to get their books of accounts audited by a chartered accountant or a cost accountant nominated by the Commissioner.

This audit is usually ordered if the officer found that the value declared is incorrect or the input tax credit is wrongly availed. Rule 102 of the CGST Rules, 2017 outlines the procedural aspects of a special audit.

The officer will give his direction in **Form GST ADT-03** to the taxable person in this regard.

The Special Audit will be undertaken by a Chartered Accountant or Cost Accountant nominated by the Commissioner and shall submit a report within 90

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days duly signed and certified by him to the said Assistant Commissioner. This period can be extended by the proper officer by a further period not exceeding 90 days on an application made by the taxable person or the auditor.

All registered person shall be informed about the audit finding in **Form GST ADT-04** after the audit is concluded. With the prior permission of the Commissioner, the Assistant Commissioner of CGST/SGST can pass an order for special audit. The remuneration of the auditor for conducting special audit will be determined and paid by the Commissioner.

Difference between Department Audit and Special Audit

Aspect	Department Audit (Sec 65)	Special Audit (Sec 66)
Nature of Audit	Conducted by the department	Conducted by an external professional
Authority	Conducted by departmental officers authorized by the Commissioner	Conducted by a Chartered Accountant (CA) or Cost & Management Accountant (CMA) nominated by the Commissioner
Notice Requirement	15 days prior notice required	No specific requirement for prior notice
Time frame for Completion	Within 3 months (extendable by 6 months)	Within 90 days (extendable by another 90 days)
Audit report	Audit reports should be submitted upon completion of the audit by department	Audit reports is to be submitted to the Assistant Commissioner by CA/CMA

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Hearing	No specific provision for opportunity of being heard	Yes, there is specific provision for opportunity of being heard
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PART-II

FREQUENTLY ASKED QUESTIONS

1. What is the definition of "Audit" under the CGST Act?

- As per Section 2(13) of the CGST Act, "Audit" means the examination of records, returns, and other documents maintained or furnished by a GST-registered person to verify the correctness of turnover declared, taxes paid, refunds claimed, and input tax credit availed, ensuring compliance with the Act.

2. What does an audit under GST include?

- It includes the **examination of books of accounts, maintenance of GST returns, and any other documents maintained by the taxable person** under the Act.

Departmental Audit (Section 65)

3. Who conducts a departmental audit under Section 65?

- It is conducted by officers of the department authorized by the Commissioner.

4. Is prior notice required before a departmental audit?

- Yes, the taxable person must be given **15 days' prior notice** before the audit.

5. What is the timeframe for completing a departmental audit?

- The audit must be completed **within 3 months**, with a possible extension of **6 months** if required.

6. Is an audit report required after completion of a departmental audit?

- Yes, an audit report must be submitted upon completion of the audit.

7. Does a departmental audit allow the taxpayer to be heard before conclusions are drawn?

- There is **no specific provision** mandating an opportunity for the taxpayer to be heard.

Special Audit (Section 66)

8. What is a special audit under Section 66?

- A special audit is conducted by an external professional (CA/CMA) appointed by the Commissioner if the officer believes the **value declared is incorrect or input tax credit is wrongly availed.**

9. Who can order a special audit?

- A **CGST/SGST Assistant Commissioner**, with prior permission from the **Commissioner**, can order a special audit.

10. Who conducts a special audit?

- A **Chartered Accountant (CA) or Cost & Management Accountant (CMA)** nominated by the Commissioner.

11. Is prior notice required for a special audit?

- No, there is **no specific requirement** for prior notice under a special audit.

12. What is the timeframe for completing a special audit?

- The audit must be completed within **90 days**, with a possible extension of another **90 days** upon application.

13. How is the taxpayer informed about the special audit?

- The officer issues **Form GST ADT-03** to notify the taxpayer about the special audit.

14. How are the findings of the special audit communicated to the taxpayer?

- The taxpayer is informed through **Form GST ADT-04** after the conclusion of the special audit.

15. Who pays for the special audit?

- The **Commissioner determines and pays** the remuneration of the CA or CMA conducting the special audit.

16. Is the taxable person given an opportunity of being heard in a special audit?

- Yes, there is a **specific provision** ensuring an opportunity for the taxpayer to present their case.

Key Differences between Departmental Audit & Special Audit

17. What is the key difference between a departmental audit and a special audit?

- A **departmental audit** is conducted by **departmental officers**, whereas a **special audit** is conducted by **an external CA/CMA**.

18. Which audit requires prior notice?

- **Departmental Audit** requires **15 days' prior notice**, whereas **Special Audit** does **not** require prior notice.

19. Which audit has a longer completion timeframe?

- **Departmental Audit: 3 months (extendable by 6 months)**
- **Special Audit: 90 days (extendable by another 90 days)**

20. Who submits the audit report in each case?

- **Departmental Audit:** Submitted upon completion by the department.
- **Special Audit:** Submitted by the appointed CA/CMA to the Assistant Commissioner.

21. Which audit explicitly provides an opportunity of being heard?

- **Special Audit** provides a specific provision for an opportunity to be heard, but **Departmental Audit** does not.

Procedural & Legal Aspects

22. Under which GST Rule is the special audit procedure outlined?

- **Rule 102 of the CGST Rules, 2017** outlines the procedural aspects of a special audit.

23. What are the circumstances that may lead to a special audit?

- If an officer finds that:
 - The **value declared is incorrect**
 - **Input tax credit is wrongly availed**

24. What form is used to notify a taxpayer about a special audit?

- **Form GST ADT-03** is issued to notify the taxable person.

25. What happens after the completion of a special audit?

- The findings are shared with the taxpayer in **Form GST ADT-04**, and further action may be taken based on the report.

PART-III

RELATED CIRCULAR/NOTIFICATIONS/CASE LAWS

1. A Special Audit under *Section 66* of the CGST Act involves the examination of a taxpayer's financial records by a Chartered Accountant (CA) or a Cost Accountant (CMA) nominated by the Commissioner. It is distinct from the regular audit conducted by the department or the taxpayer's self-assessment.

2. Applicability of Special Audit

Special Audit is initiated under the following conditions:

Complexity in records: The records are deemed too complex for a regular audit or inquiry.

Doubtful turnover or tax liability: There is uncertainty regarding the correctness of turnover, ITC claims, tax payments, or refunds.

Expert opinion required: The situation demands professional expertise beyond the capacity of the regular audit process.

3. Procedure for Special Audit

The procedure for Special Audit as per *Notification No. 10/2017* and Section 66 of the CGST Act includes the following steps:

a. Direction for Audit

The proper officer directs the taxpayer to undergo a Special Audit.

Approval for such direction must be obtained from the Commissioner.

b. Appointment of Auditor

The Commissioner nominates a Chartered Accountant or Cost Accountant to carry out the audit.

c. Timeframe for Completion

The audit must be completed within 90 days from the date the direction is issued.

An extension of 90 additional days can be granted if necessary.

d. Scope of the Audit

Examination of financial statements, records, books of accounts, and other relevant documents.

Focuses on turnover, ITC, tax liability, refunds, or any area of doubt identified by the proper officer

e. Submission of Audit Report

The auditor submits a detailed audit report to the Commissioner, highlighting findings and conclusions.

4. Rights and Responsibilities of the Taxpayer

Obligation to Cooperate: The taxpayer must provide access to records, accounts, and documents as required by the auditor.

Opportunity to Respond: If adverse findings are noted in the audit, the taxpayer must be given a chance to explain before final conclusions are drawn.

5. Costs of Special Audit

The expenses of the Special Audit, including remuneration of the auditor, are borne by the Government.

6. Outcomes of the Special Audit

Based on the findings in the Special Audit report:

Demand or Recovery: If tax evasion or discrepancies are identified, appropriate actions, including demand notices or recovery proceedings, may be initiated under the CGST Act.

Further Investigation: The report may form the basis for further inquiry or scrutiny by the tax authorities.

7. Legal Provisions Supporting Special Audit

Section 66 of the CGST Act: Governs the scope, conditions, and process of the Special Audit.

Notification No. 10/2017: Provides procedural guidelines and reiterates the importance of obtaining prior approval from the Commissioner before initiating a Special Audit.

8. Key Features of Notification No. 10/2017

Reaffirms the requirement of Commissioner's approval before directing a Special Audit

Outlines the appointment of CAs or CMAs as independent experts to conduct the audit

Clarifies timelines for completion and submission of the audit report

9. Judicial Precedents and Observations

Courts have upheld the validity of Special Audits provided they are initiated with proper justification and procedural compliance.

The taxpayer's right to be heard before any adverse conclusions is critical to ensuring the fairness of the process.

10. Practical Implications

Taxpayer Impact: While intended to address complex cases, Special Audits can be time-consuming and disruptive for businesses.

Safeguards Revenue: The provision ensures that complex or doubtful cases are examined thoroughly by experts.

Thanks and Regards

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