

FROM THE DESK OF SUDHIR HALAKHANDI
GSTR-9 AND GSTR-9C/ GST AUDIT DATE EXTENSION
AND RESULT OF DENIAL OF EXTENSION.

-SUDHIR HALAKHANDI-

There is a genuine demand for Extension of Date for GSTR-9/9C and the date should be extended as desired by various Trade and Industry Association and supported by various professional Associations. Let us see what will be the eventuality if date is not extended so that you can complete your work without tension. Try to do as much as work you can complete since the year under consideration is 2017-18.

LATE FEES FOR GSTR-9

For GSTR-9 , the Late fees is mentioned in Section 47(2) of the Act, and the same is being reproduced herewith for your kind perusal :-

Section 47(2):- Any registered person who fails to furnish the return required under section 44 by the due date shall be liable to pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum amount calculated at a quarter percent of his turnover in the state or union territory.

Hence for GSTR-9 the Late fees both under SGST and CGST is **Rs. 200 per day** subject to the maximum as mentioned above.

GSTR-9C

There is No late fee for delayed filling of GSTR-9C and further there is no specific penalty for GSTR-9C in the GST Act. So for this purpose we have to study the General Penalty Section 125.

Section 125:- General penalty clause is there which is being reproduced here –

125. Any person, who contravenes any of the provisions of this Act or any rules made thereunder for which no penalty is separately provided for in this Act, shall be liable to a penalty which may extend to twenty-five thousand rupees.

The penalty under section 125 is not a mandatory penalty and the amount is not fixed because it may extend to Rs. 25000.00 i.e. from Re.1 to 25000.00

See Section 126 You may find so many defences for Minor delays say 1 day to 30 days (*For Example*). You may submit reasonable cause 126(5) and further it is not a major Breach of law and no revenue loss is involved.

Section 126 General Disciplines related to Penalty (1) No officer under this Act shall impose any penalty for minor breaches of tax regulations or procedural requirements and in particular, any omission or mistake in documentation which is easily rectifiable and made without fraudulent intent or gross negligence.

Explanation.- For the purpose of this sub-section,-

(a) .a breach shall be considered a 'minor breach' if the amount of tax involved is less than five thousand rupees;

(b) .an omission or mistake in documentation shall be considered to be easily rectifiable if the same is an error apparent on the face of record.

(2) The penalty imposed under this Act shall depend on the facts and circumstances of each case and shall be commensurate with the degree and severity of the breach.

(3) No penalty shall be imposed on any person without giving him an opportunity of being heard.

(4) The officer under this Act shall while imposing penalty in an order for a breach of any law, regulation or procedural requirement, specify the nature of the breach and the applicable law, regulation or procedure under which the amount of penalty for the breach has been specified.

(5) When a person voluntarily discloses to an officer under this Act the circumstances of a breach of the tax law, regulation or procedural requirement prior to the discovery of the breach by the officer under

this Act, the proper officer may consider this fact as a mitigating factor when quantifying a penalty for that person.

(6) The provisions of this section shall not apply in such cases where the penalty specified under this Act is either a fixed sum or expressed as a fixed percentage.

Further not attaching reconciliation Statement with GSTR-9 is a separate offence not covered under section 47 since they are accepting GSTR-9 separately hence if GSTR-9 is filed then no Late fees under section 47 is attracted.

It is a mistake without revenue effect and can be rectified later by filing GSTR-9C as per section 126 (1).

There are no late fees for delay in Furnishing GST Audit or GSTR -9C since section 35 is not attached in Section 47.

The date of filing of GSTR-9 and GSTR-9C should be extended since there are valid will and various Trade organisations are demanding the extension.

Further the date was extended previously for at least 7 times so it should not be a very big matter though at all the previous occasions the date was extended for the Technical, format and utility release matters and dealers have nothing to do. So it is first time dealers are demanding extension but in case of eventuality you may get support from above.

Read these sections carefully and plan your work accordingly and try to complete the maximum work.

-With Good Wishes

Ca Sudhir Halakhandi