

Goods & Services Tax on e-commerce transactions

E-commerce provides multiple benefits to the consumers in form of availability of goods at lower cost, wider choice and saves time. India's e-commerce market was estimated to generate \$100 billion online retail revenue by the year 2020. In this article we are going to discuss about the applicability and impact of GST provisions on e-commerce.

Goods and Services Tax [GST] has been imposed on "supply of goods or services". Tax remains the same even when contract is negotiated orally, in writing or through e-communication. Thus, on a fundamental level, GST on e-commerce operator remains similar to any other mode of supply. Nevertheless, there are a few distinctly specific provisions applicable to e-commerce operators and suppliers of goods or service supplying through e-commerce portals. This article is an attempt to explain those provisions.

Two models of e-commerce.

There can be two models of e-commerce. One situation can be where the supplier himself supplying goods or services through e-commerce portal. GST laws remain the same for the said supplier. Another model is the marketplace or fulfilment model of e-commerce, popularized by Amazon or Zomato; or aggregator model followed by Ola or Urban Company. In this model, the e-commerce operator merely provides a platform to various suppliers. Two transactions are happening in the second model-



- I. supplier supplying goods or services to the consumers and
- II. E-commerce operator supplying services to the supplier using its platform. These are distinct transactions, and attract GST on their own.

Liability to pay GST

As a general rule, liability to pay GST is on the supplier of service. In e-commerce transactions, the persons supplying goods or services through the platform are the suppliers. Thus, he is required to follow GST provisions in respect to those supplies.

However, Section 9(5) of the CGST Act provides categories of services on which the tax shall be paid by the electronic commerce operator if such services are supplied through it. Three services, namely Motor Cab, Hotels & accommodation and Housekeeping services has been notified under Section 9(5) of the CGST Act so far. Thus, e-commerce operators, engaged in providing services notified under Section 9(5) of the CGST Act are required to develop their model in such a way that they can discharge the GST liability. It may be noted that under the said section only supply of services can be notified.

In respect of supply of goods, the liability to pay GST always remains on the supplier of goods. Thus, any person supplying goods through an e-commerce portal is responsible for discharging its own



GST liability. In case of supply of services, all suppliers of services are required to discharge its own GST liability, except the services notified under Section 9(5) of the CGST Act.

Registration



Under **Section 24 (ix)** of the CGST Act, every person supplying goods or services through electronic commerce operators are required to be compulsorily registered, without any threshold exemption limit. However, the Government has power to exempt specified supplier from registration.

Persons supplying services mentioned in **Section 9(5)** are not liable to be registered under GST even if their turnover is more than the threshold limit, as liability to pay GST is on the e-commerce operator. But it should be noted that persons supplying services other than those mentioned in Section 9(5) of the CGST Act are required to register and collect GST if their turnover is more than the threshold limit

However, such benefit is not available to persons supplying goods through e-commerce operators. Such suppliers of goods are required to get compulsorily registered under GST even if their turnover is less than the threshold limit. It means they are required to register before selling through the e-commerce platform. All platforms like Amazon, Flipkart etc. requires GSTIN at time of registration as a seller on their platform.

Commission Charged from suppliers



E-commerce portals generally charge some commission from supplier. This is the nature of transaction discussed above in the second model of e-commerce. It amounts to support services, falling under **Tariff heading 9985**, and shall attract GST at the rate of 18%. E-commerce portals are required to be compulsorily registered under Section 24(ix) of the CGST Act, and shall be paying GST on commission amount

received, without availing any exemption threshold limit. The tax shall be charged in the invoices raised against supplier of goods or services; and such suppliers can avail ITC on such GST charged, if otherwise eligible

Tax Collection at Source

An E-commerce operator is also required to collect tax under **Section 52** of the CGST Act, called TCS. The provision essentially imposes a duty on e-commerce operators to collect tax, from the amount payable to the supplier. Such TCS deducted is reflected in the electronic cash ledger of the supplier. However, the Government has clarified that TCS shall be deducted only when the supplier is liable to pay GST. TCS is not required to be collected on exempt supplies. For the purposes of TCS, an e-commerce operator has to obtain



separate registration for TCS, irrespective of the fact that it is already registered under GST as a supplier or otherwise and has GSTIN. The section imposes a duty on electronic commerce operators to collect a tax, from the consideration required to be paid to the persons making supplies of goods or services or both through its platform. The deduction shall be done on monthly basis on net value of taxable supplies.

E-commerce portal from outside India



As a matter of general rule, liability to pay tax is fastened only on the persons supplying goods or services, through an establishment located in India. If such supplies are made from a location outside India, the supplier cannot be fastened with a GST payment liability. Supply of goods is a simple example. Say, a foreign manufacturer supplying goods to an importer in India. Though, that foreign manufacturer is supplier of goods, liability to pay GST is not on that foreign manufacturer. GST is paid by the importer located in India at the time of import. Similarly, when

supplier of services supplies certain services to an Indian resident, liability to pay GST on such supply is on the person receiving the services under reverse charge method. Thus, when an e-commerce operator is located outside India, in general there is no GST liability on that operator.

Online Information and Database Access and Retrieval Service is an exception to the above said provision. In case of OIDAR service, the liability to pay tax is there even on non-resident supplier of services. The Integrated Goods and Service Tax Act defines OIDAR to mean services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention and impossible to ensure in the absence of information technology.

Conclusion

Goods and Service Tax or GST as it is known is all set to be a game changer for the Indian economy. Overall, it is known to be beneficial to both the consumer, business and the Government. But when it comes to e-commerce transactions it looks a bit complicated because many transactions are happening simultaneously. Thus, it is very important to understand the provisions of the law properly and apply the same in e-commerce business. Also, a proper understanding about the nature of e-commerce transactions is crucial in applying GST law in e-commerce business models.

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