

# **E-COMMERCE (TAX COLLECTION AT SOURCE)**

# ELECTRONIC COMMERCE

Business transactions relating to goods or services or both performed through electronic platform are called electronic commerce.

Clause (44) of section 2 of the CGST Act, 2017:

*Electronics Commerce means supply of goods or services or both including digital products over digital or electronics network’.*

In e-commerce:

- transactions do not take place by physical interaction amongst persons.
- Supply of goods or services or both takes place by use of network ;
- exchange of data and funds take place over an electronic network i.e. the internet making use of certain applications.

## **Electronic commerce operator**

*Clause (45) of section 2*

*Electronic commerce operator' means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce. The electronic platform connects the persons providing services of a particular type with potential customers.*

### **Electronic commerce operator is a person**

An electronic commerce operator is basically a person as defined under clause 2(84) which includes an individual, HUF, Company, Firm, LLP, AOP, Cooperative Society, Government, Trust or an Artificial Judicial person.

## **E-commerce operator may own and/or manage electronic platform**

An electronic commerce operator may be:

- \* an owner of digital or electronic facility or platform; or
- just operates or manages the e-commerce platform.
- As an operator of digital or electronics facility or platform:
- connects customers with persons intending to provide services under a brand name or trade name.

## **Enables potential customers to connect with service providers**

The purpose of providing electronic platform is to enable the potential customers to connect with the persons who provide service of a particular kind under the brand name or trade name of the aggregator.

### **E-commerce transactions**

Business to Business: **B2B**;

Business to Customer: **B2C**;

Business to Government: **B2G**

E-commerce connects business to business, business to consumers and business to government .

## **COLLECTION OF TAX AT SOURCE BY E-COMMERCE OPERATOR**

Section 52 requires that every 'electronic commerce operator' to collect tax at source.

### **Notwithstanding anything to the contrary contained in the Act**

The term implies that in relation to tax collection by e-commerce operator, provisions of section 52 shall override over the rest of provisions of the CGST Act, 2017.

## **E-commerce operator (if not an agent) to collect tax at source**

E-commerce operator not being an agent to collect tax at source on net value of taxable supplies made through it by other suppliers where the consideration of such supplies is to be collected by the operator.

Thus, an agent of operator is not entitled to collect tax.

## **Tax to be collected on taxable supplies made through operator**

Tax shall be collected only on taxable supplies which have been made through electronic commerce operator by other suppliers.

Transactions not routed through e-commerce operator or non-taxable supplies are not liable for tax deduction at source.

## **Net value of taxable supplies**

‘Net value of taxable supplies’ means:

- (i) the aggregate value of taxable supplies of goods or services or both;
- (ii) made during any month;
- (iii) by all registered persons through the e-commerce operator

### ***Exclusion***

Services notified under sub section (5) of section 9 i.e. the intrastate supplies the tax on which shall be paid by the electronic commerce operator as if he as the supplier is liable to pay tax in relation to the supply of such services.

### ***Less:***

Aggregate value of taxable supplies returned to the supplier during the said month.



## **Consideration of transaction collected by the operator**

Tax collection applies if the consideration is collected by the e-commerce operator.

## **Rate of tax collection**

Not exceeding 1% of the net value of taxable supplies made through the electronic commerce operator.

## **Power to collect tax to be without prejudice to any other mode of recovery**

Provisions of section 52 and other modes of recovery shall operate in their domain.

## **Payment of tax collected**

Within 10 days after the end of the month in which such collection is made. [Section 52(3)]

## **Submission of statement of supplies by an e-commerce operator**

Within 10 days from end of the month furnish a statement electronically.  
The statement shall contain details of outward supplies of goods or services or both.

## **Conditions as to statement**

Conditions relating to above statement are as follows:

- (i) the supplies have been made through the e-commerce operator;
- (ii) the supplies include the supplies of goods or services or both returned through it.
- (iii) Amount of tax collected at source during the month.

## **Form of statement**

FORM GSTR-8 electronically through the Common Portal.

## **Details of tax collected to be made available**

Tax collected shall be made available to the concerned person in Part D of FORM GSTR - 2A electronically through the Common Portal.

## **Rectification of omission or error**

If any operator after furnishing the monthly statement discovers any omission or incorrect particulars, he shall rectify such omission or incorrect particulars in the month in which it is noticed.

The time limit to rectify any omission or incorrect particulars furnished in the monthly statement is earlier of the followings:

- (i) The due date of furnishing the statement for the month of September following the end of financial year; or
- (ii) Actual date of furnishing of relevant annual statement.

## **Rectification not permissible**

Rectification of omission or incorrect particulars furnished in the monthly statement shall not be permitted if it is discovered as a result of scrutiny of return under section 61, audit under section 65, inspection or enforcement or enforcement under section 67 or 68 of the Act.

## **Annual statement**

Every operator who collects tax to submit annual statement which shall contain following details:

- (i) Outward supplies of goods or services or both made through it;
- (ii) Supplies of goods or services or both made through it returned;
- (iii) Amount of tax collected at source during the month.

The annual return shall be submitted electronically before 31<sup>st</sup> day of December from end of the relevant financial year.

## **Matching of supplies**

The suppliers who make supplies through the operator shall disclose these in their outward supplies. The supplies of operator shall be matched with outward supplies of concerned supplier.

## **Consequences of mismatch of supplies not rectified**

Enhancement of outward supplier of concerned supplier.

## Matching of primary fields

Rule 19 provides that the following details relating to the supplies made through an e-Commerce operator, as declared in FORM GSTR-8, shall be matched with the corresponding details declared by the supplier in FORM GSTR-1:

- (a) GSTIN of the supplier;
- (b) GSTIN or UIN of the recipient, if the recipient is a registered person;
- (c) State of place of supply;
- (d) Invoice number of the supplier;
- (e) Date of invoice of supplier
- (f) Taxable value;
- (g) Tax amount:

## **Supplier is not required to furnish the details separately for each supply**

Following details relating to such supplies made through an e-Commerce operator, as declared in FORM GSTR-8, shall be matched with corresponding details declared by the supplier in FORM GSTR-1:

- (a) GSTIN of the supplier;
- (b) State of place of supply;
- (c) Total taxable value of all supplies made in the State through e-commerce portal; and
- (d) Tax amount on all supplies made in the State:

# **COMMUNICATION AND RECTIFICATION OF DISCREPANCY IN DETAILS FURNISHED BY THE ECOMMERCE OPERATOR AND THE SUPPLIER**

Rule 20 of Return Rules provides for the communication and rectification of discrepancy in details furnished by the ecommerce operator and the supplier.

## **Intimation of discrepancy**

Discrepancy in the details furnished

To the supplier electronically in FORM GST MIS-5

To the e-commerce portal electronically in FORM GST MIS-6



## **Supplier may make rectification**

## **Operator if makes suitable rectification**

## **Consequences of discrepancy if not rectified**

The addition to the output tax liability and interest payable thereon shall be made available to the supplier electronically on the Common Portal in FORM GST MIS -5.

## **INFORMATION FROM OPERATOR**

Authorities may call information from e-commerce operator.

## **Authority who may call for information**

Any authority not below the rank of Deputy Commissioner may serve a notice upon on e-commerce operator to furnish details.

## **Information called for**

- (i) Supplies of goods or services or both effected through such operator during any period; or
- (ii) Stock of goods held by the suppliers making supplies through such operator in the godown or warehouse by whatever name called, managed by such operators and declared as additional places of business by such suppliers.

## **Failure to furnish information**

Penalty which may extend to Rs. 25,000/-. The penalty shall be levied apart from any other action that may be taken under section 122 of the CGST Act, 2017.

# Thank You

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