



GST IMPACT ON E-COMMERCE

Law and FAQ's

What is GST?

Goods & Services Tax Law in India is a comprehensive, multi-stage, destination-based tax that will be levied on every value addition.

In simple words, GST is an indirect tax levied on the supply of goods and services. GST Law has replaced many indirect tax laws that previously existed in India.

Central Taxes

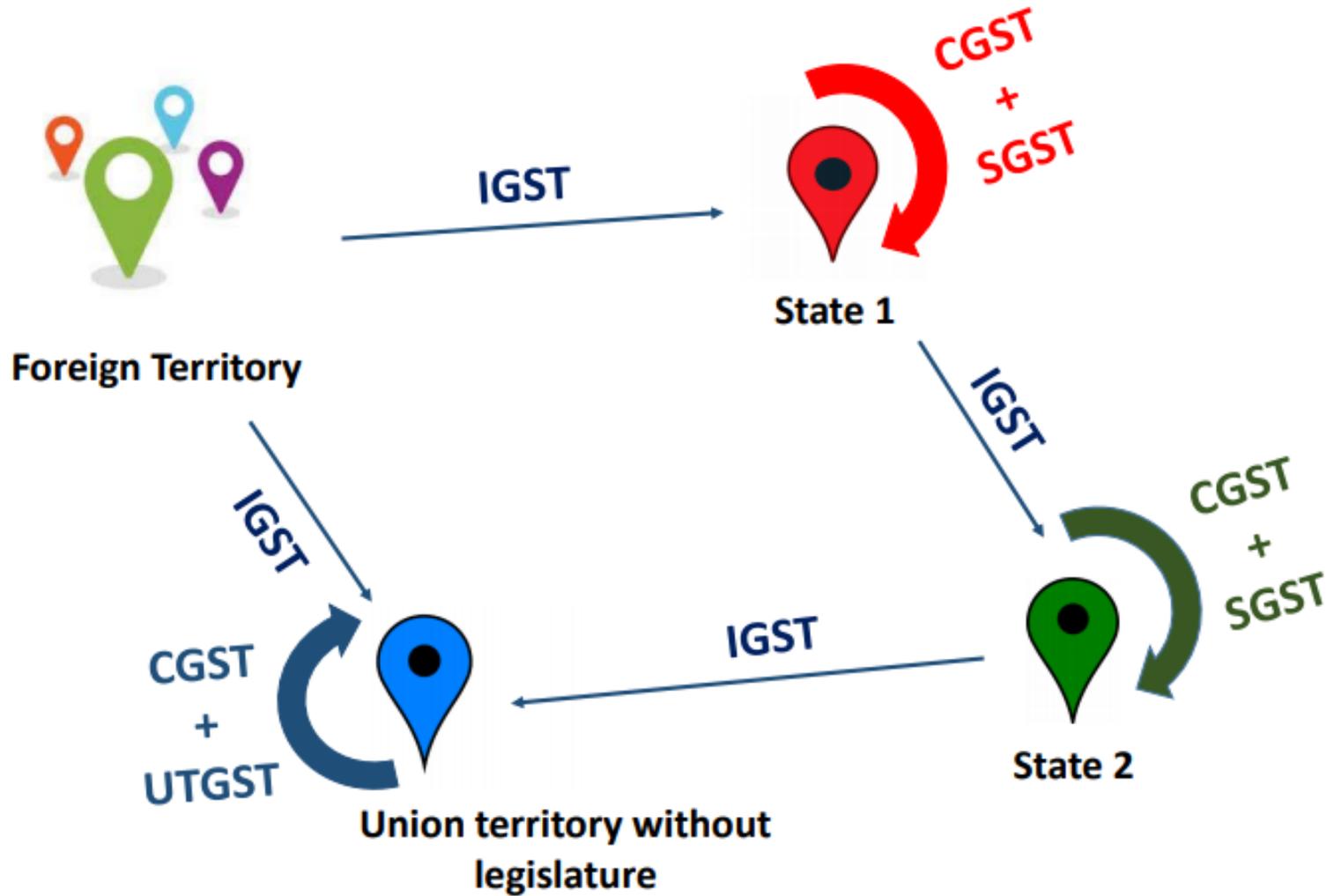
- Central Excise duty
- Additional duties of excise
- Excise duty levied under Medicinal & Toilet Preparation Act
- Additional duties of customs (CVD & SAD)
- Service Tax
- Surcharges & Cesses

GST

State Taxes

- State VAT / Sales Tax
- Central Sales Tax
- Purchase Tax
- Entertainment Tax (other than those levied by local bodies)
- Luxury Tax
- Entry Tax (All forms)
- Taxes on lottery, betting & gambling
- Surcharges & Cesses

GST Types



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Overview of E-commerce industry



- i. In recent years, e-commerce in India has managed to capture the eye-balls and also the mind-space of the consumers at large such as never before and with this unprecedented growth, India has become the second largest market for e-Commerce.
- ii. The e-commerce market in India is expected to breach the \$100-billion mark by 2020.
- iii. E-Commerce is still less than 2% of the overall consumption in India, as against 14% in China.
- iv. The explosive growth in the e-commerce sector has given rise to multiple tax issues. The e-commerce companies besides their normal challenges such as rising competition, rapidly changing technology, shrinking margins etc., are now facing litigation owing to their innovative business models.
- v. E-commerce gives a secure and cost-efficient contribution in the growth of SME's and SME's contribute 17% of the Nation's GDP and 40% in the total exports from the country.
- vi. E-commerce also provides and supports the thought process to encourage cashless transactions which will greatly help the Government's long-term vision to curb black money.

Advantage of E-Commerce



- i. **Sell Internationally:** Using e-Commerce, organization can expand their market to national and international markets with minimum capital investment. An organization can easily locate more customers, best suppliers and suitable business partners across the globe.
- ii. **24x7 support to customers:** Customer can do transactions for the product or enquiry about any product/services provided, anytime and anywhere from any location.
- iii. **Reduces cost:** E-Commerce helps organization to reduce the cost to create process, distribute, retrieve and manage the paper based information by digitizing the information.
- iv. **Helps Government to deliver services:** E-Commerce helps government to deliver public services like health care, education, social services at reduced costs and in improved way.

- v. **Shortens the product distribution chain:** By allowing direct interaction with the final consumer, e-commerce shortens the product distribution chain, sometimes even eliminating it completely. This way, a direct channel between the producer or service provider and final user is created, enabling them to offer products and services that suit the individual preferences of the target market.

- vi. **Benefits customers:** E-Commerce application provides user more options and quicker delivery of products. It provides user more options to compare and select the cheaper and better option. A customer can put review comments about a product and can see what others are buying or see the review comments of other customers before buying.

E-Commerce Challenges

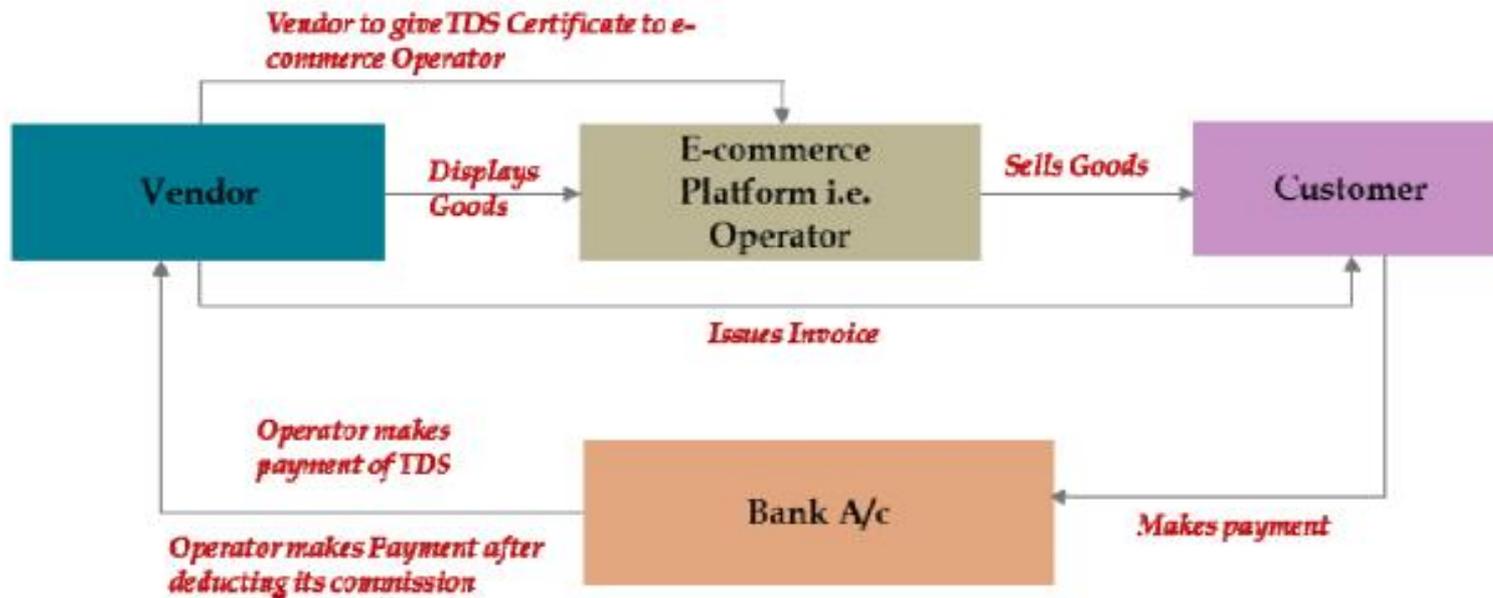


- i. **High cash-on-delivery (COD):** COD is the preferred payment option in India which is risky, expensive and burdensome.
- ii. **Internet connectivity:** Internet is the backbone of e-Commerce. But internet penetration in India is very low. Thus e-Commerce remains far away from common man. Cost of internet connection in India is also quite high.
- iii. **Reachability:** Thousands of towns in India are not accessible and have poor transportation facility. A large population face an absence of seamless access, thus, e-Commerce companies lose a big portion of potential customers.
- iv. **Poor logistics & supply chain:** There are thousands of towns in India that are not easily accessible. Metropolitan cities and other major urban centers have a fairly robust logistics infrastructure. Timely delivery is a major issue. It is a time consuming process that requires much R&D.
- v. **Return of goods:** Efficient follow-ups and timely returns/ exchange contribute to a major retention of customers. Return of goods by customers is a huge problem as it is expensive task for companies to carry out reverse logistics and it is not profitable to seller.

Flow Chart – E-Commerce Transactions

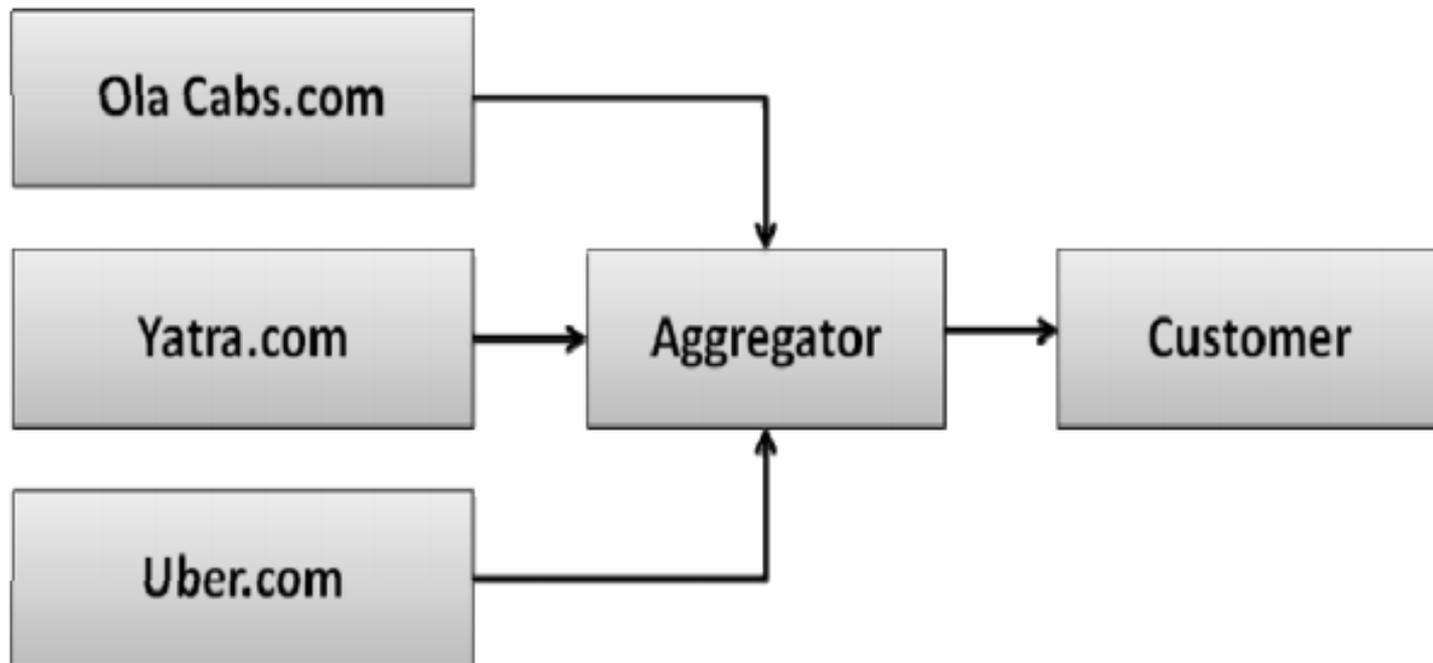
Flow Chart

A typical e-commerce transaction



Flow Chart – Aggregators

Flow Chart



Example: Trivago.com, Ola Cabs, Uber etc.

Relevant Definitions

Sec 2(44) of CGST act, electronic commerce means supply of goods or services or both including digital products over digital or electronic network.

Sec 2(45) of CGST act, electronic commerce operator means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce.

Sec 2(17) of IGST act, online information and database access or retrieval services means 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 and includes electronic services such as,–

- advertising on the internet;
- providing cloud services;
- provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet;
- providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;
- online supplies of digital content (movies, television shows, music and the like);
- Digital data storage; and
- Online gaming

Registration Requirements



Registration Requirement for E-Commerce operator

- E-Commerce operators is mandatory required to take registration under GST.
- **Composition Scheme for E-commerce operator** - GST law has explicitly excluded e-commerce businesses from this scheme.

Registration Requirement for actual supplier of goods/services

- Where supplies through E-commerce operator and operator is required to collect tax u/s 52 of CGST Act and **aggregate turnover exceeds 20 lakhs or 10 lakhs** (Specified states) then registration is compulsory.
- In case where E-commerce operator is liable to pay tax u/s 9(5) (**Reverse charge**) then **no registration is required** for actual supplier of service.

(Example - Radio taxi or Passenger Transport Services provided through electronic commerce operator then 100% tax is to be paid by e-commerce operator.)

- **Composition Scheme is not available for supplier** supplies through e-commerce operator.

Tax collected at source



Every electronic commerce operator, not being an agent, shall collect an amount calculated at such rate not exceeding **2% (CGST+SGST) of the net value of taxable supplies** made through it. where the consideration with respect to such supplies is to be collected by the operator.

Net value of taxable supplies = Aggregate value of taxable supplies of goods or services

Less: Supplies returned

Less: Supplies u/s 9(5) (Reverse charge)

Sec 9(5) The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services.

Returns and compliances requirement for E-commerce operator

- Every operator is required to file **GSTR-8** up to 10th of next month.
- TCS deducted shall be paid by the operator to the government up to **10th of next month.**
- Every operator shall furnish an **annual statement before the 31st December** following the end of next financial year in **Form GSTR-9B.**
- Every operator after furnishing a monthly statement discovers any omission or incorrect particulars shall rectify such omission on payment of interest **up to September or actual filing of annual return whichever is earlier.**
- Any discrepancy in the details furnished by the operator and those declared by the supplier shall be made available to the supplier electronically in **FORM GST MIS-3** and to the e-commerce portal electronically in **FORM GST MIS-4** before the last day of the month in which the matching has been carried out.

Notice to E-commerce operator



Issuance of Notice

Any authority not below the rank of Deputy Commissioner may serve a notice, either before or during the course of any proceeding under this Act.

Requiring -

Supplies of goods or services or both effected through such operator during any period, Stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, managed by such operators and declared as additional places of business by such suppliers.

Time limit for furnishing details after service of notice

Operator shall furnish the required information **within 15 working days** of the date of service of such notice. **Penalty up to Rs.25000/-** in case of fails to furnish the information required by the notice served.

Q.1 What is digital product is it covered under goods in GST?

Ans Definition of digital products is not defined in GST act. Digital goods are **Intangible goods or E-goods.**

Some of the examples of Digital products are:-

- Webinars
- Video tutorials (Online course)
- E-books
- Downloadable media
- Online ads
- Electronic tickets
- Downloadable software or mobile apps etc.

Digital products are covered under the definition of Goods under GST.

Q.2 Whether a person supplying goods or services through e-commerce operator would be entitled to threshold exemption?

Ans If supplier supply through e-commerce operator where operator is required to collect tax u/s 52 of CGST Act, 2017 then compulsory registration is required to supplier and In case where E-commerce operator is liable to pay tax under Reverse charge u/s 9(5) of CGST Act, 2017 then only threshold limit for registration to supplier come into place.

Q.3 Will an e-commerce operator be liable to pay tax in respect of supply of goods or services made through it, instead of actual supplier?

Ans Yes, but only in case of services notified under Sec. 9(5) of the CGST Act, 2017. Till now only one service is notified by government i.e Radio taxi or Passenger Transport Services provided through electronic commerce operator example OLA, UBER etc.

Q.4 Will threshold exemption be available to electronic commerce operators liable to pay tax on notified services?

Ans No, Threshold exemption is not available to e-commerce operators who are required to pay tax on notified services supplied through them.

Q.5 What is Tax Collection at Source (TCS)?

Ans The e-commerce operator is required to collect an amount at the rate of one percent (0.5% CGST + 0.5% SGST) of the net value of taxable supplies made through it, where the consideration with respect to such supplies is to be collected by such operator. The amount so collected is called as Tax Collection at Source (TCS). (Refer to Section 52(1) of the CGST Act, 2017).

Q.6 It is very common that customers of e-commerce companies return goods. How these returns are going to be adjusted?

Ans An e-commerce company is required to collect tax only on the net value of taxable supplies. In other words, the value of supplies which are returned are adjusted in the aggregate value of taxable supplies. (Refer to Explanation to Sec. 52(1) of the CGST Act, 2017).

Q.7 I am a supplier selling my own products through a web site hosted by me. Do I fall under the definition of an “electronic commerce operator”? Am I required to collect TCS on such supplies?

Ans As per the definitions in Section 2 (44) and 2(45) of the CGST Act, 2017, you will come under the definition of an “electronic commerce operator”. However, according to Section 52 of the Act, TCS is required to be collected on the net value of taxable supplies made through it by other suppliers where the consideration is to be collected by the ECO. In cases where someone is selling their own products through a website, there is no requirement to collect tax at source as per the provisions of this Section. These transactions will be liable to GST at the prevailing rates.

Q.8 There are sellers who are selling exempted or zero-tax goods like books through ECOS. Will marketplaces be required to collect TCS on such supplies?

Ans As per Section 52(1) of the CGST Act, 2017 TCS is to be collected on “the net value of taxable supplies” made through an ECO. When the supply itself is not taxable, the question of TCS does not arise.

Q.9 We purchase goods from different vendors and are selling them on our website under our own billing. Is TCS required to be collected on such supplies?

Ans No, According to Section 52 of the CGST Act, 2017, TCS is required to be collected on the net value of taxable supplies made through it by other suppliers where the consideration is to be collected by the ECO. In this case, there are two transactions - where you purchase the goods from the vendors, and where you sell it through your website. For the first transaction, GST is leviable, and will need to be paid to your vendor, on which credit is available for you. The second transaction is a supply on your own account and not by other suppliers and there is no requirement to collect tax at source. The transaction will attract GST at the prevailing rates.

Q.10 There are cases in which the ECO does not provide invoicing solution to the seller. In such cases, invoice is generated by the seller and received by the buyer without ECO getting to know about it. The payment flows through the ECO. In such cases, on what value is TCS to be collected? Can TCS be collected on the entire value of the transaction?

Ans Section 52(1) of the CGST Act, 2017 mandates that TCS is to be collected on the net taxable value of such supplies in respect of which the ECO collects the consideration. The amount collected should be duly reported in GSTR-8 and remitted to the Government. Any such amount collected will be available to the concerned supplier as credit in his electronic cash ledger.

Q.11 GST requires a dealer to maintain a consecutive serial number for invoices. If we are supplying from multiple locations, do we need to centrally maintain the invoice numbers serially?

Ans Section 46 of the CGST Rules, 2017 provides that invoice may have “a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year”. Therefore, a supplier can have multiple series for the same year, so long as the same series is not used across financial years. Therefore, you may have a different invoice series for each location having consecutive serial numbers running across that series.

Q.12 What is meant by “net value of taxable supplies”?

Ans The “net value of taxable supplies” means the aggregate value of taxable supplies of goods or services or both, other than the services on which entire tax is payable by the e-commerce operator, made during any month by all registered persons through such operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month. (Refer to Explanation to Section 52(1) of the CGST Act, 2017).

Q.13 Is every e-commerce operator required to collect tax on behalf of actual supplier?

Ans Yes, every e-commerce operator (other than an operator required to pay tax under section 9(5) of the CGST Act, 2017) is required to collect tax where consideration with respect to a taxable supply is collected by such e-commerce operator. (Refer to Section 52(1) of the CGST Act, 2017).

Q.14 What time should the e-commerce operator make such collection?

Ans The e-commerce operator should make the collection during the month in which the consideration amount is collected from the recipient.

Q.15 What is the time within which such TCS is to be remitted by the e-commerce operator to Government?

Ans The amount collected by the operator is to be paid to the government within 10 days after the end of the month in which amount was so collected. (Refer to Section 52(3) of the CGST Act, 2017).

Q.16 How can actual suppliers claim credit of this TCS?

Ans The amount of TCS paid by the operator to the government will be reflected in the GSTR-2 of the actual registered supplier (on whose account such collection has been made) on the basis of the statement filed by the operator. The same can be used at the time of discharge of tax liability in respect of the supplies made by the actual supplier. (Refer to Section 52(7) of the CGST Act, 2017).

Q.17 Do travel agents providing services through digital or electronic platform qualify as ECOs? Will they be required to collect tax at source as per the provisions of Section 52 of the GST Act?

Ans Online travel agents providing services through digital or electronic platform will fall under the category of ECOs liable to deduct TCS under Section 52 of the CGST Act, 2017.

Q.18 Is the e-commerce operator required to submit any statement? What are the details that are required to be submitted in the statement?

Ans Yes, every operator is required to furnish a statement, electronically, containing the details of outward supplies of goods or services effected through it, including the supplies of goods or services returned through it, and the amount collected by it as TCS during a month within ten days after the end of such month. The statement will be filed in FORM GSTR-8. The operator is also required to file an annual statement by 31st day of December following the end of the financial year in which the tax was collected. (Refer to Section 52(4) and Section 52(5) of the CGST Act, 2017).

Q.19 What is the concept of matching in e-commerce provisions and how it is going to work?

Ans The details of supplies furnished by every operator in his statement for the month will be matched with the corresponding details of outward supplies furnished by the concerned supplier in his valid return for the same month or any preceding month. Where the details of outward supplies declared by the operator in his statement do not match with the corresponding details declared by the supplier, the discrepancy shall be communicated to both persons. (Refer to Section 52(8) and Section 52(9) of the CGST Act, 2017).

Q.20 **What will happen if the details remain mismatched?**

Ans The amount in respect of which any discrepancy is communicated and which is not rectified by the supplier in his valid return or the operator in his statement for the month in which discrepancy is communicated shall be added to the output liability of the said supplier in his return for the month succeeding the month in which the discrepancy is communicated. The concerned supplier in whose output tax liability any amount has been added, shall be liable to pay the tax payable in respect of such supply along with interest on the amount so added from the date such tax was due till the date of its payment. (Refer to Section 52(10) and Section 52(11) of the CGST Act, 2017).

Q.21 **Are there any powers given to tax officials under the GST Act to seek information on supply/stock details from e-commerce operators?**

Ans Yes, Any officer not below the rank of Deputy Commissioner may issue a notice to the electronic commerce operator to furnish such details within a period of 15 working days from the date of service of such notice. (Refer to Section 52(12), (13) and (14) of the CGST Act, 2017).

Q.22 **Do travel agents providing services through digital or electronic platform qualify as ECOs? Will they be required to collect tax at source as per the provisions of Section 52 of the GST Act?**

Ans Online travel agents providing services through digital or electronic platform will fall under the category of ECOs liable to deduct TCS under Section 52 of the CGST Act, 2017

Q.23 **The sellers supplying goods through e-Commerce operators (ECO) may have common places of business, especially if their goods are stored in a shared facility operated by the ECO. This will result in the same additional place of business being registered by multiple suppliers. Is this allowed?**

Ans Yes, this is allowed. Any registered person can declare a premises as a place of business if he has requisite documents for use of the premises as his place of business (like ownership document, agreement with the owner etc.) and there is no restriction about use of a premises by multiple persons. The registered person shall have to comply with the requirements of maintaining records as per section 35 of the CGST Act, 2017 and Rules 56 to 58 of the CGST Rules, 2017.

Q.24 **There are transactions in which two or more ECOs are involved. In such cases who would deduct the TCS?**

Ans In such cases, each transaction needs to be treated separately and examined according to the provisions of Section 52 of the CGST Act, 2017. The TCS will be deducted accordingly.

THANK YOU

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