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RJA

# Goods and Service Tax-GST

*GST on E-Commerce in Retail sectors*

July 2016

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# Introduction

After a long wait, India is now able to see how the GST law would broadly look like. The e-commerce industry in India is still in its infancy, but it has shown a remarkable growth over a period of time and has contributed significantly to the country's GDP. GST is basically an indirect tax levied on the sale of goods and services and is considered a solution to several complex tax maladies being encountered by the E-commerce companies in the retail sector. Bringing e-commerce under the GST regime will resolve the big tax issues that these companies face in various states now, as GST Law will allow E-commerce operator to reach out to more customers by ending the scourge of entry taxes which states like Uttarakhand, Assam and Bihar are imposing a 10 percent entry tax on the goods sold online. There is the big hurdle of moving goods from one state to another, which is evident from the entry tax-related problems discussed above. But the GST will be a step forward in resolving these issues. The government has made its intentions of broadening tax base obvious by keeping a low threshold limit of R10 lakh (and R5 lakh for north-eastern states).

## **A Critical Analysis of implication of GST on E-commerce operators.**

### Rule

- (1) Notwithstanding anything to the contrary contained in the Act or in any contract, arrangement or memorandum of understanding, every electronic commerce operator (hereinafter referred to in this section as the "operator") shall, at the time of credit of any amount to the account of the supplier of goods and/or services or at the time of payment of any amount in cash or by any other mode, whichever is earlier, collect an amount, out of the amount payable or paid to the supplier, representing consideration towards the supply of goods and /or services made through it, calculated at such rate as may be notified in this behalf by the Central/State Government on the recommendation of the Council.

### Analysis

Meaning there by every e-commerce operator has been covered under GST. There is no threshold limit prescribed for registration for e-commerce and aggregators.

### When to collect

GST to be collected at prescribed Rate on the date of

- ✓ Credit to the account of supplier or
- ✓ Payment through any mode.

Whichever is earlier.

### Rule

- (2) The amount collected under sub-section (1) shall be paid to the credit of the appropriate Government by the operator **within ten days after the end of the month** in which such collection is made, in the manner prescribed.

## **When to deposited/pay**

Every e commerce operator shall be liable for depositing amount so collected form payment made to seller/service provider to CG/SG within 10 days from the end of month in which such amount is collected.

### **Rule**

(3) (a) Every operator shall, furnish a statement, electronically, of all amounts collected under sub-section (1), towards outward supplies of goods and/or services effected through it, during a calendar month, in such form and manner as may be prescribed, within ten days after the end of such calendar month.

(b) The statement under clause (a) shall contain, *inter alia*, the details of the amount collected on behalf of each supplier in respect of all supplies of goods and/or services effected through the operator and the details of such supplies during the said calendar month.

### **Analysis**

The e-commerce operator shall be required to comply with the requirements of furnishing details of transactions and tax so collected with authorities at stipulated time-lines. Concurrently, the supplier would also be required to file GST returns of supplies made.

### **Rule**

(3) Any amount collected in accordance with the provisions of this section and paid to the credit of the appropriate Government shall be deemed to be a payment of tax on behalf of the concerned supplier and the supplier shall claim credit, in his electronic cash ledger, of the tax collected and reflected in the statement of the operator filed under sub-section (4), in the manner prescribed.

### **Analysis**

The supplier will be able to adjust the amount so deposited to Govt. account ,against its output tax liability.

(5) The details of supplies and the amount collected under sub-section (1) during a calendar month, and furnished by every operator under sub-section (4), shall, in the manner and within the period prescribed, be matched with the corresponding details of outward supplies furnished by the concerned supplier in his valid return for the same calendar month or any preceding calendar month.

### **Analysis**

The data disclosed by both the parties shall then be matched by the authorities and, in case of any discrepancies, adequate action would be taken. In case of mismatch issues, the supplier would be liable to pay differential tax along with interest.

The authorities have also been empowered to extract information from the e-commerce operators in relation to the sales made through them.

### **Rule**

(6) Where the details of outward supply, on which the tax has been collected, as declared by the operator under sub-section (4) do not match with the corresponding details declared by the supplier under section 25, the discrepancy shall be communicated to both persons in the manner and within the time as may be prescribed.

(7) The value of a supply relating to any payment in respect of which any discrepancy is communicated under sub-section (7) and which is not rectified by the supplier in his valid return for the month in which discrepancy is communicated shall be added to the output liability of the said supplier, in the manner as may be prescribed, for the calendar month succeeding the calendar month in which the discrepancy is communicated.

### **Definition of E-Commerce operators**

The bill defines an ecommerce operator as one who **directly or indirectly** owns, operates or manages an **electronic platform** that is engaged in facilitating the **supply of any goods and services** or providing information that enables the transaction. This definition applies to marketplaces like Flipkart and Amazon, who do not own goods, but do the match-making between buyers and sellers, for which they charge a fee.

### **Definition of E-Commerce operators**

The bill defines an aggregator (Uber, Ola) as one who owns and manages an electronic platform and enables a potential customer to connect with service providers under their own brand name. These services are regarded as supplied by the owners of the brand name.

The aggregator levy has been continued, whereby an aggregator shall be liable to pay tax on services sold under its brand name through the electronic portal owned and maintained by such aggregator. Consequently, the aggregator should be required to adhere with registration and return compliance requirements.

### **Conclusion**

This is a concept similar to tax collected at source (TCS), whereby the e-commerce operator shall be liable to collect an amount as tax from the total amount payable to the supplier of goods/services, and deposit the same with tax authorities. The supplier shall then be able to adjust the same against its output tax liability. The suppliers selling goods/services through e-commerce shall be liable to register with authorities irrespective of threshold.

The government is outsourcing tax collection to e-commerce companies.

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