

INTRODUCTION TO GST

PLACE OF SUPPLY AND TIME OF SUPPLY-PART 3

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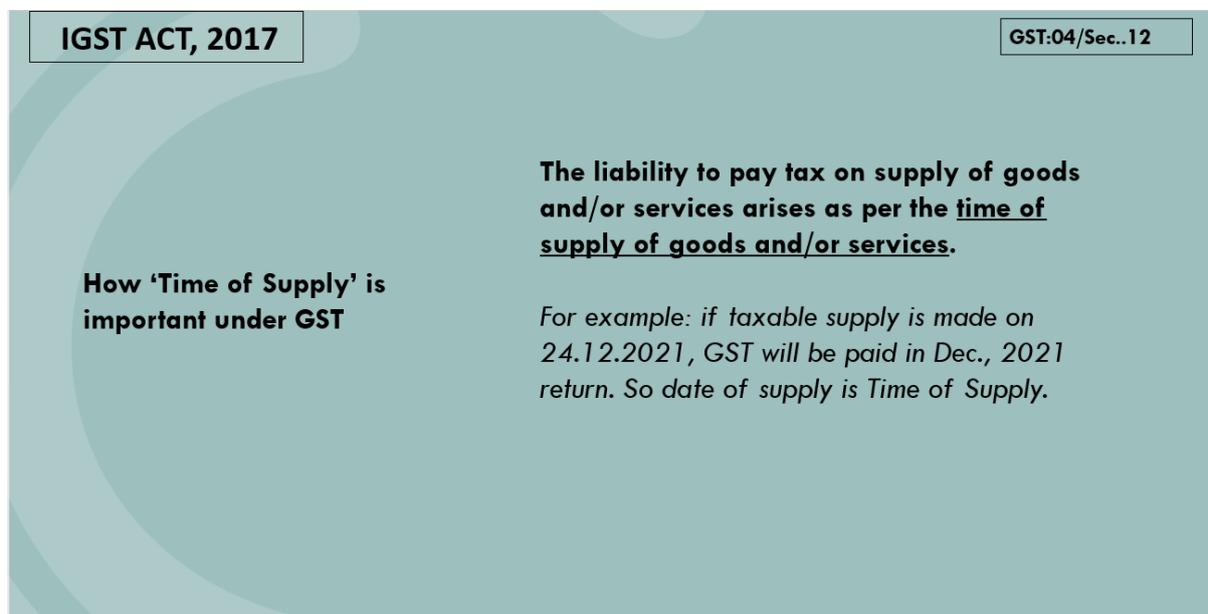
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Lecture 11

So, friends like place of supply under GST which is very relevant because place of supply defines if GST is applicable in form of IGST or CGST/SGST is applicable. Because based upon that the revenue to the respective government will go. It is more important for any state that they should get their genuine revenue under the transaction. Similarly, friends time of supply is equally important for business transactions from GST point of view. How these are? Let's see.



IGST ACT, 2017

GST:04/Sec..12

The liability to pay tax on supply of goods and/or services arises as per the time of supply of goods and/or services.

How 'Time of Supply' is important under GST

For example: if taxable supply is made on 24.12.2021, GST will be paid in Dec., 2021 return. So date of supply is Time of Supply.

Time of supplies means what? If we read the law or otherwise, the liability to pay tax on supply of goods or services arises as per the time of supply of goods or services. So when goods are supplied, when service is provided, accordingly tax will be paid to the government. So point of taxation is the time. And time you tell you when tax to be paid.

Let's take example. If there is a taxable supply and it is supplied on 24th of December 2021. So, this supply is made during December 21. So, this date is the time of supply of tax. When invoice is raised and goods have been supplied that particular date is the time of supply. So accordingly, tax will be paid as per the provisions of GST. How to determine time in case of goods, because supply of goods or supply of services both have their different criteria different characters. So, in case of goods, it says the date of issue of invoice by a supplier or 30th day from the date of supply.

CGST ACT, 2017 **GST:04/Sec..12**

How to determine the Time of supply for Goods..

- the date of issue of invoice by the supplier or 30th day from date of supply
- OR
- the date on which the supplier receives the payment with respect to such supply

Which ever is earlier.....

I told you the goods cannot move without a document and document is either delivery challan or invoice along with E-way bill if it is applicable. So, date of issue of invoice itself is a evidence that supply is made because when invoice is issued it means goods has also been supplied. But if it is not there, if invoice is not raised, then when actual goods are supplied, within 30 days from the date of that supply, invoice should be raised. And that is the point of taxation. Or, date on which supplier receives the payment. Means, whenever a supplier sending goods, supplying goods, he will raise invoice and send goods along the invoice; or there is a possibility when he receives the payment in his books of accounts. So, if he has supplied the goods or he has received the money first, whichever is earlier, will be the point of taxation. Based on these two dates, the tax is liable to be paid.

How to determine the Time of supply in case of **reverse charge supplies** (RCM) for Goods..

- the date of the receipt of goods
OR
- the date of payment
OR
- In any case 30th day from issue of invoice**
(normally Goods move with invoice or challan)

Which ever is earlier.....

If there is a case of reverse charge mechanism, means there are transactions, I told you that there are transactions which are covered under reverse charge mechanism where recipient has to pay tax, then what is the point of taxation? What is the point of time of supply? What is time of supply in such cases? Law says, date of receipt of goods. We are talking about transactions which are covered under reverse charge mechanism in case of goods. So, date of receipt of goods means when you receive the goods. If the goods are under reverse charge mechanism, the date on which goods have been received by the recipient, that date or payment is made or if payment is made by the recipient to the supplier or in any case 30th day from the issue of invoice or if invoice is raised from the 30th day of this invoice and whichever is earlier. So, any date which is earlier to these three dates will fix up the time, will fix up the time of supply for the payment of tax.

How to determine the Time of supply in case of **Gift vouchers**

- if the supplies/goods are identifiable at that at time of issue of Gift vouchers, than the date of issue of voucher, otherwise
- the date on which voucher is redeemed

Sometimes, companies' issues gift vouchers to their customer and these gift vouchers are free to the customer if they buy something over and above a particular price. But friends, in GST, nothing is free. If gift voucher is given, it means you have paid something for these vouchers.

Buy one, get one. These types of things are there in the market. But GST says nothing is free. By “get one”, free means whenever you are buying one (first) item, second is also charged along with. So, if any voucher is given on certain purchase to the customer, that voucher is also subject to GST because it has some value, it has some price and you have paid for that. Nothing is free as I told you. So, in that situation, if the supplies/goods are identifiable at the time of issue of voucher.

It happens sometimes that when voucher is given to you, the person who is giving you the voucher will tell you or it will be on the face of the voucher that this voucher can be redeemed against purchase of this particular item. Means voucher is very specified for a particular transaction for particular goods or particular service. It is not an open voucher, means you go into the market and buy anything, it is not like that. It is for particular item. So, at the time of issue of voucher, supply is clear that these goods can be purchased against redemption of this voucher. If that is the case, then it says, if the supply is identifiable at the time of issue of this gift voucher, then the date of issue of the voucher is the point of taxation, is the point of supply.

So, when the voucher is issued and it is clear from the voucher that against this voucher you can purchase a trouser, or a shirt, or a mobile phone, in that case, the date of issue of voucher is the point of taxation and tax will be paid accordingly by the supplier, by the person who has given this voucher to you, to the consumer.

And otherwise, if this is not clear and voucher is open, you go in the market and buy whatever you want or voucher is redeemable at many outlets and it is up to you to redeem this voucher and get the things you require; then, date on which voucher is redeemed is the time of supply. I mentioned earlier also that there are so many business transactions nowadays, businesses have complex strategies nowadays to sell their products. So, accordingly GST has mapped many business transactions for the levy of GST. So, free gift voucher is not a free, that is one thing. You have paid something for this voucher and whatever you are going to purchase from redemption of this voucher is also subject to GST in normal course of action. So, point of taxation means when the transaction is noticed, registered in record and accordingly tax will be paid. If any transactions happened in the month of April, from 1st April to 30th of April, then in these 30 days, if anything is purchased or sold, its tax has to be paid according to April. Time in this case is April. And GST has given the rule and regulation how this tax will be paid further.

What are other methods available to determine Time of Supply (TOS)

where a periodical return has to be filed, date of that return or

Date on which Tax is paid

If any additional amount by way of interest, late fee or penalty for delayed payments of any consideration or price is received, TOS shall be the date on which the supplier receives such additional amount

What other methods are available if the given situations are not clear, how we will determine the time of supply. So, law says, in the business the supplier is to file periodical returns (monthly returns). We have system of monthly returns. GSTR 1 is the first return which shows us outward supplies that we have made during particular month. And based upon this GSTR 1, our turnover is decided, rate of taxes already decided and we calculate liability of tax. In GST 3B, we pay taxes. So, as I mentioned that in month of April, whatever goods we have sold, we will determine our tax liability. We will declare our total invoices, our total sale of April in April's GSTR 1, which is supposed to be filed with the GST portal by 11th of May. Means for monthly returns I have 11 days to file my GSTR 1 on GST portal. So, in GSTR 1 I will give detail of all my sales, all my invoices, party wise, region wise, state wise, HSN code wise to GST portal so that accordingly tax can be shifted to respective states. Means whenever I am making sale, I will be having sale inter-state or having sale intra-state. So, system will act accordingly and we will also determine our tax liability, how much is CGST to be paid, how much SGST to be paid and how much IGST to be paid. So, in 3B we declare total tax liability and will pay accordingly.

So, for GSTR 1, we have 11 days. By 11th of next month, we have to file our GSTR 1 to fix our tax liability for April and by 20th of next month, we have to pay our tax based upon GSTR 1 we have filed. So, 3B is the return where I pay tax actually.

So, where we are having this option and it is not possible for us to file or determine the point of taxation of supply or time of supply, then it says where periodical returns are filed, the date of that return is the point of taxation or time of taxation. So, whatever I have done in April, I am supposed to pay tax by 20th of May or date on which tax is paid or if I have paid tax before

20th or before filing of return (means 20th is the date of filing return). If I paid tax on 15th by filing GST 3B, that date, whichever is earlier, that is the point of time for payment of taxes. That is the point of supply.

If any additional amount, by way of interest, late fee or penalty for delay in payment, is received from customer by a supplier, the time of supply for such cases shall be the date on which supplier receives such additional amount. So, if you have supplied goods in month of April for rupees 10,000 plus GST 18 percent and as per the terms of the purchase order, this payment is supposed to be released by your consumer/buyer within 15 days from the date of invoice, but he didn't and actually paid this amount after 30 days, then, point of taxation or time of supply remains the date of invoice as we have already decided. The additional amount what I have received in form of late payment over interest for that particular amount, which is also part of my value (my transaction value) is liable to be taxed under GST at the same rate at which I have charged the rate I have imposed or levied on my goods on the date when I received this amount. So, accordingly I will pay tax on this amount which interest I have received for delay in the payment of my invoices.

CGST ACT, 2017 **GST:04/Sec..13**

How to determine Time of Supply (TOS) for Services

Earliest of the following shall be the Time of Supply.....

- ✓ Date of issue of Invoice or date of payment received
Or
- ✓ Date of provision of services made in books (if invoice not raised) or date of payment received
Or
- ✓ Date on which recipient shows receipt of services in his books

If any additional amount by way of interest, late fee or penalty for delayed payments of any consideration is received, TOS shall be the date on which the supplier receives such additional amount

Then friends, time of supply in case of services. As we have varied style of services in India and also in GST and business complexity is there. So, point of supply is also bit complicated. So, it needs to be understood properly. So, it says “earliest of the following date shall be the point of supply”, so, that tax can be paid accordingly. And we have seen that for issue of invoices under services time period is varying from 30 to 45 days. So, if there is a delay in paying tax by 30 or 45 days, it is a huge loss to the government. Because we are delaying payment of taxes. Even then, law says the earliest date of the following shall be the point of

supply and accordingly tax should be paid. And it says, date of issue of invoice, if you have given some service to any person, and you have raised the invoice for that, the date of that invoice, or date of payment received, whichever is earlier from these two.

Further, there is date of provision of service made, when you have recorded that you have made the service to the person, though you have not raised the invoice, you have not received the payment, but you have declared in your books of accounts in your record that service is over now. It is made/completed in your books of account; you have created that record or the date of payment received.

Date of issue of invoice; provision made in the books of accounts; or payment received in accounts, i.e. date on which recipient shows receipt of service in his books of accounts. Here, supplier has made a provision in his books of accounts. Here, recipient has made a provision in his books of accounts that he has received the services, though he has not received the invoice. So, out of these two invoices, i.e. out of these two dates, whichever is earlier, that is the point of supply or point of taxation for that particular service. So, any additional amount will be treated as same way as we saw in the case of goods.

CGST ACT, 2017 **GST:04/Sec..13**

How to determine Time of Supply (TOS) for **Services under RCM**.....

Earliest of the following shall be the Time of Supply.....

- Date of payment made or debited to bank of recipient of service
- Or
- sixty days from date on Invoice/Debit Note/Challan/slip or any document raised

*** If above methods not possible than date of service entered in books of recipient.....**

Where goods are subject to reverse charge mechanism, how point of taxation will be decided, how point of supply will be decided. Now, in case of services, I have shown you the list of services like advocates service, directors services, GTA services which are under reverse charge mechanism, how point of supply will be decided, so that tax can be paid accordingly in that particular month. So, it says earliest of the following date. Again, earliest of the following dates and these dates are date of payment made, means when payment is made for this particular

service or debited to the bank of the recipient. Means when payment is released to the bank by the recipient. “60 days from the date of invoice”, so, it has a provision up to 60 days or the payment made under reverse charge mechanism, whichever is earlier; is the point of taxation for reverse charge. Normally what happens, if I receive any service which is subject to reverse charge, I pay tax in the same month without waiting for bill and all because in reverse charge mechanism I have to raise bill to my own and has to pay tax and has to claim ITC. And under reverse charge mechanism, tax is to be paid in cash only.

CGST ACT, 2017 **GST:04/Sec..13**

How to determine Time of Supply (TOS) for **Services provided through vouchers (including e-vouchers)**

Earliest of the following shall be the Time of Supply.....

- the date of issue of voucher, if the supply is identifiable at that point;
- Or
- the date of redemption of voucher, in all other cases.

If there is a voucher issued for services, with some purchases or otherwise, then how point of supply will be decided for a voucher given for a service? Again, earliest of the following. Date of issue of voucher if the supply is identifiable at the time of voucher in the case of goods or date of the redemption of the voucher whichever is earlier. Here supply is identifiable, so date of issue of voucher is point of supply when you have to pay tax. But if it is not there, then when the voucher is redeemed by the consumer, point of taxation will be there and where point of supply of services are there, the tax is to be paid accordingly. There are some debatable issues in these transactions, but still, these are going on.

Is there any other method? Yes, same way as we did in case of goods, i.e. periodical returns; accordingly, tax will be paid in case of services also. So, friends, point of taxation is important because if you are wrongly calculating your point of taxation or you are delaying payment of tax, definitely it will be subject to interest at the rate of 18%.

So, place of supply and time of supply these two are very important from GST point of view because based on these two points governments will ask you to pay taxes. If you are not abiding

by the provisions of time of supply and place of supply you will be charged with the fine, penalty and interest also. So, these sections are very important from the point of view of all business transactions under GST. So, while dealing with the business transactions, when you are an employee of the company or as a consultant to the company, study each and every transaction of the business, check the documents thoroughly, check the purchase order thoroughly because, in continuous supply, purchase order is the main document which will determine your point of taxation and place of supply. Any delay in payment of tax is subject to GST.

So, the more you will deal with the transactions of the business, understand the transactions, online transactions, e-commerce transactions, the more comfortable you will be with the business with GST provisions.