

INTRODUCTION TO GST

VALUE OF SUPPLY-PART 2

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PART-II

Levy of GST

So, I explained you very well what is the meaning of transaction value, how it is important or what is the concept of value of product and how it is determined. So, now question comes when value is determined, when transaction value is worked out, now we have to charge GST. So, if I am supplying goods to my buyer who has purchased goods worth rupees 1 lakh rupees and 1 lakh rupees is the cost plus my margin is worked out based on costing principles as adopted by the industry in India. We established that this product has this much of value. Different products have different values because of some, maybe because of raw material quality, maybe technology and so many reasons. So we have to work out product cost industry-wise.

Charge of GSTSection 09(1)

As of now the highest rate of tax slab that can be applicable under GST is 40% (CGST 20% & SGST 20%).

At present highest slab of tax is 28% (CGST-14%, SGST-14%)

It does not include Cess or any other tax.

Tax shall be charged at a value of a goods/service as derived u/s 15 of CGST Act, 2017

So, friends, when we determine the product cost and when we start selling, we charge GST also. So, in GST, section 9 is important. It talks about how GST will be levied on different products. Friends, section 9, CGST Act, 2017, it talks about levy of GST on sale of each and every product. So, for charging GST purposes, we have distributed/divided all products in different categories. This is a huge and long list of such items. There are 'n' number of products which are produced or manufactured and when sold, GST is charged. So, out of these all these products, some products are subject to GST at the rate of 3%, some of the products are subject to GST at the rate of 5%, some of the products are subject to GST at the rate of 12%, some are at the rate of 18% and some are at the rate of 28%. So, means whenever you are selling your product, make it sure under which slab this product is taxable. If you are dealing with gold items, fishes, gemstones, it comes under the category of 3%. If you are selling mobiles, then 18%. If you are selling cars, it will be under 28%. So, once you have started business, you have your product in your hand. First, work out what rate of GST is applicable on your product.

So, in GST, we are having maximum slab of 28%. Though government has power to increase this 28% slab to 40% maximum as per the law provision right now. But today we are having highest slab of 28% applicable on luxury products like car and all. So, goods whatever we are manufacturing are covered in the range of 3%, 12%, sorry 5%, 12%, 18% and 28%. So, in one of the slabs your product will fall. So, we have to first clear in our mind that at what rate my product will be sold in the market or what rate of tax is applicable on my product? If you charge wrong tax, then it will be a problem for you. If you are charging less rate, you are doing crime. If you are charging higher rate, then customer may object that you are un-necessarily charging high rate of tax.

So apart from taxes, GST also has the provisions of cess and cess is applicable on very few items, sin items like tobacco etc. Paan masala, car, they are subject to cess also and cess goes up to 300%.

So, friends, whenever you are starting your business, work out the value of your product scientifically, then make it sure under which slab of GST your product comes and at the time of selling of this product, your correct value and correct rate of GST are very essential to raise an invoice. Because when invoice will go to your customer, only then customer will pay you. That is the document which shows that material is supplied.

So, section 9 tells us that whenever you are selling your product, certain rate of tax is applicable on that and you are supposed to charge that tax on that supply. I am not saying sale, it is supply, word is supply as we told you in previous slides that GST knows the concept of supply, GST doesn't know this concept of sales and supply may be with or without consideration. So, if it is with consideration, transaction value is there.

Consideration is nothing but a transaction value. Whatever will be the transaction value, whatever will be the invoice value of a product, your buyer will pay that. But if there is no consideration, then problem comes, what will be the transaction value for that, how the invoice will be raised, if material is supplied or the product is supplied without consideration. We will discuss that also.

So, section 9 is important. Section 7 tells us about supply, what is supply under GST and what are the business transaction which are subject to GST. Section 7 tell us that. Section 9 says whenever you are selling your product you have to charge GST. So, section 15 as I told you gives me the guidelines how to determine value of a goods under GST. We will see that section also later on.

Goods not covered under GST.....Section 9(2)

Compressed Natural Gas (CNG) is not covered under GST.

Products like :

Petroleum crude,
High speed Diesel (HSD)
Motor spirit (petrol)
Natural gas and
Aviation turbine fuel

are also not covered under GST for tax purposes. But the same can be covered if GST Council recommend

So, friends as I told earlier section 9 also tell us that there are certain goods which are not covered under GST. So, once these goods are not covered under GST there is no need to work out their value as per the GST provisions. So these products are compressed natural gas. Whenever you are selling natural gas there is no need to charge GST. Products likes petroleum crude, high speed diesel, motor spirit,

natural gas, aviation turbine fuel all are out of the preview of GST, so you need not to calculate GST when you are supplying such goods to your customer. So, friends these products are not covered under GST under section 9 and section 9 says whenever you are doing business in these items don't charge GST.

Goods covered under Reverse Charge Mechanism ..Section 9(3)

- ✓Cashew nuts (not shelled or peeled)
- ✓Bidi Wrapper Leaves (tendu), Tobacco Leaves
- ✓Silk Yarn
- ✓Lottery
- ✓Raw Cotton
- ✓Used vehicles, seized and confiscated goods, old and used goods, waste and scrap
- ✓Purchase of priority sector lending certificate

Friends there is another concept under GST that is reverse charge mechanism 'RCM'. And as per RCM, there are some items which are covered under this mechanism of RCM. Normally what happens whenever we are selling goods, supplier charges GST and buyer pays for it 'the goods purchased'. So, if seller has sent goods of rupees 100 and added tax of GST at that of 18%. Then invoice value is 118 rupees and buyer is supposed to pay 118 rupees. So, this is the normal way of charging GST. It is this mechanism is known as forward charging. Where supplier charges GST to buyer in invoice is a forward charge mechanism under GST.

But because we all know that business transactions are so complex nowadays and many players are working in business environment. Some of them are in organized sector, some of them are in unorganized sector. So many people those are in unorganized sector they are not competent, they are not capable of doing various compliances under different laws. To plug these transactions with unorganized sector there is a mechanism of reverse charge mechanism 'RCM' under GST. So, under this mechanism, instead of GST being charged by supplier, GST is paid by buyer to the government. Means, as I told you that in normal circumstances, supplier collects tax from buyer and pay to the government. But if supplier is in unorganized sector and is not in a position to charge GST or not in a position to compliance with the GST provisions, then responsibility of payment of tax shifted to buyer, the recipient. Here recipient is not paying tax to supplier, though he is making payment of value of goods to the supplier, but not making payment of taxes to the supplier and giving this tax to government directly.

So, there are some cases under GST also where if these goods being sold by a supplier to the buyer and buyer is supposed to pay tax, not to supplier but to the government. So, in case of cashew nuts supply, because cashew nut, bididi wrappers, silk yarn these items come from organized sector people. They are basically agriculturalists or working in rural India and they are not aware of all these types of acts or provisions of the law.

So, normally it happens with the agriculture produce, where farmers are selling their products in the market and government agencies are procuring the goods, they produce. So, government agencies are working in organized sector. So, here seller is a farmer, but buyer is a government agency like FCI and so on. So, FCI pays direct tax directly to the government on their procurement. So, in case of cashew nut, in case of Bididi wrapper (tobacco leaves), silky yarn, lottery tickets (because lottery tickets are being sold through agents and agents are many numbers and they are not so equipped to adhere to the provisions of the law). So, the main agency looking after this lottery business, they pay directly to the government. Similarly, raw cotton, used vehicle (we all know that second-hand vehicles business is exploring like anything). So, used vehicles are being purchased from individual. So, here supplier is an individual and buyer is a dealer who deals in second hand cars. So, individual when sells his car to dealer, dealer pays GST, not the supplier who is individual. Confiscated goods, old or used goods, waste and scrap. In waste and scrap, we all know that scrap people, they collect scrap on daily basis from door to door, give to the wholesaler. Wholesaler is working in organized sector and the rag pickers they are not in organized sector. So, here supplier may be the rag packer, but GST is paid by the dealer who collecting, who is buying scrap from the rag packer. So, there are the cases where supplier doesn't pay GST, but the buyer pays under reverse charge mechanism. Here, accountability and responsibility is of buyer, not the supplier. So, if any violation comes into picture, then buyer will be held responsible for these transactions where he was supposed to pay taxes.

Services covered under Reverse Charge Mechanism... Section 9(3)_1/2	
<ul style="list-style-type: none"> ✓ Goods Transport Agency (GTA) services by road* ✓ Legal services provided directly or indirectly, by advocate including a senior advocate or firm of advocates ✓ Services provided by an arbitral tribunal to a business entity ✓ Sponsorship services provided to any Body corporate or partnership firm ✓ Services supplied by the Central Government, State Government, Union Territory or local authority ✓ Renting of immovable property by Central Government, State Government, Union Territory or Local Authority to a person registered under GST 	<ul style="list-style-type: none"> ✓ Transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project ✓ Long Term Lease (30 years or more) ✓ Services supplied by a director of a company or a body corporate to the said company or body corporate ✓ Services by an insurance agent to any person carrying on insurance business ✓ Recovery Agent Services to a bank or financial institution or NBFC ✓ Copyright services by a music composer, photographer, artist or like relating to original dramatic, musical or artistic works to a music company, producer or the like **

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| <ul style="list-style-type: none"> ✓ Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under the Copyright Act, 1957 relating to original literary works to a publisher** ✓ Supply of services by the members of Overseeing committee to RBI ✓ Supply of services by individual Direct Selling Agents (DSA) other than a body corporate, partnership or LLP to a bank or NBFC ✓ Services provided by a business facilitator to a banking company ✓ Services provided by an agent of business correspondent to business correspondent ✓ Security services (by way of supply of security personnel) | <ul style="list-style-type: none"> ✓ Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient* ✓ Services of lending of securities under Securities Lending Scheme, 1997 of SEBI ✓ Services supplied by a person located in non-taxable territory by way of transportation of goods by vessel from a place outside India up to the customs station of clearance in India ✓ Any service supplied by any person located in a non-taxable territory to any person other than non-taxable online recipient |
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*@5% , ** @12%, Other @18%

Like goods, as we discussed in previous slide, we have so many services where GST or the taxes shall be paid by the recipient of the service means person who is consuming services he will pay tax to the government not the service provider. So, section 9 sub-section 4 and section 9 sub-section 3, talks about such type of services where tax is paid by recipient of the service who is consuming services and not by the person who is supplying these services. So, these sections are very important from GST point of view. Whenever you enter into such type of transactions during business working, you have to make it sure that if the transaction is covered under RCM, if so, you are supposed to act accordingly, otherwise, there will be a violation of law and apart from tax, interest and penalty can also be imposed on you. So, in reverse charge mechanism, we have listed services and if you do that transaction during business hours, we are supposed to pay tax if we are the recipient.

So, if we go by the list, first is goods transport agency services. So, wherever you are availing goods transport agency services, truckers or logistics for transportation of goods. So, we the policy maker understand that truck drivers or the truck owners, those are having one truck or two trucks, they cannot go for GST compliances, they cannot operate a portal. Because they just have a truck and they are doing business. They are providing services of transportation. Though there are cases where companies, corporates are working in transport industry. But majority of truckers, majority of transporters are in unorganized sector. They are not capable of doing all these things.

So, they have been kept under reverse charge mechanism where any business house, may be company, may be partnership, may be sole proprietor, whosoever it may be, any business entity is getting their services for transportation of their goods, then the business house is supposed to pay GST under reverse charge. Here supplier of service is transporter that is a small truck driver or the truck owner, but recipient

of the service is the business house, so responsibility is of business house. Business house will pay tax to the government under reverse charge mechanism.

Then legal services provided directly or indirectly by advocate including a senior advocate or the firms of advocate. So, friends in case of legal profession, in case of legal matters because litigation is such a way increasing that we need legal consultancy every time in the business especially. So, whenever we are having any advocate to provide a service of litigation in courts, in tribunals, we hire advocate and when advocate raises his bill for his fee, he will not charge GST. Though he is a supplier, but he will not charge GST. Though advocates are capable of doing all GST compliances and everything. But as per the provisions of the law, they have been put into reverse charge mechanism. So, whenever you are working in a company, whenever you are doing any GST business with any of your client, if any bill from advocate comes, keep this thing in mind that advocate will not charge GST on his bill or in his bill, but you are supposed to pay to the government calculating tax liability on his bill. So, if he has given you 1 lakh rupees of bill, so his services are subject to GST at the rate of 18%. And accordingly, you are supposed to calculate tax and pay to the government. So, if your company office is in Bombay and you are supposed to file a case in Supreme Court at Delhi and you hired an advocate from Delhi, he may send you bill of rupees 1 lakh rupees. Under reverse charge, you are supposed to pay under IGST because it is an interstate transaction. So IGST is applicable. So, under reverse charge mechanism you will pay tax under the category of IGST. If you are sitting in Bombay filing a case in Bombay High Court and hired an advocate in Bombay itself. So, this is intra-state transaction where CGST and SGST is applicable. So, you will pay tax accordingly. So, keep this thing in mind that advocate services are under reverse charge, they are not in forward charge mechanism. They will not charge tax in their bill.

Next service is service provided by arbitral tribunals. So, services provided by arbitral tribunals is a basic. There is a concept of arbitral tribunal in business segments. So, if they are providing services, they are also covered under reverse charge mechanism.

Services by the member of overseeing committee of RBI are covered under reverse charge mechanism. Service of individual direct selling agents. So, many of us are aware that the business of insurance companies is handled by agents only. There are many commission agents working for different companies. So, they are getting commission out of whatever business they are procuring for the company. So, on that commission GST is applicable and agent being a supplier will not charge GST on their commission bill. Only the company those are getting their services as a recipient they will pay tax directly to the government under reverse charge mechanism.

Then services provided by business facilitator to banking companies, recovery agent and so on. All services are covered under reverse charge mechanism. Then services provided by agent or business correspondent. Services by security agencies to business houses is also covered under reverse charge

mechanism. Services provided by renting by any motor vehicle carrying passenger is also covered under reverse charge.

Lending security under security lending scheme is covered under reverse charge. Supplied by person located in non-taxable territory out of India to India, the recipient will pay tax sitting in India. 'Non-taxable territory to any person other than non-taxable recipient' means any person those are sitting outside India where GST is not applicable, they are supposed to pay these taxes. So, these are the basically services which are covered under reverse charge.

So, whenever you are dealing with any of such services, we need to understand, if there is any service covered under reverse charge mechanism. So, the list is very long. So similarly, sponsorship services. If any company is sponsoring any event take care of payment of tax. Renting of immovable property by central government. Whenever you are having any services with the central government or the state governments just check if the service of the central government/state government is covered under reverse charge or not?

Development rights, if you are selling any development rights with a real estate dealer, you are supposed to check if it is covered under reverse charge. Long term lease. Services supplied by director to the company. If any director is giving services to the company, then it means director is providing services to the company and company is the recipient. But director will not charge GST on its bill. And company is supposed to pay GST on his bill directly to the government. Director may be giving other services also other than director. Means if director has given his building on rent to the company where he is a director. Then rent services are not supposed to be covered under reverse charge. Because services by director in the capacity of director are covered under this system of reverse charge mechanism.

Recovery agent services to the banks. Copyright services by music composers. Services of insurance agents. So, all these types of services are recovered under reverse charge mechanism, where supplier will not charge tax on their bill, only the recipient will charge, recipient will calculate tax liability and will pay to the government and if he fails to pay, means the buyer, the recipient of the service fails, to pay tax to the government then tax liability, the interest and the penalty will be applicable on him not on the supplier.

Goods and Services covered under Reverse Charge Mechanism... Sec. 9(4)

Goods and Services purchased from Un-registered Person :

- If less than 80% of total purchases for construction of project by Promoter, that shortfall
- If Cement is purchased by Promoters from unregistered person

So, things are very clear now that in GST point of view in business transactions there are some transactions where forward charge mechanism is applicable and there are transactions where reverse charge mechanism is applicable. In forward charge supplier will pay tax to the government and in reverse charge the recipient will pay the tax to the government and government will get tax either way. So, each and every transaction is subject to GST and in both the cases, valuation, the transaction value of product or the services is very, very important. If you paid less by undervaluing your product, you are in trouble. If you pay more by overvaluing your product, again you are in trouble.

So, friends, like section 9, sub-section 3, which talks about reverse charge. Similarly, we have another section, section 9, sub-section 4 of CGST Act. And this section is very interesting. And it says, where any registered person, means who is having GST number, buying any goods from unregistered person, means a person who doesn't have GST number. Then this registered person who is buying goods is supposed to pay tax to the government. So, meaning thereby it is it may be a transaction of B to C means where unregistered dealer is dealing with registered dealer or registered dealer is buying something from unregistered dealer because unregistered dealer will not charge GST on the sale to registered dealer because he does not have GST number so he cannot raise invoice accordingly. And he cannot deposit tax on that particular transaction to the government because he is not registered under GST. This maybe because of his threshold limit is less than 20 lakh rupees or maybe some other reasons he is exempted item also. So, he is not in a position to take GST number. So, this section earlier was applicable to each and every transaction wherever that registered dealer is buying goods from unregistered dealer. But this section created too much hue and cry among business community. So, government deferred this section and with effect from 1st April 2020, this section was amended/revised and now these provisions are applicable only in real estate sector. So, in real estate sector with some terms and conditions, it is mentioned that if you are buying something from unregistered dealer who does not have GST number, you are supposed to pay tax under reverse charge.

Otherwise, other than real estate, this section is not applicable anywhere. So, now any registered person can buy from unregistered person as per his requirement. And he is not supposed to pay tax under reverse charge. So, these are the transactions which we need to understand while paying GST. Because whatever transaction will you enter in the business, may be buying or selling, first think of payment of GST, under which mechanism it is to be paid, whether it is under outward supply or it is reverse charge. It is our responsibility, otherwise tax will be harsh on us.

Services sold Intra-State covered under Reverse Charge Mechanism.....Sec. 9(5)

Following Services through e-commerce platform are covered under RCM if sold Intra State and E-commerce operator shall pay Tax:

- ✓ Transportation of passengers by a radio-taxi, motor-cab, maxi-cab and motor cycle
- ✓ Providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes
- ✓ Services by way of house-keeping, such as plumbing, carpentering etc
- ✓ Restaurant services through e-commerce operators are taxable in hands of e-commerce operators. Hence, wef 01.01.2022 swiggy, zomato are supposed to pay 5% GST on orders placed on restaurants but through their platform.

Then friends, section 9, sub-section 5 also talk about some services where GST will be applicable, and it is related with intra-state supply of services. Intra-state supply of services means within the state, means small vendors are supplying goods or services online. They are using e-commerce operator's platform like radio taxi, Ola, Uber, motor cab, maxi cab, etc. Then some of them are providing online hostel availability, rooms availability type of services. Some sort of housekeeping services, plumber services, electrician services online. So, all these types of services are again subject to GST under reverse charge mechanism within the state. So, restaurant services through e-commerce are also applicable on companies like Zomato and Swiggy those are doing online business within the state. So, there are special provisions for these type of business transactions and we when dealing with such type of business transactions of such type of clients or maybe doing business services for them under GST we have to take care of all such transactions only then we will be in a position to compliance with the GST in proper way. So, my only suggestion and submission is to everyone that whenever you are dealing with any business transactions, do it thoroughly, study it properly and map it properly with the compliance of GST, with the provisions of GST. And once you are clear that this particular transaction is dealt in such a way, only then charge tax and pay to the government. Avoid any litigation. Avoid any confusion otherwise later on it may cost us heavily.