

INTRODUCTION TO GST

VALUE OF SUPPLY-PART 3

CMA ANIL SHARMA

(B.com. (Hons.), M. Com., FCMA, TIOL Awardee, Practising Cost Accountant)

Management

The Institute of Cost Accountants of India, Kolkata

Week 04

Lecture 16

Friends for online services if any e-commerce operator wants to render services, he will also be liable for payment of taxes under GST.

For online services, if E-Commerce Operator does not have any office in taxable territorySec. 9(5)

- either his representative in that area shall pay the tax or**
- he has to appoint a person in taxable territory and pay taxes.**

So, section 9 sub-section 5 has provisions for that also and it says if any person from outside India wants to send/give some services in India to any person maybe individual or business house then the person who is providing services from outside India must have his legal representative in India, only then he can supply services and has to pay GST. And if he doesn't have any representative, then he has to appoint someone who will be responsible on his behalf to pay taxes in India. So, means if any person from outside India wants to give services online to its clients and consumers in India, maybe online gaming, online education, online films, whatever it is, then that person from outside India must have or appoint some legal representative and accordingly the tax will be paid. Otherwise, he will not be allowed.

Registered person having turnover < Rs. 1.50 crore, can opt for composite scheme.....Section 10

Except the following a person having turnover from goods and services, one can opt for Composite scheme.....

- ✓ Manufacturer of ice cream, pan masala, or tobacco
- ✓ A service provider*
- ✓ A person engaged in supply of goods and services not taxed under GST
- ✓ A person making inter-state supplies
- ✓ A casual taxable person or a non-resident taxable person
- ✓ Businesses which supply goods through an e-commerce operator

Friends, in GST, we have another option for business houses of composite dealership or composite scheme. In our previous slides in GST registration, we talked about that a person who is having turnover more than 20 lakh rupees need to get himself registered with GST portal and get a GST number and only then he can have its business. So, any business house in normal circumstances will do business after having GST registration and charge GST on forward charge mechanism. For some of the transactions reverse charge mechanism is applicable. To facilitate to the small traders with some ease of compliances, GST also has a concept of composite scheme.

Section 10 of CGST Act deal with this scheme and under this scheme if any small trader even a manufacturer has turnover up to 1.5 crore in a year can go for this scheme. This scheme is bit easy as compared to normal taxpayer. It has some assumptions and some concessions for compliances. And if any business house or person whose turnover is less than 1.5 crore during the previous year has opted for this scheme, there are some rule and regulation for that person.

And what it says? It says if a person is dealing with business of Paan masala, ice cream, tobacco or if he is a service provider or a person engaged in supply of goods and services not taxed under GST, or a person making inter-state supplies, (Interstate means in two states if he is doing business), or is a casual taxable person, or where in his business the supply is through e-commerce operators; then these category of business houses, cannot go for this scheme. Law says any business/small trader having turnover less than 1.5 crore can opt this composite scheme which is ease for doing business and which has concession from various compliances. But it says that the above-mentioned category of business houses they cannot go for this scheme.

So, whenever you are dealing with such type of cases i.e. whenever any person/ your client or consumer or whatever may be the case is asking for composite scheme under GST (under section 10 of CGST

Act), make sure he doesn't fall in this category. Neither he should be a pan masala manufacturer nor he should be a person who is dealing with ice cream or tobacco nor he be a service provider as mentioned above. Because for service providers, there is separate composite scheme. This scheme is only for persons those are dealing with goods. And turnover is less than 1.5 crore a year. And also, not applicable if you are going for selling your products through e-commerce operators online. This scheme is not available. Also, for non-resident taxable persons this scheme is not available.

GST:03/10/14-16

A composite dealer supply goods and services together..... Section 10

A person with Turnover less than Rs. 1.50 Cr, may supply goods and services together under composite scheme but services should be restricted to :

- Ten percent of his annual turnover in state/union territory or Rs. 5.00 lakh a year which ever is higher

Note:

- *The above said services do not include services of restaurants.*
- *For the calculation of his above limits, exempt services by way of interest and /or discounts for deposits, loans shall not be included.*

So, you have to keep in mind whenever dealing with such type of cases that if the person has opted for composite scheme, he must not fall in any of these categories, and his threshold limit for turnover is actually less than 1.5 crore. And further, since, business transactions are so complex nowadays, thus keeping in mind the requirements of a customer, business people supply their goods and deal with the customer accordingly. So, they try to give him maximum possible services to his satisfaction. So, question comes, whether supply person under composite dealer scheme can supply goods and services together? Answer is yes; but with certain conditions.

Law says, a person with turnover less than 1.5 crore may supply goods and services together under composite scheme. But his value of services (means whatever services he is providing along with supply of goods; under composite supply he can supply goods and services together) (it is allowed but in this situation the value of services is important), should be restricted to 10% of the annual turnover in a state. So, value of services he is providing along with goods should not increase more than 10% of his annual turnover.

So, under composite scheme upper limit is 1.5 crore beyond that he is supposed to go for regular dealership, but if turnover is less than 1.5 crore and he has opted for composite scheme then he can supply services also, but that services value, the services quantum should not be more than 10% of his turnover. So, if his turnover is 1 crore rupees a year, maximum to maximum he can supply services up

to the tune of rupees 10 lakh rupees or 5 lakhs, whichever is higher. So, 10 lakh rupees if turnover is 1 crore or 5 lakhs, whichever is higher. So, upper limit is 10%. And a further condition is imposed that whatever services he is providing should not be services of restaurant. For calculation of above limit of 1.5 crore exempt services by way of interest and discount of deposit shall not be included. So, interest on savings, should not be part of his turnover of 1.5 crore for composite dealer because, as already discussed, interest is not covered under GST, so it cannot be a part of your turnover neither here nor in regular supply/regular dealership.

So composite scheme is another scheme given to small scale dealers having turnover up to 1.5 crore with some conditions. You can opt this also because this scheme has less compliances as compared to regular dealers. So, considering the business size and as per the convenience of the customer, means the client, we have to advise him accordingly if he can go for this scheme or if he should remain there in regular scheme.

A service provider opt for Composite Scheme.....Section 10

Yes a person engaged exclusively in supply of services can opt for composite scheme if his turnover during preceding financial year is less than Rs. 50.00 lakh.

- he will pay GST @ 6% (CGST-3%, SGST/UTGST-3%) on his turnover to government.
- he will not charge GST in his bills from his clients/customers

Apart from a goods supplier, service provider can also go for composite scheme under Section 10 of CGST Act. So, here law says if a service provider has turnover up to 50 lakh rupees, he can opt for composite scheme. In composite scheme for goods or services, there is some relaxation with some conditions. So, they will charge GST, but in different manner. We will discuss that also because we are talking about levy of GST.

So, in normal circumstances dealers, those are registered under GST, they charge GST on forward charge mechanism and some of the transactions are under reverse charge mechanism. Here in composite dealership scheme either for goods or services the dealer will charge under forward charge. So, they can charge GST if their turnover is less than 50 lakh rupees; it is about the case of service provider. And they will charge only 6% GST on their bill. Whatever amount they will raise, they will charge GST; not the regular rate of tax but 6%. If it is intra-state sale (within the state); if it is a supply or service by a composite dealer, they will charge 3% CGST and 3% SGST. It is important to note that a composite dealer cannot supply inter-state. This is a basic condition that a composite dealer cannot go for providing

inter-state supplies or services. So, we have to take care while raising bills, while dealing with such type of cases.

A dealer registered under Composite Scheme can not charge GST in his bill..... Section 10

- No such dealer can charge or collect GST in his bills
- He will calculate GST on his turnover and deposit the same to government
- *For example: If any Composite dealer having turnover from his business for Rs. 1.00 lakh and his product is subject to 18% GST he will deposit 9% CGST and 9% SGST i.e Rs. 9000/- each. We should remember that he can not sale Inter-State.*

Moving further friends, as I told you that for composite dealer there are conditions and there is a set procedure for their billing and all, for their returns, etc. So, accordingly they have to act if they have opted for composite scheme. So, a dealer registered under composite scheme cannot charge GST. What does it mean? If GST is applicable and he is registered dealer under GST, maybe under composite scheme, how he cannot charge GST? No friends, he will charge GST, but how?

It says no such dealer can charge or collect GST in his bill. So, if he is a service provider, where his services are related to accounting profession, note that such services are subject to GST at the rate of 18 percent. But a person who is service provider of accounting services, who has also opted for a composite dealer's scheme, when he will raise services bill to his client suppose rupees 1 lakh a year, he will not charge 18% tax in his bill. This is the condition for composite dealer. Person who has taken registration under composite dealer or as a composite dealer whose turnover is less than 15 lakh rupees, he will not charge GST in his bill. He will simply send his bill of rupees 1 lakh then he will calculate GST on his turnover and deposit the same to the government. So, as he is a service provider he will pay 6% GST and he will pay to the government 6% GST on his turnover. So, he need not tax each and every bill or in bill to the client.

For calculation purposes, we have just given this example. If a composite dealer having turnover from his business 1 lakh rupees and his product is subject to 18% GST, he will deposit 9% SGST and 9% CGST, i.e rupees 9000 each. But he cannot sell inter-state. So, for calculation purposes, we are saying that he will charge 18%. But actually, under this composite scheme, his turnover is less than 50 lakh rupees. He is eligible for that. He will charge simply 6%, 3% CGST, 3% SGST in his bill. Not in his bill, but he will pay to the government on his turnover. So, there is a difference. If he is a normal dealer, he will charge 18% GST. If it is intra-state, it will be 9% CGST and 9% SGST. If it is inter-state, as a normal dealer, he will charge 18% on accounting professional services. But because he is in composite

dealer scheme, so here he will charge a total of 6%, i.e. 3% CGST and 3% SGST. This is the difference between regular dealer and a composite dealer.

GST/03/10/14-16

A composite dealer supply goods and services together..... Section 10

A person with Turnover less than Rs. 1.50 Cr, may supply goods and services together under composite scheme but services should be restricted to :

- Ten percent of his annual turnover in state/union territory or Rs. 5.00 lakh a year which ever is higher

Note:

- *The above said services do not include services of restaurants.*
- *For the calculation of his above limits, exempt services by way of interest and /or discounts for deposits, loans shall not be included.*

Similarly, in case of goods also, they have made rate of taxes for composite dealer separately. They will not charge on their bill. They will charge separately based on their turnover. Manufacturer having 1% of GST, trader having different rate of tax for GST. But they will not charge to their customer in their bill. They will pay tax on turnover basis, either on monthly or quarterly basis.

GST/07/31/1-30

Who can issue the Tax invoice or Taxable Invoice or Invoice under GST ?

A registered person supplying taxable goods can issue a Tax invoice or Taxable Invoice or Invoice, what ever you call, before or at the time of **removal of goods**, where movement of goods involved. In other case at the **time of delivery** or **making such goods available to buyer**.

Now, coming to invoices. So, friends, in this session, we talked about valuation of goods. Then, we also talked about transaction value and how tax is levied under forward charge or reverse charge and the transactions which are covered under reverse charge. And in reverse charge, we understand that tax will be paid by the recipient of the service or the consumer of the goods. And we all know that tax is charged through invoices. So, in GST, invoice has its importance and it needs to be raised accurately. So, section

31 onwards talks about invoices under GST. And question comes, who can issue tax invoice? Here we are using word 'tax invoice' or 'taxable invoice', not merely invoice.

Under GST, whenever you are charging invoice under forward charge mechanism, it is always a tax invoice or taxable invoice. So, on the face of invoice, it must be written if it is a taxable invoice or tax invoice. It has meanings under GST. So, we need to understand that taxable invoice means it shows that this invoice is being generated by a regular taxpayer, regular dealer under forward charge mechanism. So, it deals with a registered person, means who is having GST number under GST law and is supplying taxable goods. So, the person who is raising this invoice is a taxable person and is also supplying taxable goods. Such a person can issue a tax invoice, a taxable invoice or invoice before or at the time of removal of goods. So, it is important when invoice is to be raised. We'll see that when we will talk about place of supply and time of supply.

But when goods are removed from factory, they must carry one document which is known as invoice. Without invoice, goods cannot be moved from factory to another place. There are however some cases where invoice is not required. We will discuss that also. But in normal circumstances, goods cannot move without having invoice with them. And where there is no movement of goods; it happens many times in business that there are transactions where goods are being manufactured, installed or fabricated at the consumer site itself. There is no movement because we are taking our inputs raw material or small components to the site of buyer and we are assembling products there only and giving the final product to the customer at his site.

In such cases at the time of delivery, or making of such goods available to the buyer, the invoice should be generated and handed over to the buyer. So, taxable invoice is important. It is a document which shows that you have supplied some goods. Merely a physical movement of goods is not a supply. You cannot establish supply, but only through this document, because ultimately the code will speak. So, invoice is a document which at later stage will establish that yes there was a supply. Further for any reason if you want to receive your value/your consideration from your buyer, invoice will prove that you have supplied the goods. Under GST supply of goods depends on the invoice and invoice must thus be correct in all respect.

When a service provider can issue a Tax invoice or Taxable Invoice or Invoice under GST?

A registered person providing taxable services will issue invoice before or after a provision is made for services but **within 30 days from the date of supply made or provision is made.**

But in case of an insurer or a banking company or a financial institution, including a non-banking financial company, the period is forty five days from the date of the supply of service.

In case of distinct persons or related parties, invoice may be issued before or at the time such supplier records the same in his books of account or before the expiry of the quarter during which the supply was made.

Further, question is, when can a service provider issue a taxable invoice? Definitely when supply of service is there you have to raise invoice, but the question or the problem is that in case of services it is difficult to establish if service is rendered because there is no physical movement of anything in this.

I have given a consultancy of GST to any of my client, if I have given a written statement, written opinion, it may be sufficient evidence to prove that I have given a service to them. But if they are taking consultancy over phone or during the meetings and paying me, tomorrow it may not be possible for them or for me to prove that yes, I had given some supply. But only if I have raised an invoice and if they have made payment for that, it will prove that yes there was a supply of service from my side to my client.

So, provisions of law are there also for providing services and raising invoices. It says a registered person, means having GST number, providing taxable services, of course, will issue invoice before or after provision is made for service, but within 30 days from the date of supply made or provision is made.

So, friends, different business have different stories. Different transactions have different theories. I am a consultant to a company where I have agreed on terms of a contract worth one lakh rupees a year, without mentioning as to when I will raise invoice. They are regularly asking me so many questions, sometime verbally, sometimes through mail or otherwise; and I have been giving answer to their queries and my services are subject to a maximum of one lakh rupees a year. So, if I raise invoice after one year, will it solve the purpose or should I raise an invoice every month? All such issues we'll discuss during our topic of time of supply.

But law is clear, it says, if service is rendered, it is better that you raise an invoice within 30 days from the date of supply. So, in my case supply is continuous in nature. I am supposed to send/give them opinions for a year because I have a contract of one lakh rupees for a year. So, if I have a contract of 1 lakh rupees a year, my contract must contain as to when I should be raising an invoice; whether on quarterly basis, half yearly basis or annually. If it is not there, then definitely it will create problem for me, so, it is better to mention in the contract itself as to what should be the periodicity of raising invoices. Otherwise in normal circumstances it is presumed that once service is rendered you are supposed to raise invoice within 30 days.

But in case of insurance, banking companies, financial institutions, non-banking financial institutions, because even they all are service providers, the period is of 45 days from the date of supply of services. So, if any bank has charged for any demand draft to its consumer (whenever a bank gives a demand draft to its consumer, it charges some commission on that), that commission is subject to GST. So, such a bank is supposed to issue invoice to his customer. If your bank has regular customers those are having/maintaining accounts with the bank's branch, then the bank debits such type of commissions or charges to their bank account itself, and even that is a bill for the service rendered by the bank. So, demand draft, bank guarantee services, LC services, whatever services are given by banks to their consumers are subject to GST, except interest on FD and interest on savings or interest on working capital. They are not subject to GST. They are not under the purview of GST. They can raise bill up to 45 days. If they don't raise such bill within 45 days, what could be its replication? We will discuss this during the topic on 'time of supply'.

Further, it says, in case of distinct persons/related parties. Distinct person is a concept given by GST. You may refer the definition of distinct person, but it is nothing but a related party, we can say, for the discussion of this part. Invoice may be raised/issued before or at the time of such supplier records the same in the books of accounts. So, friends, to establish whether a supply has happened or not, we have so many evidences based on our records maintained. Maybe delivery chalan, maybe some slip, maybe some advice. And once it is established that supply is made, maybe of goods or services, we need to raise invoice in normal circumstances within 30 days.

And in the case of related party, it says before the expiry of the quarter during which this transaction is undertaken. So, we have to take care of that. If the transaction is between two related parties/with two distinct persons, then bill must go by the end of this quarter in which the transaction had happened. So, friends, if you are a regular dealer you are supposed to raise taxable invoice. If you are a dealer under composite scheme, you have some relaxation and you are not to raise a taxable invoice. Means a composite dealer cannot raise taxable invoice while a regular dealer will raise taxable invoice, and that is the major difference between the bills of two category of dealers or two categories of taxable persons. So, person registered as composite dealer will not raise taxable invoice because he is not charging tax

in his bill. He will pay tax on his turnover. And person who is regular taxable person in regular scheme, i.e. the normal dealer, he will charge tax in his bill that's why his bill is known as taxable invoice.

GST/07/031/3-30

What is Invoice-cum-Bill of supply?

Where a registered person is supplying **taxable as well as exempted goods or services or both** to an unregistered person, a single "invoice-cum-bill of supply" may be issued for all such supplies.

, what is invoice-cum-Bill of supply. It says "where a registered person is supplying taxable as well as exempted goods or services or both to an unregistered person, a single "invoice-cum-bill of supply" may be issued for all such supplies. Meaning thereby, any person who is dealing with taxable goods as well as supplying exempted goods, his invoice, whatever he will raise can be an invoice-cum-bill of supply. But normally for practical purposes, we raise taxable invoice only where exempted goods will be charged with nil rate of tax.