



# GST IMPACT ON ECOMMERCE



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*I am a Qualified Chartered Accountant, Lawyer and Company Secretary. As a result, I have a unique ability to manage multi-disciplinary projects and to navigate complex challenges. I have helped work on more than 5000 such projects for multinationals over the last few years.*

***Legal recognition to e-commerce model in India as per GST Act is a welcome move, the warehousing strategy of E-commerce companies would also need re engineering to meet client proximity needs and not be driven by tax consideration.***



## Nisha Kulthia

*I am a Qualified Chartered Accountant, Company Secretary. I like to think strategically and i'm driven to help businesses solving there financial and taxation needs. I also like to add value to research on economy and industry Analysis and its impact on business.*

***GST will also open new markets for online commerce, seamless credit chain and fungibility of credits, Tax collection at source, Return matching, defines terms such as 'electronic commerce', 'aggregator', 'electronic commerce operator' helping the e-commerce industry have clear laws under GST, which could ensure that the industry is not plagued by the issues it is currently facing.***

## The model draft GST law provides clarity on :

- valuation,
- Definition of services (all intangibles) and goods,
- Place of supply and point of taxation.
- Defines terms such as 'electronic commerce', 'aggregator', 'electronic commerce operator' etc.

**E-commerce**– Electronic Commerce to mean the supply or receipt of goods and/ or services, or transmitting of funds or data, over an electronic network, primarily the internet, by using any of the applications that rely on the internet, like but not limited to e-mail, instant messaging, shopping carts, web services, universal description Discovery and integration (UDDI), File Transfer Protocol (FTP) and Electronic Data Interchange (EDI) whether or not the payment is conducted online and whether or not the ultimate delivery of the goods and/or services is done by the operator.

**E-commerce operator:** Electronic Commerce Operator (Operator) as every person who, directly or indirectly, owns, operates or manages an electronic platform which is engaged in facilitating the supply of any goods and/or services. Also a person providing any information or any other services incidental to or in connection with such supply of goods and services through electronic platform would be considered as an Operator. A person supplying goods/services on his own account, however, would not be considered as an Operator. For instance, Amazon and Flipkart are e-commerce Operators because they are facilitating actual suppliers to supply goods through their platform (popularly called Market place model or Fulfillment Model). However, Titan 78 79 supplying watches and jewels through its own website would not be considered as an e-commerce operator for the purposes of this provision. Similarly Amazon and Flipkart will not be treated as e-commerce operators in relation to those supplies which they make on their own account (popularly called inventory Model).

**Aggregator:** A person, who owns and manages an electronic platform, and by means of the application and communication device, enables a potential customer to connect with the persons providing service of a particular kind under the brand name or trade name of the said aggregator. For instance, Ola cabs would be an aggregator




## ISSUES TODAY

- 1 VAT / CST / Excise / Service Tax / TDS with more than one tax applicable on any given transaction.
- 2 Difficult to differentiate Goods & Services component of each transaction  
Involvement of logistics / reverse logistics, advertising & promotion services, goods like software, music, e-books etc  
EG: In practical terms, online marketplaces end up paying both VAT/CST as well as service tax on transactions in digital content, leading to double taxation.
- 3 The prevalence of statutory forms / e-way bills etc. make it complex to do interstate transactions.
- 4 Requirements of registrations and declaration of turnover to multiple state tax departments.
- 5 A variety of e-commerce transactions are also undefined in tax laws (Eg: e-wallet, advance receipts, gift vouchers, drop shipments, COD etc.).
- 6 Packing/repacking/labelling amounting to manufacture and Liable to pay liable to pay excise duty
- 7 lot of issues are arising under indirect tax laws on account of lack of understanding of the e-commerce business model

## GST

- 1 GST will also open new markets for online commerce because, today, due to complexities of entry tax and other processes, customers in some states cannot order everything from online shopping destinations.
- 2 Clear laws under GST, which could ensure that the industry is not plagued by the issues it is currently facing
- 3 With interstate transactions becoming tax neutral vis-à-vis local sales under GST, the warehousing **strategy of ecommerce companies would also need engineering to meet client proximity needs and not be driven by tax consideration.**


## IMPACT OF GST ON PRICE AND COST :



For e-commerce companies who buy stock, store inventory and sell, in place of 12.5% Excise they will have to shell out 17-18% GST thus driving up prices.

Treatment of stock transfer from seller to the warehouse under GST would be different as any 'supply' is taxable. They will also be taxed on unsold inventory held in warehouses. This might lead to cascading of taxes as typically sellers do not 'sell' stock to e-commerce companies.

Freebies and discounts: Explicitly mentioned in the invoice to arrive at transaction value on which GST is applicable. Any post sale discount will attract GST.



### 1. Seamless credit chain and fungibility of credits

Due to restrictions on cross utilization of input of central taxes against state taxes there is price escalation due to taxes sticking to products sold.

Eg: Service tax paid on input services is only eligible against output service tax (or excise duty for a manufacturer), subject to the fulfilment of conditions prescribed under the Central Value Added Tax (CENVAT) Credit Rules, 2004.

### 2. India would become a common market and drive uniformity, reduce compliance costs.

# REGISTRATION

- separately for **each of the States** where he has a business operation and is liable to pay GST
- Multiple business verticals **within a State** may obtain separate Registration for each business vertical, subject to conditions as may be prescribed.

1. Sellers or suppliers on e-commerce platforms will have to register under GST irrespective of threshold .
2. Ecommerce Operators like Amazon and Flipkart operate under the market place model, wherein they store the goods from sellers at their warehouse and supply to end users upon receiving orders. These warehouses are registered as additional place of business under local VAT by sellers and e-commerce companies do not register under VAT.
3. Under GST both ecommerce operators and sellers would have to simultaneously register these warehouses as Principal and Additional Place of Business, respectively.

Note: This would be challenging as these warehouses do not have dealer wise physically segregated or designated areas within the warehouse.

## Place of Supply

Place of supply of goods to customers - easy to determine

Place of supply of services by ecommerce firms to the sellers- little difficult

(Ex: for large vendors like shoppers stop who supply from multiple locations).

## OPERATOR IS REQUIRED TO FILE A STATEMENT, ELECTRONICALLY, CONTAINING

- Details of all amounts collected by him for the outward supplies made through his Portal, within 10 days of the end of the calendar month to which such statement pertains.
- The said statement would contain the names of the actual supplier(s), details of respective supplies made by them and the amount collected on their behalf.

## RETURN MATCHING

- The details of supplies and the amount collected during a calendar month, and furnished by every operator in his statement will be matched with the corresponding details of outward supplies furnished by the concerned supplier in his valid return filed under section 27 for the same calendar month or any preceding calendar month.
- Where the details of outward supply, on which the tax has been collected, as 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
- If not rectified by the supplier in his valid return, added to the output liability of the said supplier, liable to pay the tax payable in respect of such supply along with interest.

# NEW RULES IMPACT CASH FLOWS OF SMALL SELLERS (DUE TO TDS)

**Current laws:** Sellers on e-commerce Operator are required to deduct Tax at source (TDS) on the **commission** they pay to the Operator . They would have to deposit the TDS, obtain Form 16 submit to the e-commerce player and get refund

## ***Tax collection at source is not there for any other sector, why only for e-commerce?***

Since in practice, platforms deduct their commission and pay to seller thereby sellers do not have an option to deduct TDS on commission

**GST : E-commerce operator** is required to collect (i.e. deduct) an amount out of the consideration paid or payable to the actual supplier of goods or services in respect of supplies of goods and / or services made through such operator. The amount so deducted/collected is called as Tax Collection at Source (TCS).

### **Timing of TCS**

earlier of the two events:

- (i) the time of credit of any amount to the account of the actual supplier of goods and / or services;
- (ii) the time of payment of any amount in cash or by any other mode to such supplier.

### **Supplier Claim Credit of TCS**

TCS which is deposited by the operator into government account will be reflected in the cash ledger 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 by the actual supplier.



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## MORE CLARITY NEEDED ON OTHER FORMS OF E-COMMERCE IN AREAS OF

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- logistics (aka Ola / Uber),
- Ticketing and tourism (Ex: IRCTC/goibibo/makemytrip),
- Adventure or events (Ex: Thrillophilia),
- Hotels or resort bookings (Trip advisor) ,
- B2B e-commerce (Indiamart, Capitalfloat etc.) and
- Other similar industries wherein sellers supply services to end customers but not necessarily involve cash flow via the platform.
- Commission in many cases is collected periodically (Ex: Drivers paying commission on cash payments to platform by end of month).
- No clarity on whether services provided in J&K would be taxable

## **MARKET PLACES HAVE TO MAKE SYSTEM CHANGES TO THEIR ERPS DUE TO GST**

- 1** Each Order or Invoice have to carry HSN or SAC code.
- 2** Place of Supply has to be determined (based on GSTIN for B2B and delivery address for B2C)
- 3** ERP needs to be Changed for deduction and accounting of TDS and reversal of the same in case of sales return.
- 4** Return filing in itself be a huge process (reporting invoice level sales, debit notes, tracking mismatches etc.)

# REFERENCES

[http://www.cbec.gov.in/resources//htdocs-cbec/deptt\\_offcr/faq-on-gst.pdf](http://www.cbec.gov.in/resources//htdocs-cbec/deptt_offcr/faq-on-gst.pdf)

<https://www.quora.com/What-will-be-the-impact-of-GST-on-e-commerce-industry>

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