

CHAPTER 15 - PAYMENT OF TAX, TDS & TCS

Illustration 1

Who is liable to pay GST?

Solution

General rule: Supplier of goods or services is liable to pay GST. Specific circumstances.

- **Import Supplies:** Recipient of goods or services has to pay tax under reverse charge.
- The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra - State supplies, of which shall be paid by the electronic commerce operator, if such services are supplied through it.
- **TDS:** If total value of supply under contract > Rs.2.5 lakhs, then Central and State Government, Local authority, Government agencies is liable to deduct TDS and pay the same to the Government.
- **TCS:** E - commerce operators are required to collect tax (TCS) on the aggregate value of supply reduced by returns in a month.

Illustration 2

The Municipal Corporation of Chennai deducts CGST at source @ 1% from the payment to be made to a notified supplier on 4th July. Determine the TDS requirements to be complied by the Municipal Corporation.

Solution

As per **Section SI of CGST Act**, the amount deducted as tax shall be remitted into the treasury on or before 10th August and also the TDS certificate with the above mentioned details has to be issued on before 15th of August to the supplier.

Illustration 3

M/s Asha Pvt. Ltd. has its place of business in Mysore supplied goods worth Rs.2,75,000 the value of supply includes GST @ 5% during the month of August to A Govt. Agency located at Bangalore. Determine the amount of tax to be deducted at source.

Solution

As per **Section SI of CGST Act**, the government has mandated the following categories:

- a. A department or establishment of the Central Government or State Government or
- b. Local authority
- c. Such persons or category of person as may notified by Government on recommendations of the council.

To deduct tax at the rate of one percent from the payment made of taxable goods or services or both, where total value of such supply exceeds 2,50,000 rupees. For the purpose of deduction of tax specified, the value shall be taken as the amount excluding GST amount.

In the given case the amount of tax to be deducted shall be computed as follows:

Particulars	Rs.
a. Value of supply (including GST)	2,75,000
b. Less: GST @ 5% {Value of GST = $2,75,000 \times 5/105$ }	13,095
c. Value of supply (excluding GST)	2,61,905
d. Amount of TDS (e + f)	5,238
e. CGST @ 1% of (c)	2,619
f. SGST @ 1% (c)	2,619

Thus, as computed above the **amount of TDS** to be deducted by the Government Agency shall be Rs.5,238.

Illustration 4

Health Department is making payment of Rs.10 lakh to a supplier for supply of Hearing Aids.

Solution

This supply of goods is exempt in terms of SI. No. 142 of notification No. 2/2017 - Central Tax (Rate) dated 28.6.2017 as amended and hence deducted is not required.

Illustration 5

Mr. Raj have entered into a contract worth Rs.10 lakh with a supplier XYZ prior to 1.10.2018. Mr. Raj have made a payment of Rs.3 lakhs to him prior to 1.10.2018. Now, Mr. Raj making payment of the balance amount of Rs.7 lakhs after 1.10.2018 should I deduct tax on Rs.10 lakh?

Solution

No. Tax cannot be deducted for any payment made prior to 1.10.2018. So deduction will be made only in respect of Rs.7 lakh.

Illustration 6

Health Department of WB receives a taxable service from MNO company of WB. What would be the nature of TDS to be deducted here and what would be the rate of deduction?

Solution

The DDO of the Health Department is liable to deduct TDS (1% of CGST and 1% SGST) while making payment to MNO Company as in this case the supplier or the vendor and the DDO's office (the place of supply) both are in West Bengal.

Illustration 7

Mr. S has deducted GST amount to Rs.50,000 in the month of Nov. 18. He filed return on 16.12.2018. Is he liable to pay a late fee?

Solution

Yes, he is liable to pay a late of Rs.600 at the rate of Rs.100 per day for delay of 6 days (11.12.2018 - 16.12.2018). Maximum amount of late fee payable is capped at Rs.5,000 similar late fees is applicable under SGST Act / UTGST Act.

Illustration 8

Define the term E - commerce and E - commerce operator

Solution

As per **section 2(44)**, E - commerce means the supply of goods or services or both including digital products over digital or electronic network.

As per **section 2(45)**, E - commerce operator means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce.

Illustration 9

Is it mandatory for e - commerce operator to obtain registration?

Solution

Yes, the benefit of threshold exemption is not available to e - commerce operators and they would be liable to be registered irrespective of the value of supply made by them.

Illustration 10

Whether a supply of goods or services supplying through e - commerce operator would be entitled to threshold exemption?

Solution

No. the threshold exemption is not available to such suppliers and they would be liable to be registered irrespective of the value of supply made by them. This requirement, however, is applicable only if the supply is made through such electronic commerce operator who is required to collect tax at source.

Illustration 11

What would be the rate of tax for collection of tax at source applicable to electronic commerce operator and on what value would the rate of tax be applied on?

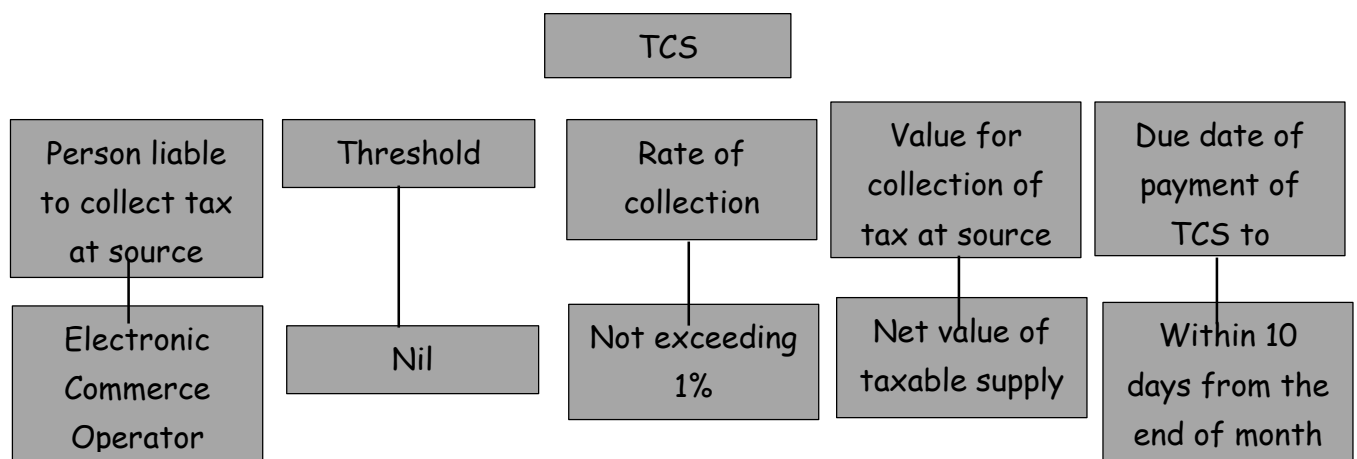
Solution

The rate of tax for collection of tax source prescribed in the CGST Act, 2017 is 1%. The said 1% would be on the net value of taxable supplies made through the electronic commerce by other suppliers where the consideration with respect to such supplies is to be collected by the electronic commerce operator.

Where, net "value of taxable supplies" shall mean the aggregate value of taxable supplies of goods or services or both, other than services notified under **section 9(5) of the CGST Act, 2017**, made during any month by all registered persons through the operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month.

Illustration 12

Explain the applicability of TCS in accordance with the provisions of GST Act.

Solution

As per **section 52 of CGST Act**, the provisions of TCS applicable are as follows:

Illustration 13

Does the net value of taxable supplies include all the transactions made through electronic commerce?

Solution

No, net value does not include transactions pertaining to supply of services notified by the Government under **Section 9(5) of the CGST Act, 2017**. Net value of taxable supplies is the aggregate value of taxable supplies of goods or services or both, other than services notified under **section 9(5) of the CGST Act, 2017**, made during any month by all registered taxable persons through the operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month.

Illustration 14

Is electronic commerce operator liable to collect tax at source if the consideration for supplies is not collected by him?

Solution

As per the provision of **section 52(1)**, an electronic commerce operator shall collect tax at source only where the consideration in respect of supplies is to be collected by the operator.

Illustration 15

Are there any powers vested with the Government to enhance the rate of tax in case of collection of tax at source in future?

Solution

No, **section 52** does not vest any powers with any authority to increase the rate of tax more than 1% in case of collection of tax at source.

Illustration 16

How can actual suppliers claim credit of this TCS?

Solution

TCS which is deposited by the E - commerce operator into Government account will be reflected in the cash ledger of the registered supplier (on whose account such collection has been made) on the basis of the valid return filed by the E - commerce operator. The same can be used at the time of discharge of tax liability in respect of the supplies by the registered supplier.

Illustration 17

What will be the availment of input tax credit in case of default in filing of return and payment of tax?

Solution

If there is default in payment of tax and filing of returns, input tax credit will become ineligible as per **section 16(2)(d) of the CGST Act**, and interest will be calculated on gross tax payable.

Illustration 18

Mr. X is a supplier selling his own products through a web site hosted by him. Does he fall under the definition of an "electronic commerce operator"? whether he is required to collect TCS on such supplies?

Solution

As per the definition in **Section 2(44) and 2(45) of the CGST Act, 2017**, Mr. X will come under the definition of an "electronic commerce operator". However, according to **section 52** of the Act *ibid*, TCS is required to be collected on the net value of taxable supplies made through it by other suppliers where the consideration is to be collected by the ECO. In cases where someone is selling their own products through a website, there is no requirement to collect tax at source as per the provisions of this section. These transactions will be liable to GST at the prevailing rates.