



E COMMERCE OPERATOR

(VIS A VIS OIDAR)

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CHARGING SECTION



LEVY AND COLLECTION OF TAX

Section 9 of CGST/SGST ACT

(1)	Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all <u>intra-State supplies of goods or services or both</u> , except on the supply of alcoholic liquor for human consumption, on the <u>value determined under section 15</u> and at such rates, not exceeding twenty per cent, as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.
(2)	The central tax on the supply of <u>petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel</u> shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.
(3)	The Government may, on the recommendations of the Council, by notification ⁴³ , specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both
(4)	The Government may, on the recommendations of the Council, by ⁴⁵ notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both

(5)	<p>The Government may, on the recommendations of the Council, by notification⁴⁶, 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, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:</p>
	<p>Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:</p>
	<p>Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.</p>
41.	Enforced with effect from 1-7-2017.
42.	<p>See Notification No. 1/2017-Central Tax (Rate), dated 28-6-2017 for notified CGST Rate Schedule. See Notification No. 11/2017-Central Tax (Rate), dated 28-6-2017 for CGST rate schedule for services. See Notification No. 17/2017-Central Tax (Rate), dated 28-6-2017 for notified categories of services on which tax shall be paid by electronic commerce operator. See Notification No. 37/2017-Central Tax (Rate), dated 13-10-2017 [Motor Vehicle purchased by lessor prior to 1-7-2017 and supplied on lease before 1-7-2017]. See Notification No. 39/2017-Central Tax (Rate), dated 18-10-2017 [Notified Central Tax Rate of 2.5% on intra-State supplies of goods in case of free distribution of food preparations to weaker sections of society under Government programme]. See Notification No. 2/2019-Central Tax (Rate), dated 7-3-2019 (Notified rate of Central Tax to be levied on first intra-State supply of goods & services). See also Notification No. 2/2019-Union Territory Tax (Rate), dated 7-3-2019. See Circular No. 35/9/2018-GST, dated 5-3-2018 for clarification as to taxable service provided by members of Joint Venture (JV) to JV and vice versa and inter se between members of JV.</p>



ANALYSIS OF E-COMMERCE OPERATOR IN GST



section 2(44) Electronic commerce” means the supply of goods or services or both, including digital products over digital or electronic network

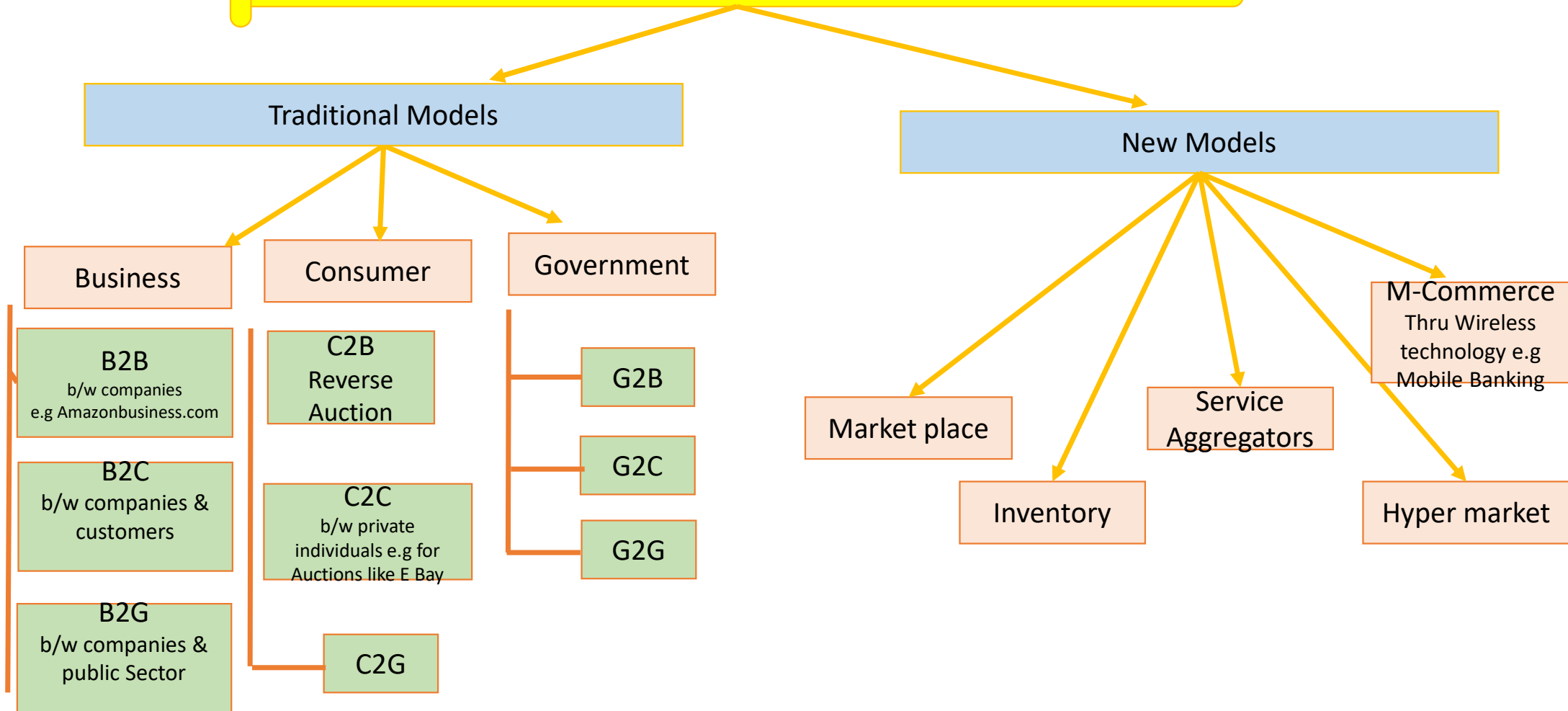


E books, Swipefiles

Section 2(45) “Electronic commerce operator” means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce



Type of E-Commerce Model



Market Place Model

Most Commonly used Model in India

Tax Invoice- GST charged as normal supply

Goods Delivery

Invoice Supplier

Supplier

Ensures availability of product information, physical availability of product, **shipping and order fulfillment**- also replacement or returns.

- Furnish Returns of outward supplies- matching with Retrn by E com
- Can claim credit of TCS- Sec. 52(7)

Payment Less Commission

E Commerce Operator Market Place

Display in the online platform- product information, marketing, promotion and provide user interface- takes a percentage of the sales as **commission**

- Furnish monthly & Annual returns- Sec. 52(4) & (5)
- Collect & Pay TCS- Not exceeding 1% - Sec. 52(1) & (3)

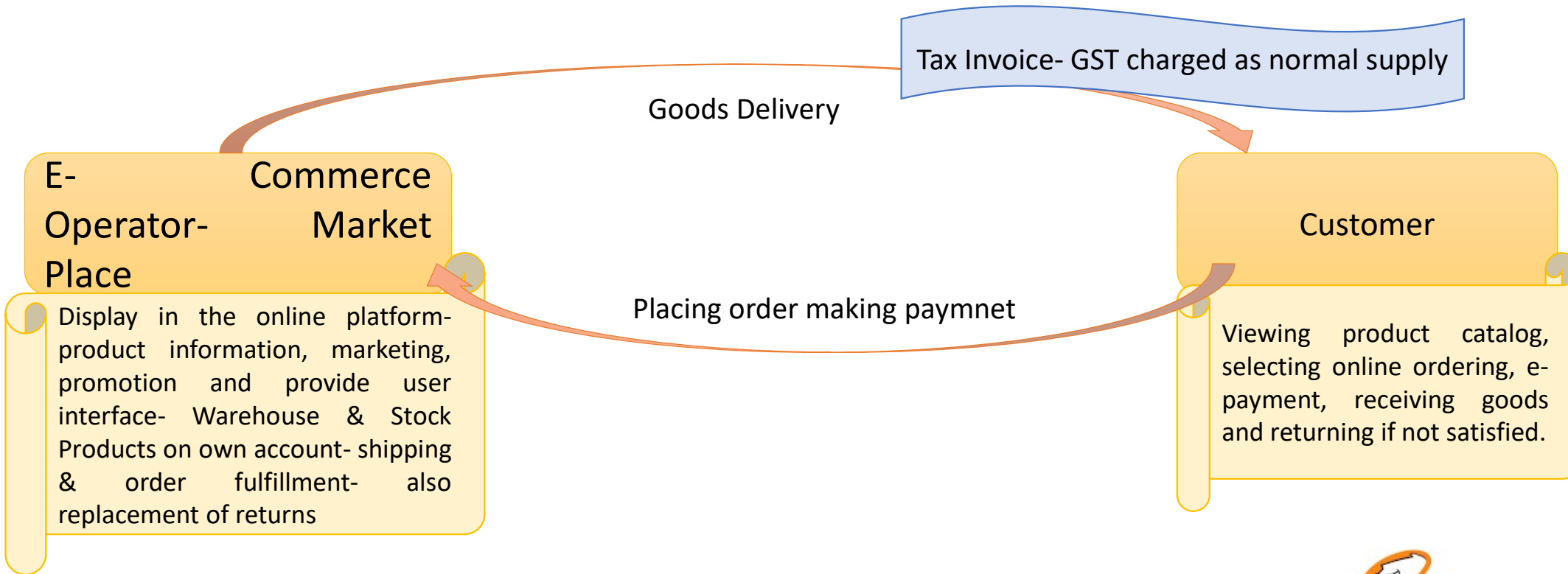
Order payment

Customer

Viewing product catalog, **selecting online ordering, e-payment, receiving** goods and returning if not satisfied.



Inventory Model



Treated as Normal Supply and all provisions of normal supplies will be applied accordingly



Not so popular in India
e.g Alibaba China

Hyper Market Model



- There is no better way to disrupt than to offer a product or service at a price lower than the cost price.
- Bigger companies with a huge chunk of market share will use their economies of scale to crush all their competitors.
- When they are offering services below the cost price competitors will drop out since they cannot match the price.
- If they try to match the price set they will be operating on losses which will eventually drive them out of market.
- **Amazon has implemented this business model and it has greatly contributed to the success of company.**

Aggregator Model

The term aggregator means a person who owns and manages an electronic platform to enable a customer to enable a customer to connect with persons providing a service under the brand name of the aggregator.

An aggregator (as defined) in the Model GST Law, has been subsumed in the definition of an e-commerce operator in the final act as it is redundant to define separately. So the word aggregator is dropped from the Act.

The only distinction between an aggregator and other e-commerce operators is that an aggregator provides underlying services under his brand.

Therefore all the provisions as discussed under Market Place shall apply in case of aggregator also.



S. 9(5) of CGST Act 2017 *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, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:*

Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:

Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

S. 5(5) of IGST Act 2017 *The Government may, on the recommendations of the Council, by notification, specify categories of services, the tax on inter-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services*

Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax.

Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

REVERSE CHARGE MACHANISM ON ECO:

Section 9(5) of CGST Act, 2017 and **Section 5(5) of IGST Act, 2017**, deals with the provisions of RCM on ECO, which are as under:

*It comes out from the bare language of sections that the government on the recommendation of GST council, **notify the category of services**, supplied through ECO, on which the tax on intra-state or inter-state supplies **shall be paid by the ECO by treating the same as supplier of such services.***

*It is provided that if the ECO **does not have any physical presence in the taxable territory, any person representing such ECO** shall be liable to pay tax on the behalf of ECO.*

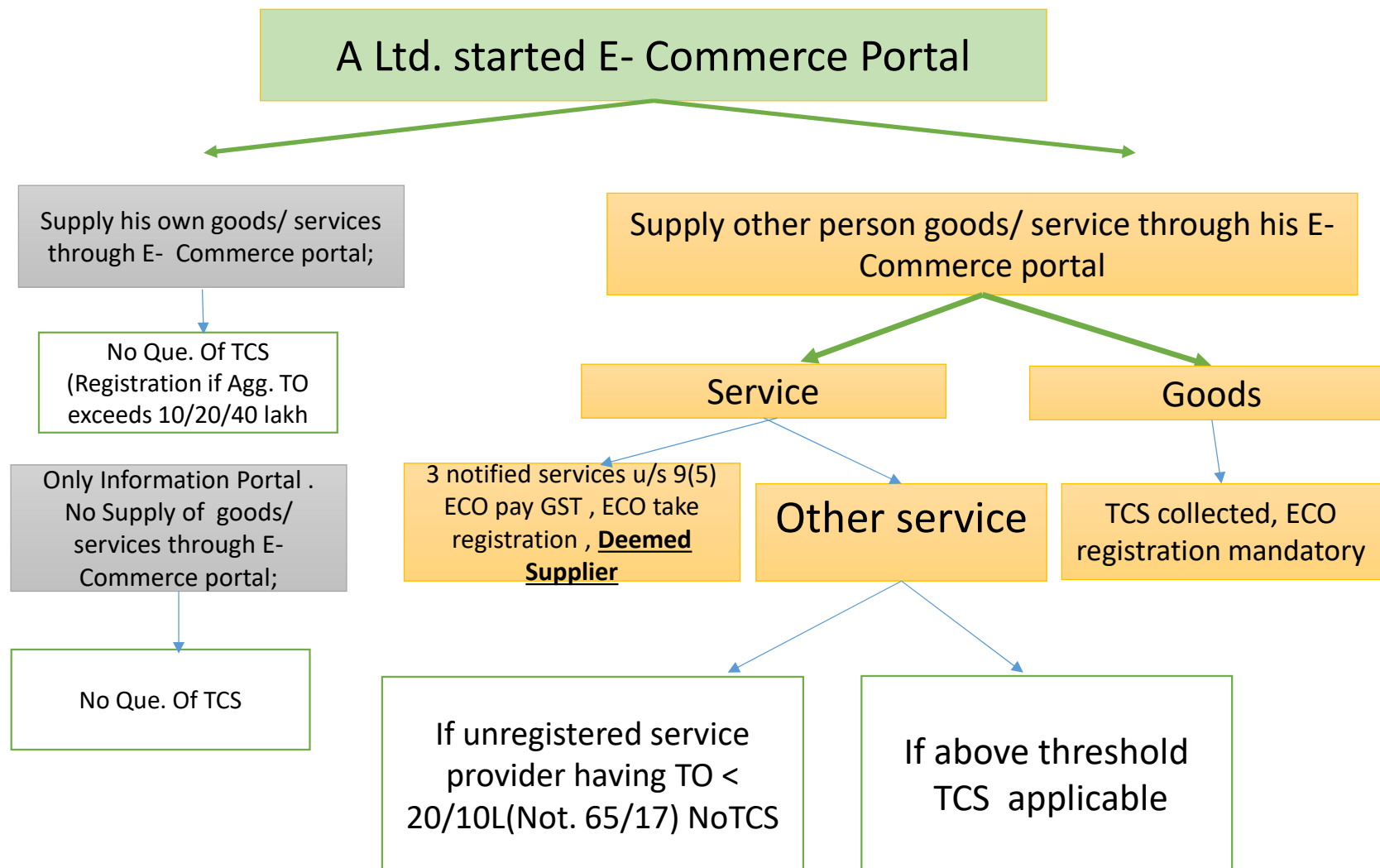
*It is further provided in law that if the ECO does not have physical presence in the taxable territory and also does not have a representative in the said territory, in such case ECO is **bound by law to appoint a person** in the taxable territory for the purpose of paying taxes under the GST Act, 2017.*

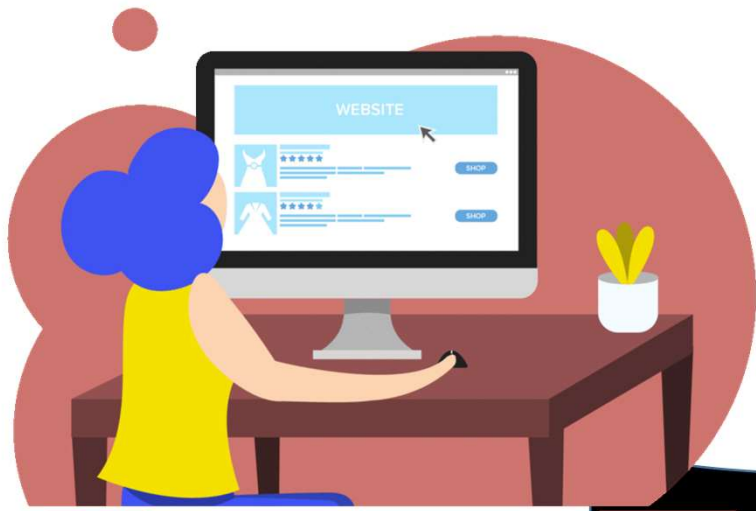
*It also clear that this section talks about **notified services** supplied through ECO. This section not applied on supply of goods through ECO.*

It also clear that this section talks about notified services supplied through ECO. **This section not applied on supply of goods through ECO.**

NOTIFIED SERVICES U/S 9(5) OF CGST ACT, 2017 AND 5(5) OF IGST ACT, 2017: (Not. 17/2017-CT (R) , Not. 23/2017)CT(R) , NN. 14/2017 IT (Rate)

S. No.	Description of supply of Service	Supplier of service	Person Liable to Pay GST Deemed Supplier
1	Transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle e.g OLA, UBER	Any person	E-commerce operator
2	Providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes e.g Make My Trip	Any person except who is liable for registration under sub- section (1) of section 22 of the said CGST Act Below Threshold Limit	E-commerce operator
3	Services by way of house- keeping, such as plumbing, carpentering etc e.g Urban Clap	Any person except who is liable for registration under sub- section (1) of section 22 of the said CGST Act	E-commerce operator





REGISTRATION PROVISIONS

Sec. 24 Compulsory Registration

***Notwithstanding anything contained in Sec. 22(1), the following categories of persons shall be required to be registered under this Act:**

Threshold benefit will not be available

- I. Persons making any inter state taxable supply(except covered by N. No. 7,8 and 10.of IT 2017)
- II. Casual taxable person making taxable supply(Except NN. 32, 38/ 2017)
- III. Persons who are required to pay tax under reverse charge
- IV. Persons who are required to pay tax under sec. 9(5)**
- V. Non Resident Taxable person making taxable supply
- VI. Persons who are required to deduct tax u/s 51, whether or not separately registered under this Act
- VII. Persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise.
- VIII. Input Service Distributor, whether or not separately registered under this Act
- IX. Persons who supply goods & services through ECO(other than 9(5)), who is required to collect TCS u/s 52.**
- X. Every Electronic Commerce operator who is required to collect tax at source u/s 52.**
- XI. Every person supplying OIDAR from a place outside India to person in India
- XII. Such Other person or Class of persons as may be notified.

E- Commerce Operator supplying specified services 9(5)
IV) Persons who are required to pay tax under sec. 9(5)

Compulsory Registration

➤ Not. 17/2017 (CT Rate) , Not. 23/2017 CT (Rate), NN. 14/2017 IT (Rate)

Services specified u/s 9(5)

- Cab operators e.g OLA
- Accommodation in Hotels, Inn, Guest house, except where the person supplying such services through E-commerce Operator is liable for Registration in GST e.g MMT
- Services by way of House- keeping e.g Urban Clap

Example 1:- Rooms Booked Through MMT. MMT shall be liable to pay GST.

Example 2:-Mr. X provides homestay through MMT (E- Commerce) and his turnover is INR 23 Lacs. In this Case, Mr. X shall be liable to get GST registration and pay GST and MMT is not required to pay GST on the same vide NN. 17/2017

➤ In 9(5), No provision of TCS applies.

COMPULSORY REGISTRATION FOR PERSON SUPPLYING THROUGH ECO:

Section 24(ix) of CGST Act, 2017, states that persons who supply goods or services or both, other than supplies specified under sub-section (5) of section 9, through such electronic commerce operator who is required to collect tax at source under section 52;

It means that section 24(ix) of CGST Act, 2017, required compulsory registration to every person who is supplying good or service or both, other than the supplies mention in 9(5) of CGST Act, 2017, through ECO, which is required to TCS u/s 52 of CGST Act, 2017.

It is also clear that any supplier who supplying the goods or services, covered u/s 9(5) of CGST Act, 2017, through ECO are not required to get compulsory registration u/s 24(ix) of CGST Act, 2017, they can get the benefit of threshold limit as prescribed under GST Act, 2017.

COMPULSORY REGISTRATION OF ECO:

As per Section 24(x), of CGST Act, 2017, every electronic commerce operator who is required to collect tax at source under section 52;

Section 24 of CGST Act, 2017, deals with compulsory registration under GST Act, and clause (x) of section 24 of CGST Act, 2017, states that every electronic commerce operator who is required to collect tax at source u/s 52 of the GST Act, 2017, shall apply for registration under GST Act, 2017.

IX. Persons who supply goods or services or both, other than supplies specified under sub section 5 of sec. 9, through ECO who is required to collect TCS u/s 52

Bcoz in 9(5), Ecom is the Deemed Supplier

Exception to above: N.N. 65/2017 : This not. Is applicable only on Services, to take person out of compulsory registration provision.

Example : Restaurant with turnover less than 20 Lacs supplying food through Swiggy. Benefit of N.N. 65/2017 will be available and no mandatory registration.

X. Every Electronic Commerce Operator , who is required to collect tax at source u/s 52

Amendment by amendment Act 2018
W.e.f. 1.2.2019

Previously all E-Com Operators were covered, even if they were providing market place for Exempt Goods. But now they will be out for Mandatory Registration.

TCS - CGST/SGST OR IGST



Location of supplier- Haryana

Goods Supplied – Rajasthan
Place of supply

Location of E COM- Haryana

Tax Charged by Supplier IGST

TCS Collection @1% IGST



Location of supplier- Haryana

Goods Supplied – Haryana
Place of supply

Location of E COM- Haryana

Tax Charged by Supplier
Haryana C+S

TCS Collection @1%
Haryana C&S



Location of supplier- Haryana

Goods Supplied – Haryana
Place of supply

Location of E COM- Delhi

Tax Charged by Supplier
Haryana C+S

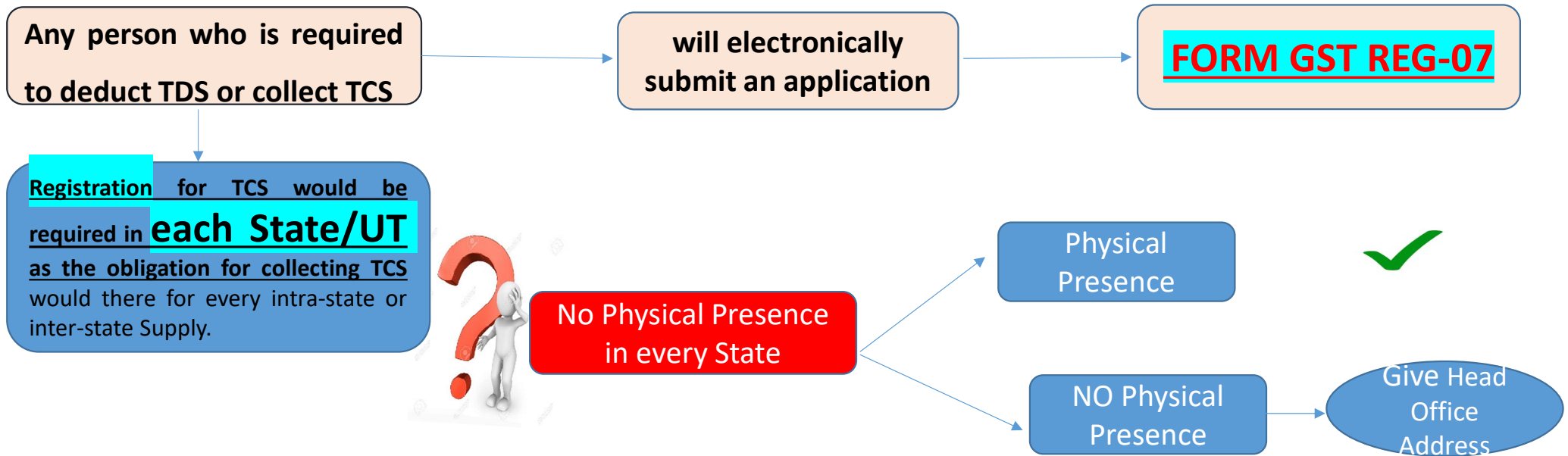
TCS Collection @1%
Haryana C&S



How at Delhi
Registration
Haryana C&S can
be deposited

Hence, E COM to take registration in Haryana as well as in all states wherever Goods /Services are rendered thru it.

Registration For E-Commerce Operator



- In order to facilitate the obtaining of registration in each State/UT, the e-commerce operator may declare the Head Office as its place of business for obtaining registration in **that State/UT where it does not have physical presence.**
- It may be noted that ***each State/UT has indicated one administrative jurisdiction*** where all e-commerce operators having business in that State/ UT shall register. Separate PO notified for Registration of ECO in each state /UT.

Source:FAQ

Rule 12 (1A)

Rule 12(1A) A person applying for **registration to deduct or collect tax** in accordance with the provisions of **section 51**, or, as the case may be, **section 52**,

in a State or Union territory where he **does not have a physical presence**, shall mention the name of the State or Union territory in **PART A** of the application in **FORM GST REG-07**

And

mention the name of the State or Union territory in **PART B** thereof in which the **principal place of business is located** which may be different from the State or Union territory mentioned in PART A.

Registration For E-Commerce Operator

Two separate Registrations in the case of selling of own products as well as other 's products

e,g AMAZON



Amazon selling its own products- Registration through Form Reg-06

Amazon selling products of someone else- Registration through form Reg-07

E COM takes Two Registrations, if liable to collect TCS

1st as Normal Taxpayer for his commission Income.

Taxable @18% to file GSTR1,3B as Normal Taxpayer.

2nd as E Com if liable to Collect TCS

Return in GSTR-8(Has amendment Option too)

TAX COLLECTION AT SOURCE

01.10.2018 by N.N.
51/2018

SEC. 52 Collection of tax at source . . .

0.05*2=1

³⁰ 52. (1) Notwithstanding anything to the contrary contained in this Act, every electronic commerce operator (hereafter in this section referred to as the "operator"), not being an agent, shall collect an amount calculated at such rate not exceeding one per cent, as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.

Explanation.—For the purposes of this sub-section, the expression "net value of taxable supplies"=aggregate value of taxable supplies of goods or services or both, other than services notified 9(5), made during any month by all registered persons through the operator- aggregate value of taxable supplies returned to the suppliers during the said month.

(2) The power to collect the amount specified in sub-section (1) shall be without prejudice to any other mode of recovery from the operator.

(3) The amount collected under sub-section (1) shall be paid to the Government by the operator within ten days after the end of the month in which such collection is made, in such manner as may be prescribed³¹.

(4) Every operator who collects the amount specified in sub-section (1) shall furnish a statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under sub-section (1) during a month, in such form³² and manner as may be prescribed^{32a}, within ten days after the end of such month:

^{32b} **[Provided** that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the statement for such class of registered persons as may be specified therein:

SEC. 52 Collection of tax at source .

Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.]

^{32c}[*Explanation.*—For the purposes of this sub-section, it is hereby declared that the due date for furnishing the said statement for the months of October, November and December, 2018 shall be the ^{32d}[7th February, 2019].]

Due to technical glitches faced by E-Com in registration, tax was collected but not able to furnish statement

(5) Every operator who collects the amount specified in sub-section (1) shall furnish an annual statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under the said sub-section during the financial year, in such form³³ and manner as may be prescribed³⁴, before the thirty first day of December following the end of such financial year:

^{32b} [**Provided** that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual statement for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.]

(6) If any operator after furnishing a statement under sub-section (4) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the statement to be furnished for the month during which such omission or incorrect particulars are noticed, subject to payment of interest, as specified in sub-section (1) of section 50:

SEC. 52 Collection of tax at source .

Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of statement for the month of September following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.

(7) The supplier who has supplied **the goods or services or both through the operator shall claim credit, in his electronic cash ledger,** of the amount collected and reflected in the statement of the operator furnished under sub-section (4), in such manner as may be prescribed³⁵.

(8) The details of supplies furnished by every operator under sub-section (4) shall be **matched with the corresponding details of outward supplies furnished by the concerned supplier registered under this Act** in such manner and within such time as may be prescribed³⁶.

Rule 78

(9) Where the details of outward supplies furnished by the operator under sub-section (4) do not match with the corresponding details furnished by the supplier under ³⁷[*section 37 or section 39*], the discrepancy shall be communicated to both persons in such manner and within such time as may be prescribed³⁸.

Rule 79

(10) The amount **in respect of which any discrepancy is communicated under sub-section (9)** and which is not rectified by the supplier in his valid return or the operator in his statement for the month in which discrepancy is communicated, shall be added to the output tax liability of the said supplier, where the value of outward supplies furnished by the operator is more than the value of outward supplies furnished by the supplier, in his return for the month succeeding the month in which the discrepancy is communicated in such manner as may be prescribed³⁹.

(11) The concerned supplier, in whose output tax liability any amount has been added under sub-section (10), shall pay the tax payable in respect of such supply along with interest, at the rate specified under sub-section (1) of section 50 on the amount so added from the date such tax was due till the date of its payment.

SEC. 52 Collection of tax at source .

(12) Any authority not below the rank of Deputy Commissioner may serve a notice, either before or during the course of any proceedings under this Act, requiring the operator to furnish such details relating to—

- a) supplies of goods or services or both effected through such operator during any period; or
- b) stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, by whatever name called, managed by such operator and declared as additional places of business by such suppliers, as may be specified in the notice.

(13) Every operator on whom a notice has been served under sub-section (12) shall furnish the required information within fifteen working days of the date of service of such notice.

(14) Any person who fails to furnish the information required by the notice served under sub-section (12) shall, without prejudice to any action that may be taken under section 122, be liable to a **penalty which may extend to twenty-five thousand rupees.**

Explanation.—For the purposes of this section, the expression "concerned supplier" shall mean the supplier of goods or services or both making supplies through the operator

[30.](#) Enforced with effect from 1-10-2018.—See [Notification No. 51/2018-Central Tax, dated 13-9-2018](#)

See [Notification No. 52/2018-Central Tax, dated 20-9-2018](#) [Every electronic commerce operator, not being an agent, shall collect an amount calculated at a half per cent of net value of intra-State taxable supplies made through it by other suppliers where consideration with respect to such supplies is to be collected by said operator].

[31.](#) See [rule 85](#) of the CGST Rules, 2017.

[32.](#) See [Form GSTR-8](#) of the CGST Rules, 2017.

[32a.](#) See [rule 67](#) of the CGST Rules, 2017.

[32b.](#) Inserted by the Finance (No. 2) Act, 2019, w.e.f. **1-1-2020**.

[32c.](#) Inserted by the Central Goods and Services Tax (Fourth Removal of Difficulties) Order, 2018, w.e.f. 31-12-2018.

[32d.](#) Substituted for "31st January, 2019" by the Central Goods and Services Tax (Second Removal of Difficulties) Order, 2019, w.e.f. **1-2-2019**.

[33.](#) See [Form GSTR-9B](#) of the CGST Rules, 2017.

[34.](#) See [rule 80](#) of the CGST Rules, 2017.

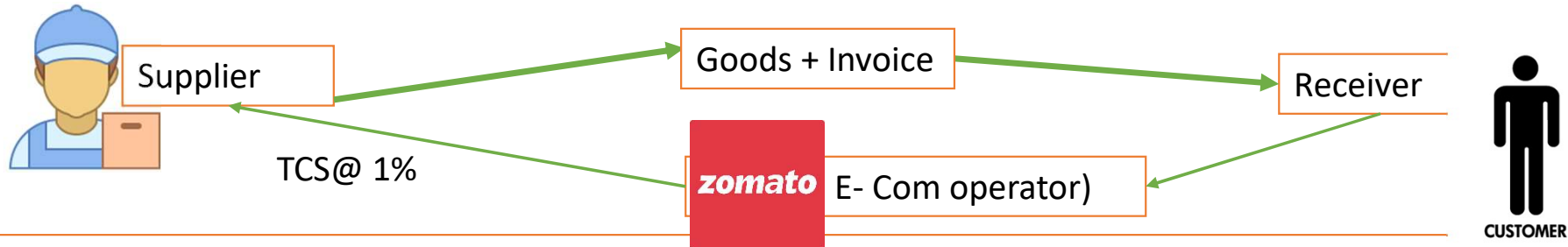
[35.](#) See [rule 87](#) of the CGST Rules, 2017.

[36.](#) See [rule 78](#) of the CGST Rules, 2017.

[37.](#) Substituted for "section 37" by the Central Goods and Services Tax (Amendment) Act, 2018, w.e.f. **1-2-2019**.

[38.](#) See [rule 79](#) of the CGST Rules, 2017.

Electronic Commerce Model



Important conditions for E- Commerce transaction under GST Law

- There should be sale of goods or services electronically [Section 2(44)]
- There should be an intermediary, i.e. an operator managing E Com Platform [Sec 2(45)]
- The **ECO should be responsible for collecting payment.** [section 2(52)]
If payment directly from Receiver e.g in case of OLX, No TCS will be applicable.
- The **Supplies (goods/services) must be taxable.**
- Services not covered by Sec 9(5)
- **Composition Dealer cannot** make supply(G/S/Both) thru E com operator.
w.e.f even composition supplier of services are also restricted e.g
Composition Restaurant cannot make supply thru Swiggy or Zomato.
- TCS N.A on transactions covered under RCM.

TCS Collected- Where consideration for supply collected by ECO

Net Value of Taxable Supplies= Aggregate value of taxable supplies of goods or services, other than services notified in Section 9(5), FOR A MONTH

LESS value of taxable supplies returned to the suppliers.

-ve values to be ignored in current as well as future tax period means no c/f

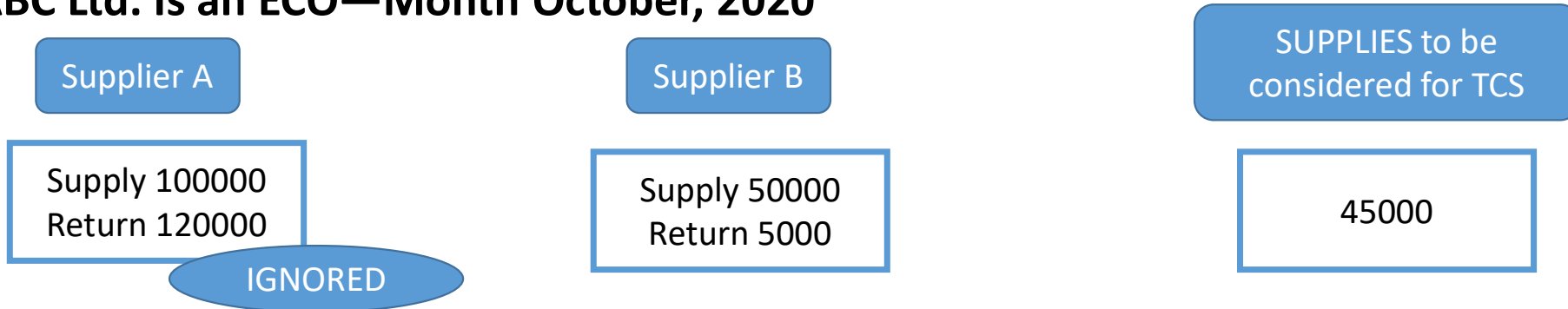
Deposit with Govt- upto 10th of next month in which amount collected

Sr. No.	ABC Ltd. Is an ECO Details	Amount
1.	Aggregate value of <u>intra-state</u> taxable supplies of goods by registered taxable persons through ABC Ltd. during the month of December 2020.	37,55,000
2.	Less: Value of <u>intra-state supplies</u> under section 9(5).	5,50,000
3.	Less: Aggregate Value of <u>Intra-state taxable</u> supplies returned to the suppliers during the said month December 2020.	6,20,000
4.	Net Value of Intra-state Taxable supplies of ABC Ltd. For the month of December 2020 i.e. (1)-(2)-(3)	25,85,000
5.	Amount to be collected by ABC Ltd. For the month of December 2020 in terms of Section 52(1) i.e. 1% (consisting of 0.5% under CGST Act and 0.5% under SGST Act)of Rs. 25,85,000	25,850

Value of net taxable supplies To be calculated at GSTIN level.

If two suppliers "A" and "B" are making supplies through an e-commerce operator, the "net value of taxable supplies" would be calculated separately in respect of "A" and "B". If the value of returned supplies is more than supplies made on behalf of any of such supplier during any tax period, the same would be ignored in his case.

ABC Ltd. Is an ECO—Month October, 2020



Time when the E-Commerce Operator collect TCS?

TCS is to be collected once supply has been made through the e-commerce operator and where the business model is that the consideration is to be collected by the e-commerce operator irrespective of the actual collection of the consideration.

E.g. if the supply has taken place through the e-commerce operator on 30th October, 2018 but the consideration for the same has been collected in the month of November, 2018, then TCS for such supply has to be collected and reported in the statement for the month of October, 2018.

E INVOICING

E-INVOICING IMPACT ON TCS AND E-COMMERCE OPERATORS

The e-invoicing system is **also available to e-commerce operators (ECO) to report invoices** to the Invoice Registration Portal (IRP), that were **raised by them on behalf of their online suppliers**.

- E-commerce operators registered under GST can **generate IRNs and e-way bills** on behalf of the supplier of goods (as well as cancel these IRNs/e-way bills on behalf of the supplier).
- The supplier selling goods through the e-commerce operator's online platform should have a turnover greater than Rs.50 crore. Either the supplier or e-commerce operator can generate IRNs.
- If the e-commerce operator is selling goods under his brand name, then in this case, the e-commerce operator acts as a supplier. So, if the e-commerce operator's turnover is greater than Rs.50 crore, then an e-invoice should be generated for such transactions.
- If the e-commerce operator is issuing invoices to the suppliers for using their online platform, and the e-commerce operator's turnover is greater than Rs.50 crore, then IRNs should be generated as well.

IRN generated/cancelled by	Access by the E-commerce operator	Access by Supplier
E-commerce operator	Yes	Yes
Supplier	No	Yes

52(4)

Every ECO Furnish Monthly statement- **GSTR-8 upto 10 days** of next month

- i. Outward supply
- ii. Amt collected during month

52(5)

Every ECO Furnish **Annual statement-** Upto 31st Dec. of next F.Y.

- i. Outward supply, sale return
- ii. Amt collected during F.Y.(FORM GSTR-9B, Rule 80)

Annual Return
TCS—Form 9B
No TCS-GSTR-9

52(7)

Supplier can take credit in **Electronic Cash Ledger**

52(12) Additional Power to Officer

DC or above may serve notice- requiring operator to furnish

- i. Supply of goods / service effected through operator
- ii. Stock of goods held by supplier in operator godown- declared as his additional place

52(13)

Furnish information within 15 working days of date of service of notice

52(14)

If fails to furnish- penalty upto Rs. 25000.
Note:- Penalty u/s 122 can also be levied

52(4) Every ECO Furnish Monthly statement- GSTR- upto 10 days of next month
i. Outward supply
ii. Amt collected during month

52(6)
If error omission discovered other than as a result of scrutiny, audit, inspection etc.

Rectify in the statement furnished of month in which error notices discovered with interest u/s 50

Proviso to sec. 52(6)

No rectification after
i. Due date of statement of Sept. of next F.Y.
ii. Actual date of furnishing annual statement W.i. earlier

52(8)
Details furnished by ECO- matched with corresponding outward supply furnished by supplier (Rule 78)

Matching GSTR 8 with GSTR 1

52(9)
If not matched- discrepancy shall be communicated to both (Rule 79, GST MIS- 3 & MIS-4)

52(10)
If not rectified by supplier or operator for the month in which discrepancy communicated= shall be added to tax liability of supplier with interest in return of next month in which discrepancy communicated
52(11)- interest payable from due date till the date of payment

Added to person showing lesser liability as Output.
For person GST, for ECO TCS with interest

Hotel?



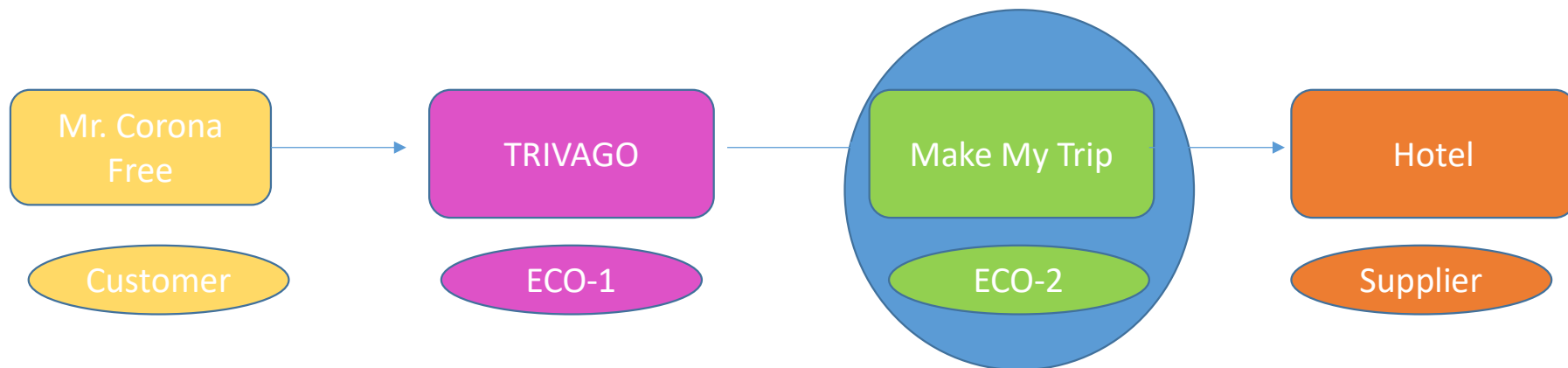
MULTIPLE E COMMERCE MODEL

make **my** trip

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QUES: Customer books a Hotel via ECO-1 who in turn is integrated with ECO-2 who has agreement with the hotelier. In this case, ECO-1 will not have any GST information of the hotelier. Under such circumstances, which e-commerce operator should be liable to collect TCS?

ANS: TCS is to be collected by that e-Commerce operator who is making payment to the supplier for the particular supply happening through it, which is in this case will be ECO-2.



FAQs

Sl. No.	Question	Answer
8.	Whether e-Commerce operator is required to obtain registration in every State/UT in which suppliers listed on their e-commerce platform are located to undertake the necessary compliance as mandated under the law?	As per the extant law, registration for TCS would be required in each State/UT as the obligation for collecting TCS would be there for every intra-State or inter-State supply. In order to facilitate the obtaining of registration in each State/UT, the e-commerce operator may declare the Head Office as its place of business for obtaining registration in that State/UT where it does not have physical presence. It may be noted that each State/UT has indicated one administrative jurisdiction where all e-commerce operators having business (but not having physical presence) in that State/UT shall register. The proper officer for the purpose of registration of ECOs has also been notified by each State/UT.
9.	Foreign e-commerce operator do not have place of business in India since they operate from outside. But their supplier and customers are located in India. So, in this scenario will the TCS provision be applicable to such e-commerce operator and if yes, how will foreign e-commerce operator obtain registration?	Where registered supplier is supplying goods or services through a foreign e-commerce operator to a customer in India, such foreign e-commerce operator would be liable to collect TCS on such supply and would be required to obtain registration in each State/UT. It may be noted that each State/UT has indicated one administrative jurisdiction where all e-commerce operators having business (but not having physical presence) in that State/UT shall register. The proper officer for the purpose of registration of ECOs has also been notified by each State/UT. If the foreign e-commerce operator does not have physical presence in a particular State/UT, he may appoint an agent on his behalf.
10.	Is it necessary for e-Commerce operators who are already registered under GST and have GSTIN, to have separate registration for TCS as well?	E-Commerce operator has to obtain separate registration for TCS irrespective of the fact whether e-Commerce operator is already registered under GST as a supplier or otherwise and has GSTIN.
11.	What is meant by "net value of taxable supplies"?	The "net value of taxable supplies" means the aggregate value of taxable supplies of goods or services or both, other than the services on which entire tax is payable by the e-commerce operator, made during any month by a registered supplier through such operator reduced by the aggregate value of taxable supplies returned to such supplier during the said month.

FAQs

Sl. No.	Question	Answer
11.	Whether value of net taxable supplies to be calculated at gross level or at GSTIN level?	The value of net taxable supplies is calculated at GSTIN level.
12.	Is every e-commerce operator required to collect tax on behalf of actual supplier?	Yes, every e-commerce operator is required to collect tax where the supplier is supplying goods or services through e-commerce operator and consideration with respect to the supply is to be collected by the said e-commerce operator.
13.	At what time should the e-commerce operator collect TCS?	TCS is to be collected once supply has been made through the e-commerce operator and where the business model is that the consideration is to be collected by the e-commerce operator irrespective of the actual collection of the consideration. For example, if the supply has taken place through the e-commerce operator on 30th October, 2018 but the consideration for the same has been collected in the month of November, 2018, then TCS for such supply has to be collected and reported in the statement for the month of October, 2018.
14.	Whether TCS to be collected on exempt supplies?	No, TCS is not required to be collected on exempt supplies.
15.	Whether TCS to be collected on supplies on which the recipient is required to pay tax on reverse charge basis?	No, TCS is not required to be collected on supplies on which the recipient is required to pay tax on reverse charge basis.
16.	Whether TCS is to be collected in respect of supplies made by the composition taxpayer?	As per section 10(2)(d) of the CGST Act, 2017, a composition taxpayer cannot make supplies through e-commerce operator. Thus, question of collecting TCS in respect of supplies made by the composition taxpayer does not arise.
17.	Whether TCS is to be collected on import of goods or services or both?	TCS is not liable to be collected on any supplies on which the recipient is required to pay tax on reverse charge basis. As far as import of goods is concerned since same would fall within the domain of Customs Act, 1962, it would be outside the purview of TCS. Thus, TCS is not liable to be collected on import of goods or services.
18.	Is there any exemption on Gold, owing to the fact that rate of GST is only 3% and TCS on it would erode the margin for the seller?	No such exemption from TCS has been granted.



FAQs

Sl. No.	Question	Answer
19.	Whether payment of TCS through Input Tax Credit of operator for depositing TCS as per Section 52 (3) of the CGST Act, 2017 is allowed?	No, payment of TCS is not allowed through Input Tax Credit of e-Commerce operator.
20.	It is very common that customers of e-commerce companies return goods. How these sales returns are going to be adjusted?	An e-commerce company is required to collect tax only on the net value of taxable supplies made through. In other words, value of the supplies which are returned (supply return) may be adjusted from the aggregate value of taxable supplies made by each supplier (i.e. on GSTIN basis). In other words, if two suppliers "A" and "B" are making supplies through an e-commerce operator, the "net value of taxable supplies" would be calculated separately in respect of "A" and "B". If the value of returned supplies is more than supplies made on behalf of any of such supplier during any tax period, the same would be ignored in his case.
21.	Under Section 52, e-commerce operator collects TCS at the net of returns. Sometimes sales return is more than sales and hence can negative amount be reported?	Negative amount cannot be declared. There will be no impact in next tax period also. In other words returns are more than the supplies made during any tax period, the same would be ignored in current as well as future tax period(s).
22.	What is the time within which such TCS is to be remitted by the e-commerce operator to the Government account?	The amount collected by the operator is to be paid to appropriate government within 10 days after the end of the month in which the said amount was so collected.
23.	How can actual suppliers claim credit of TCS?	The amount of TCS deposited by the operator with the appropriate Government will be reflected in the electronic 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 in FORM GSTR-8 in terms of Rule 67 of the CGST Rules, 2017. The said credit can be used at the time of discharge of tax liability by the actual supplier.
24.	How is TCS to be credited in cash ledger? Whether the refund of such TCS credit lying in the ledger would be allowed at par with the refund provisions contained in section 54(1) of the CGST Act, 2017?	TCS collected is to be deposited by the e-commerce operator separately under the respective tax head (Central tax/State tax/Union territory tax/Integrated tax). Based on the statement (FORM GSTR-8) filed by the e-commerce operator, the same would be credited to the electronic cash ledger of the the actual supplier under the respective tax head. If the supplier is not able to use the amount lying in the said cash ledger, the actual supplier may claim refund of the excess balance lying in his electronic cash ledger in accordance with the provisions contained in section 54(1) of the CGST Act, 2017.

Sl. No.	Question	Answer
25.	Is the e-commerce operator required to submit any statement? What are the details that are required to be submitted in the statement?	Yes, every operator is required to furnish a statement, electronically, containing the details of outward supplies of goods or services effected through it, including the supplies of goods or services returned through it, and the amount collected by it as TCS during a month within 10 days after the end of such month in FORM GSTR-8. The operator is also required to file an annual statement by 31st day of December following the end of the financial year in which the tax was collected in FORM GSTR-9B.
26.	Whether interest would be applicable on non-collection of TCS?	As per section 52(6) of the CGST Act, 2017, interest is applicable on omission as well in case of incorrect particulars noticed. In such a case, interest is applicable since it is a case of omission. Further penalty under section 122(vi) of the CGST Act, 2017 would also be leviable.
27.	What will be the place of supply for e-commerce operator for recharge of talk time of the Telecom Operator/recharge of DTH/in relation to convenience fee charged from the customers on booking of air tickets, rail supplied through its online platform?	As per section 12(11) of the IGST Act, 2017, the address on record of the customer with the supplier of services is the place of supply.
28.	Under multiple e-commerce model, Customer books a Hotel via ECO-1 who in turn is integrated with ECO-2 who has agreement with the hotelier. In this case, ECO-1 will not have any GST information of the hotelier. Under such circumstances, which e-commerce operator should be liable to collect TCS?	TCS is to be collected by that e-Commerce operator who is making payment to the supplier for the particular supply happening through it, which is in this case will be ECO-2.
29.	Are there any additional powers available to tax officers under this Act?	As per section 52(12) of the CGST Act, 2017, any authority not below the rank of Deputy Commissioner may serve a notice requiring the operator to furnish the details of their supplies of goods or services or both as well as stock of goods held by the suppliers within 15 working days of the date of service of such notice.
30.	Certain e-commerce operators who have been unable to obtain registration in the month of October, 2018 but have already collected TCS for the said month have expressed challenges in relation to the filing of such details in GSTR-8. It has been asked as to how these details are to be furnished on the common portal?	E-commerce operators, who have been unable to obtain registration in the month of October, 2018 but have already collected TCS for the said month, may furnish the details of TCS collected in the month of October, 2018 in the first return in FORM GSTR-8 to be filed after obtaining registration.

OTHER ISSUES

- TCS entries appears in 2A (PART C) but are not permitted in 2B and hence to be entered manually in 3B

- TCS entries will get into the CASH LEDGER of person whose TCS is deducted after Acceptance.

- For Supplier making supplies through E Com Operator.

- TABLE 4C for B2B** **Table 5B for B2C large** **Table 7A(2) for B2C small**

- (Online checkbox missing, Use offline utility)**

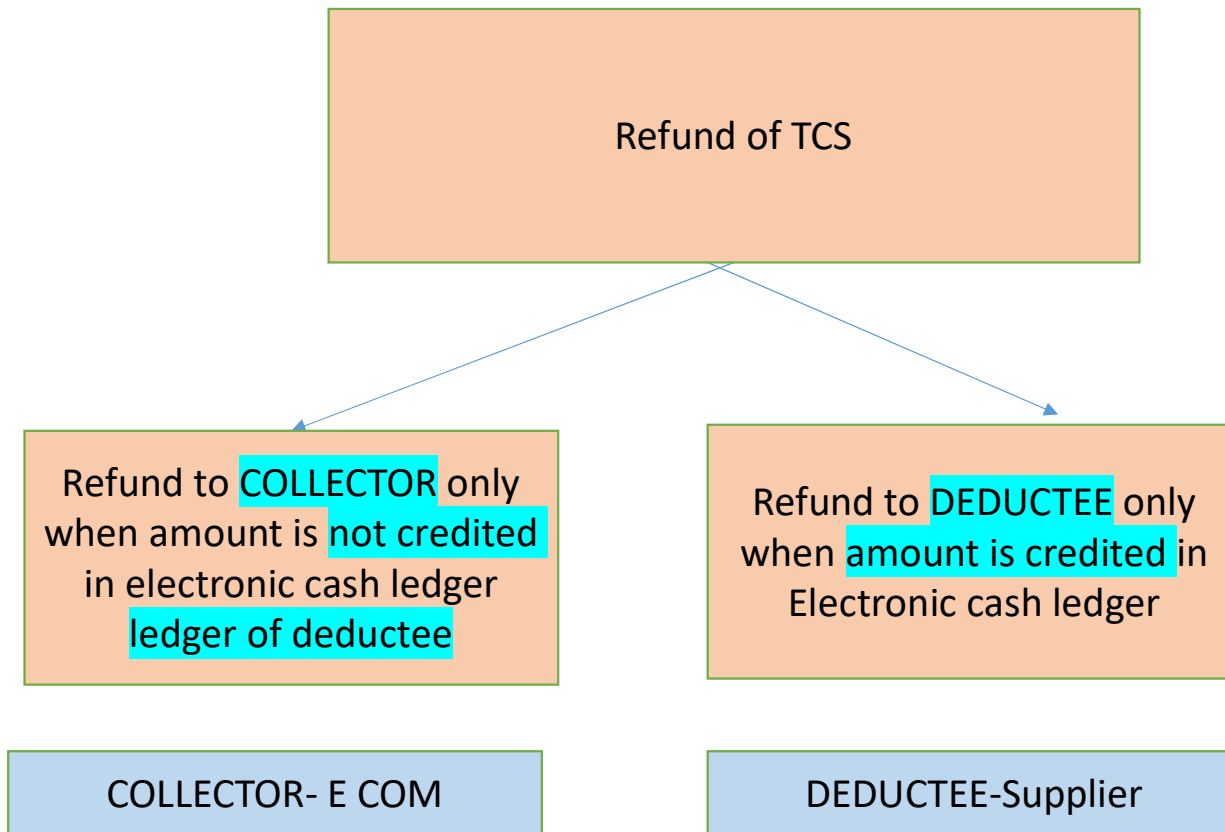
Refund of Electronic Cash Ledger is available if TCS deposited in Excess

Para 55 & 56 of circular 125/44/2019

Refund of TDS/TCS deposited in excess

55. Tax deducted in accordance with the provisions of section 51 of the CGST Act or tax collected in accordance with the provisions of section 52 of the CGST Act is required to be paid while discharging the liability in **FORM GSTR 7** or **FORM GSTR 8**, as the case may be, by the deductor or the collector, as the case may be.

56. It has been reported that, there are instances where taxes so deducted or collected is deposited under the wrong head (e.g. an amount deducted as Central tax is deposited as Integrated tax/State tax), thereby creating excess balance in the cash ledger of the deductor or the collector as the case may be. Doubts have been raised on the fate of this excess balance of TDS/TCS in the cash ledger of the deductor or the collector. It is clarified that such excess balance may be claimed by the tax deductor or the collector as the excess balance in electronic cash ledger. In this case, the common portal would debit the amount so claimed as refund. However, in case where tax deducted or collected in excess is also paid while discharging the liability in **FORM GSTR 7** or **FORM GSTR 8**, as the case may be, and the said amount has been credited to the electronic cash ledger of the deductee, the deductee can adjust the same while discharging his output liability or he can claim refund of the same under the category "refund of excess balance in the electronic cash ledger".



Rule 67:- Form and manner of submission of statement of supplies through an e-commerce operator

(1) Every electronic commerce operator required to collect tax at source under section 52 shall furnish a statement in FORM GSTR-8 electronically on the common portal, either directly or from a Facilitation Centre notified by the Commissioner, containing details of supplies effected through such operator and the amount of tax collected as required under sub-section (1) of section 52.

*(2) The details furnished by the operator under sub-rule (1) shall be made available electronically to each of the suppliers ¹[***] on the common portal after ²[***] filing of FORM GSTR-8 ³ [for claiming the amount of tax collected in his electronic cash ledger after validation].*

- **Tea board- E-com portal for auctioneers**
- **Payment by Buyers – Escrow Account-----TCS Applicable on payment made by Tea Board to sellers**
- **Sellers -----Net value of supply-----Auctioneers brokerage**



ClearTax's Response to COVID-19 [Know More](#)
here is the step-by-step guide to filing GSTR-8 on GST portal :

- GST Invoice
- GST E Way Bill
- Transition to GST
- GST Composition Scheme
- GST Penalties and Appeals
- GST News and Announcements
- Input Tax Credit
- GST Analysis and Opinions
- ClearTax GST Software Guide
- GST Accounts and Record
- Time, Place and Value of Supply
- GST Procedure
- GST Payments and Refunds
- GST Basics
- GST RATES & HSN CODES

Step-1: Login to GST portal.



Step-2: Click on Services>>Returns>>Returns Dashboard;

Step-3: Select financial year and month for which the return needs to be filed;

Step-4: Click on "PREPARE ONLINE" appearing below GSTR-8 in the dialogue box.



Alternatively, one can file using the offline utility

Sign in to clearTax with Google

- OFFICE OFFICE
officeoffice625@gmail.com
- OFFICE OFFICE
officeoffice623@gmail.com

5 more accounts

- [How to file GSTR-1 on gst.gov.in portal](#)
- [How to generate E-Way Bill Online](#)
- [Know all about gst.gov.in portal](#)
- [Can GSTR be revised once filed](#)
- [GST](#)
- [Budget 2020 Expectations](#)
- [Budget 2020](#)

YOU MIGHT BE INTERESTED IN [Windows](#)
Go to Settings to activate Windows.
[Guide to Filing of GSTR-1](#)

Hotelier Voucher

MakeMyTrip Booking ID - NH7320372032462
 Vendor Booking ID - 0071989733
 Booking Date - Fri, 02 April 21 12:59 AM



Dear Partner,

[Confirm Booking & Get Payment](#)

MakeMyTrip has received a request for booking at your hotel as per the details below. The primary guest **Sumit ROy**, will be carrying a copy of this e-voucher.

For your reference, MakeMyTrip Booking ID is NH7320372032462.

The amount payable to hotel for this booking is INR 932.34 as per the details below. Please email us at hotelpartner@makemytrip.com if there is any discrepancy in this payment amount.

Kindly consider this e-voucher for booking confirmation with the following inclusions and services.

Team MakeMyTrip.com



All prices indicated below are in INR

BOOKING DETAILS		PAYMENT BREAKUP	
1 Night		TARRIF	
Check In 02 Apr 2021 11:00 AM	Check Out 03 Apr 2021 12:00 PM	Hotel Sell Price 1 Room x 1 Night	1199
Room 1 2 Adults	Standard Room (Breakfast)	Extra Adult / Child Charges	0
		Voluntary Hotel Driven Coupon Discount	119.9
		Effective Hotel Sell Price	1079
		Hotel Taxes	129.49
		(A) Hotel Gross Charges	1208.59
		MMT Commission	215.82
		GST @ 18% (Including IGST or (SGST & CGST))	38.85
		(B) MMT Commission (Including GST)	254.67
		(C) TCS * (4% of 1079)	10.79
		(E) TDS ** (1.0% of 1079)	10.79
		Hotel discount including tax considered in coupon promotion	134.29000000000002

MMT to Pay Hotel
(A-B-C)-E 932.34

GST Regn. No.:06AAADCMS14BR1ZZ
 PAN No.:AADCM514BR
 CIN No.:U63040DL2000PTC105210
 Service Category - Reservation of hotel booking

Hotel discount including tax considered in coupon promotion is 134.29000000000002

* TCS amount is subject to reconciliation at month end.

** Where TDS has already been deducted from the advance deposited with the hotel, no further TDS will be deducted at the time of booking.

* - TDS amount is subject to reconciliation.

Booking Cancellation Policy: This booking is non-refundable and the tariff cannot be cancelled with zero fee. All time mentioned above is in destination time.

Inclusions

- Complimentary Breakfast is available.

Hotel Details

Hotel New MG residency, Amritsar

SHASTRI MARKET CHOWK, NEAR TELEPHONE EXCHANGE
Amritsar, IN

Photo Gallery View Map

Contact : 7087696892/7087696892 (Abhi) ,01832554935 ,01832554936
Fax :
E-mail : newmgresidency@yahoo.com

Guest : Sumit Roy(Primary), Vishakha Pandey

Room Category : Standard Room

Meal Plan : Breakfast

Room wise Break up

Payment Breakup	Room Charges	Extra Guest/Child	Taxes
STANDARD ROOM 1			
02 Apr 2021	INR1079.1	INR0.0	INR129.49
Total	1079.1	0.0	129.49
(A) Hotel Gross Charge (Room charges +extra guest + taxes) : INR1208.59			
MMT Commission : INR215.82			
MMT GST @ 18 % (includes IGST/CGST/SGST) : INR38.85			
(B) MMT Commission (including GST) : INR 254.67			
(C) TCS * : INR 11			
(D) TDS ** : INR10.79			
MMT to Pay Hotel (A - B - C - D) : INR 932.34			
Booking Cancellation Policy : This booking is non-refundable and the tariff cannot be cancelled with zero fee. All time mentioned above is in destination time.			



E COM VS OIDAR



CA AANCHAL KAPOOR (M)9988692699

OIDAR (Sec.2(17))

“**online information and database access or retrieval services**” means

- **services whose delivery is mediated by information technology** over the internet or an electronic network **and**
- the nature of which renders their supply **essentially automated** and **involving minimal human intervention** and **impossible to ensure in the absence of information technology**
- and includes electronic services such as,—
 - (i) *advertising on the internet;* Eg. Facebook and google advertisement
 - (ii) *providing cloud services;* Godaddy.com Gaana.com
 - (iii) *provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet;*
 - (iv) *providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;*
 - (v) *online supplies of digital content (movies, television shows, music and the like);* Taxmann
 - (vi) *digital data storage; and*
 - (vii) *online gaming;*

Twin Conditions

```
graph TD; A[Twin Conditions] --> B[Whether provision of service mediated by information technology over the internet or an electronic network]; A --> C[Whether it is automated, and involving minimal human intervention and impossible to ensure in the absence of information technology.];
```

Whether provision of service mediated by information technology over the internet or an electronic network

Whether it is automated, and involving minimal human intervention and impossible to ensure in the absence of information technology.

TAXMANN

Online Database Access

OIDAR



SELLING BOOKS

OIDAR

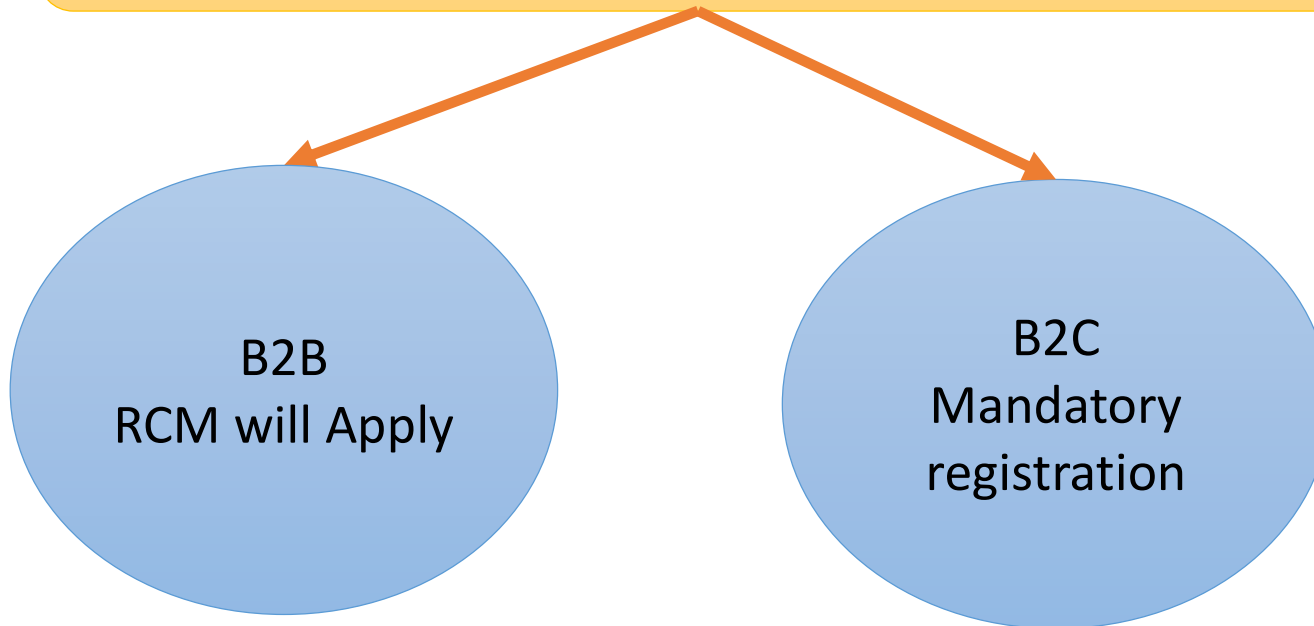


Example

Service	Whether provision of service mediated by information technology over the internet or an electronic network	Whether it is automated and impossible to ensure in the absence of information technology	OIDAR Service
PDF Document manually emailed by provider	Yes	No	No
PDF document automatically emailed by provider's system	Yes	Yes	Yes
PDF document automatically downloaded from the site	Yes	Yes	Yes
Stock photograph available for automatic download	Yes	Yes	Yes
Online course consisting of pre recorded videos	Yes	Yes	Yes
Online course consisting of pre recorded videos plus support from a live tutor	Yes	No	No
Individually commissioned content sent in digital form. Eg. Photographs, reports, medical results	Yes	No	No



XI. Every person supplying OIDAR services from a place outside India to a person in India, other than registered person.



NTOR (Sec. 2(16))

“non-taxable online recipient” means

- any **Government, local authority, governmental authority, an individual or any other person not registered** and
- receiving **online information and database access or retrieval services**
- in relation to any purpose **other than commerce, industry or any other business or profession, located in taxable territory.**

Explanation.—For the purposes of this clause, the expression “governmental authority” means an authority or a board or any other body,—

(i) set up by an Act of Parliament or a State Legislature; or

(ii) established by any Government,

with ninety per cent. or more participation by way of equity or control, to carry out any function entrusted ²[to a Panchayat under article 243G or] to a municipality under article 243W of the Constitution;

Sec. 13(12) Place of supply in Case of OIDAR service

Nature of service

online information and database access or retrieval services

Place of supply

Location of the recipient of services.

Explanation

Person Receiving such services **shall be deemed to be located in the taxable territory, if any two** of the following non-contradictory conditions are satisfied, namely:—

- (a) the **location of address** presented by the recipient of services **through internet is in the taxable territory**;
- (b) the **credit card or debit card or store value card or charge card or smart card or any other card by which the recipient** of services settles payment **has been issued in the taxable territory**;
- (c) the **billing address of the recipient of services** is in the taxable territory;
- (d) **the internet protocol address of the device used** by the recipient of services is in the taxable territory;
- (e) the **bank of the recipient of services** in which the account used for payment is maintained is in the taxable territory;
- (f) the **country code of the subscriber identity module card** used by the recipient of services is of taxable territory;
- (g) the location of the **fixed land line through which the service is received** by the recipient is in the taxable territory.

INTERMEDIARY



OIDAR



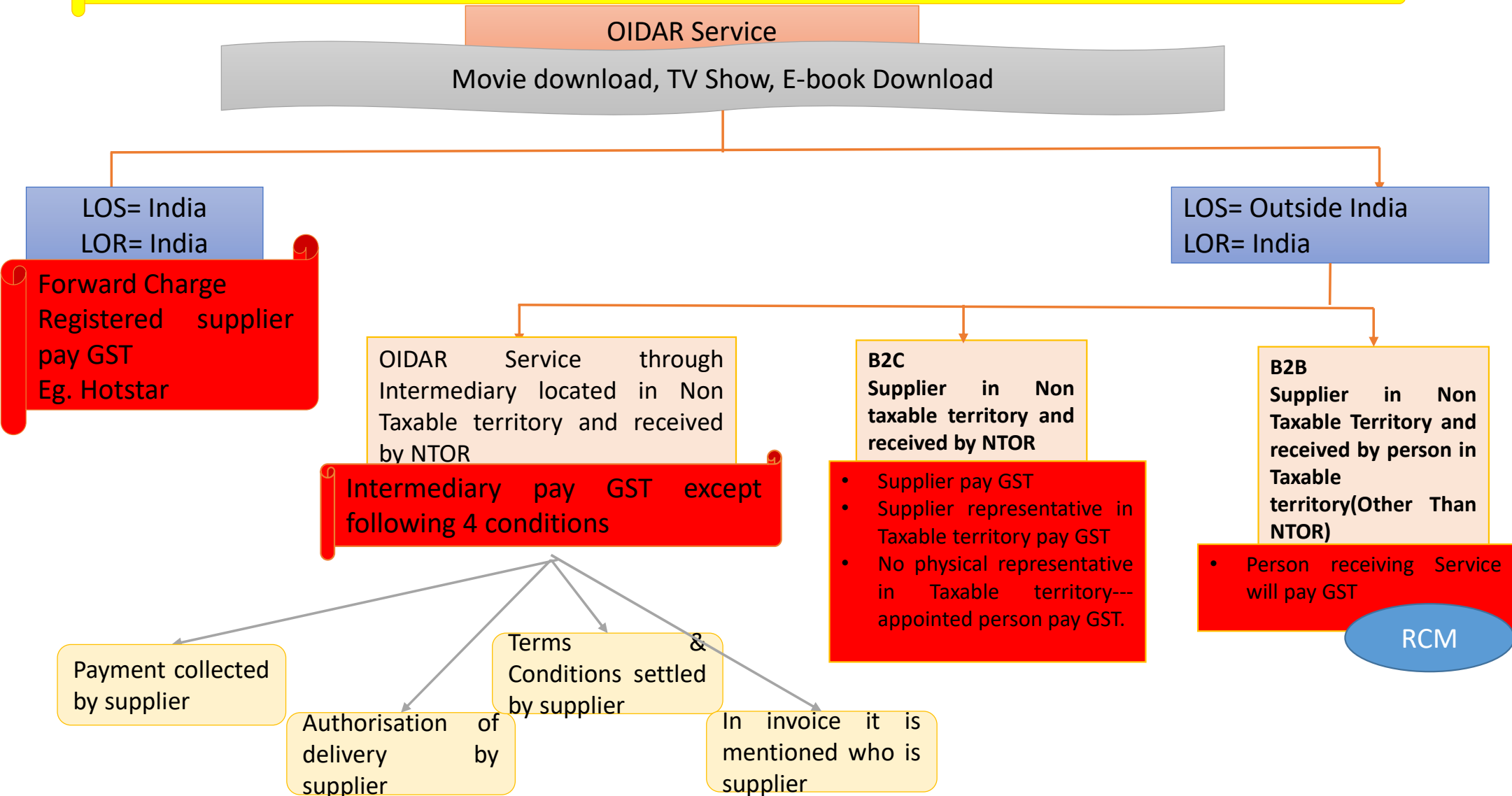
ECO

Deemed supplier



NTOR

Section 14 :- Special provision for payment of tax by a supplier of online information and database access or retrieval services



Supplier of Service in Non-Taxable Territory

Recipient	Tax Payer	Tax Payments
NTOR (B2C)	Overseas Supplier	FCM (Through Repr.)
B2B	Recipient	RCM
Intermediary(Deemed to be Recipient re-supplying to NTOR*)	-	FCM

*Issues invoice, authorise charge for services, responsible to collect payment , authorised delivery and control terms and conditions of supply, Else not an intermediary liable to pay

GST TDS PROVISIONS

CA AANCHAL ROHIT KAPOOR
M. No. 9988692699, 9888069269
aanchalkapoor_ca@yahoo.com

w.e.f.01.10.2018

SEC. 51 Tax deduction at source

1*2=2%

- (1) Notwithstanding anything to the contrary contained in this Act, the Government may mandate,—
- a department or establishment of the **Central Government** or **State Government**; or
 - local authority**; or **(Sec. 2(69))**
 - Governmental agencies; or
 - such persons or category of persons as may be notified²⁷ by the Government on the recommendations of the Council
- (hereafter in this section referred to as "the deductor"), to **deduct tax at the rate of one per cent from the payment made or credited to the supplier** (hereafter in this section referred to as "the deductee") of **taxable** goods or services or both, where the **total value** of such supply, under a contract, exceeds **two lakh and fifty thousand rupees**:

Provided that **no deduction** shall be made if the location of the supplier **and** the place of supply is in a State or Union territory which is **different from the State or as the case may be, Union territory of registration of the recipient**.

Explanation.—For the purpose of deduction of tax specified above, the **value of supply** shall be taken as the amount **excluding** the central tax, State tax, Union territory tax, integrated tax and cess indicated in the invoice.

- (2) The amount deducted as tax under this section shall be paid to the Government by the deductor within **ten days after the end of the month in which such deduction is made**, in such manner as may be prescribed²⁸.

Rule 85

^{28a} [(3) A certificate of tax deduction at source shall be issued in such form and in such manner as may be prescribed.]

^{28aa} (4) [***]

- (5) The deductee shall **claim credit, in his electronic cash ledger, of the tax deducted and reflected** in the return of the deductor furnished under sub-section (3) of section 39, in such manner as may be prescribed²⁹.

GSTR-7, Rule 87

- (6) If any deductor fails to pay to the Government the amount deducted as tax under sub-section (1), he shall pay interest in accordance with the provisions of sub-section (1) of section 50, in addition to the amount of tax deducted

18%

SEC. 51 Tax deduction at source

- (7) The determination of the amount in default under this section shall be made in the manner specified in section 73 or section 74.
- (8) The refund to the deductor or the deductee arising on account of excess or erroneous deduction shall be dealt with in accordance with the provisions of section 54:

Provided that no refund to the deductor shall be granted, if the amount deducted has been credited to the electronic cash ledger of the deductee.

[26.](#) See [Circular Nos. 65/2018-GST, dated 14-9-2018](#) and [67/2018-GST, dated 28-9-2018](#) for guidelines for deduction and deposit TDS by DDO under GST.

See [Circular No. 76/2018-GST dated 31-12-2018](#) for applicability of [Notification No. 50/2018-Central Tax, dated 13-9-2018](#).

[27.](#) Enforcement with effect from 1-10-2018.—Notification No. 50/2018-Central Tax, dated 13-9-2019

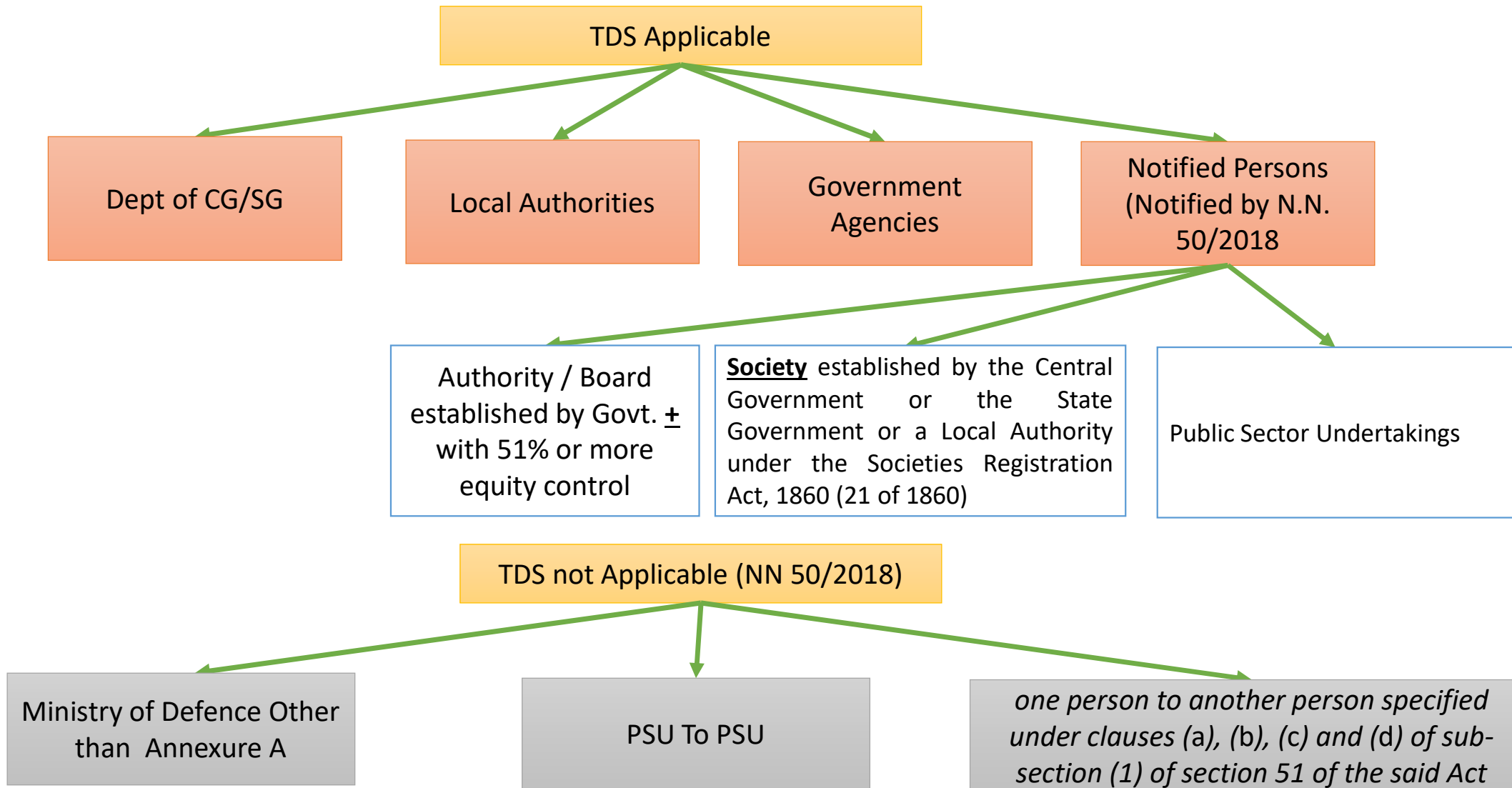
[28.](#) See [rule 85](#) of the CGST Rules, 2017.

[28a.](#) Sub-section (3) substituted by Finance Act, 2020 w.e.f. a date yet to be notified. Prior to substitution said sub-section (3) read as under:
"(3) The deductor shall furnish to the deductee a certificate mentioning therein the contract value, rate of deduction, amount deducted, amount paid to the Government and such other particulars in such manner as may be prescribed."

[28aa.](#) Sub-section (4) omitted by Finance Act, 2020 w.e.f. a date yet to be notified. Prior to omission said sub-section(4)read as under:
"(4) If any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amount so deducted to the Government, the deductor shall pay, by way of a late fee, a sum of one hundred rupees per day from the day after the expiry of such five day period until the failure is rectified, subject to a maximum amount of five thousand rupees."

[29.](#) See [rule 87](#) of the CGST Rules, 2017.

SEC. 51 Tax deduction at source



Examples of supply of goods to Government/local authorities:

Procurement of stationery items, toilet articles, towels, furniture, air-conditioning machines, electrical goods, books and periodicals & medicines, etc.

Examples of supply of services to Government/local authorities:

Procurement of security services, car rental services, generator rental services, rental services like office building/land taken on rent, maintenance services, rental of machinery, etc.

Examples of Composite supplies to Government/local authorities:

Works Contract services such as road, bridge, building development/renovation/repairing/maintenance services involving supplies of both goods and services

When is TDS liable to be deducted

- **If the total value of taxable supplies under a contract exceeds Rs. 2,50,000/-**
 - **Only taxable supplies to be seen.**
 - **Total contract value to be seen (excluding GST Portion)**

TDS not to be deducted in following cases

- **Payment made for exempted/ nil rated/ non GST supply**
- **If tax invoice is issued before 01.10.2018**
- **If tax invoice was issued after 01.10.2018 but advance was already paid before that date.**
- **Payment is made to an unregistered person.**
- **Where the tax is to be paid on reverse charge by the recipient i.e. the deductee.**
- **Where the payment relates to "Cess" component.**

IMPORTANT ISSUES

- Contract value $>$ Rs. 2.5 Lakh for both taxable supply and exempted supply, but the **value of taxable supply** under the said contract \leq Rs. 2.5 Lakh
- Suppose three separate contracts for supply are given to M/S ABC by the Health Department of the Government of West Bengal and the value of taxable supply is below Rs.2.5 Lakh in case of **each contract** though their combined value is more than Rs.2.5 Lakh; in such case no deduction is required to be made since value of taxable supply in neither of the contract exceeds Rs. 2.5 Lakh.
- **Every registered TDS deductor is required to file a Return in FORM GSTR 7** electronically within 10th of the month succeeding the month in which deductions have been made to avoid payment of any late fee, interest.

Compliance provisions for TDS

- TDS amount collected to be deposited within 10 days- GSTR-7 is to be filed by the tax deductor.
- Person liable to deduct TDS is required to separately register (REG-07) by giving TAN if no PAN available.
- Penalty for non compliance:
 - No TDS deducted :- pay TDS along with interest (minimum Rs. 10000)
 - Delayed filing:- Rs. 100 per day up to Rs. 5000/- (as per Act)
- TDS amount collected to be deposited within 10 days- GSTR-7 is to be filed by the tax deductor
- Person liable to deduct TDS is required to separately register (REG -07) by giving TAN if no PAN available.
- Penalty for non compliance :-
 - No TDS deducted:- pay TDS along with interest (minimum Rs. 10000)
 - Delayed filing:- Rs. 100 per day upto Rs. 5000/- (as per Act)

Whether IGST/CGST/SGST/UTGST

location of the supplier and the place of supply are in the same State/UT,

an intra-State supply

TDS @ 1% each under CGST Act and SGST/UTGST Act is to be deducted

location of the supplier is in State A and the place of supply is in State

an inter-State supply

TDS @ 2% under IGST Act is to be deducted if the deductor is registered in State or Union territory without legislature - B.

location of the supplier is in State A and the place of supply is in State

an inter-State supply

TDS @ 2% under IGST Act is to be deducted if the deductor is registered in State A.

TDS deduction not required

Where the location of the supplier and place of supply is in a State(s)/UT(s) which is different from the State/UT where the deductor is registered.

Examples

<u>Situation (in all cases taxable contract value is over Rs.2.5 Lakh)</u>	<u>Location of Supplier</u>	<u>Place of Supply</u>	<u>State of registration of recipient</u>	<u>Type of Supply</u>	<u>Tax</u>	<u>TDS deduction</u>
Govt. of WB purchases taxable goods from a local supplier	Kolkata	Kolkata	West Bengal	Intra State	CGST+ SGST	Yes
Govt. of Punjab purchases taxable goods from a supplier in Delhi	Delhi	Punjab	Punjab	Inter State	IGST	Yes
Govt. of WB engages a contractor of Delhi for renovation of Bangla Bhawan in Delhi	Delhi	Delhi	West Bengal	Intra State in the State of Delhi	CGST+ SGST	No

Examples

Situations/Contracts	Deducted required YES/No	Remarks
Finance Department is making a payment of Rs.3 Lakh to a supplier of 'printing & stationery'.	YES	Where the total contract value of taxable supply is more than Rs.2.5 Lakh deduction is mandatory.
Education Department is making payment of Rs.5 Lakh to a supplier of 'printed books and printed or illustrated post cards' where payment for books is Rs.2 Lakh and Rs.3 Lakh is for other printed or illustrated post cards.	Yes, deduction is required in respect of payment of Rs. 3 Lakh only i.e. for payment in respect of taxable supply.	Books are exempted goods; no deduction is required in respect of supply of books. However, payment involving 'printed or illustrated post cards' is for supply of taxable goods and value of such supply is > Rs.2.5 Lakh; so deduction is required.
Finance Department, is making payment of Rs.1.5 Lakh to a supplier of 'car rental service'.	See Remarks	Deduction is mandatory in case the total value of taxable supply under the contract > Rs.2.5 Lakh irrespective of the amount paid. However, if the total value of supply under a contract is < Rs.2.5 Lakh, deduction is not required.
Health Department executed a contract with a local supplier to supply "medical grade oxygen" of Rs.2.6 Lakh (including GST) and is making full payment.	No	Total value of supply as per the contract is Rs.2.6 Lakh (including GST). Tax rate is 12%. So, taxable value of supply (excluding GST) stands at $Rs.2.6L \times 100/112 = Rs.2.32 L < Rs.2.5 Lakh$ Hence, deduction is not required.
Municipal Corporation of Kolkata purchases a heavy generator from a supplier in Delhi. Now, it is making payment of Rs.5 Lakh and IGST @18% on Rs.5 Lakh for such purchase.	Yes, deduction is required @2%	Deduction is required in case of inter-State supply and if the value of taxable supply under a contract exceeds Rs.2.5 Lakh.
Fisheries Department is making a payment of Rs.10 Lakh to a contractor for supplying labour for digging a pond for the purpose of Fisheries.	No	This supply of service is exempt in terms of Sl. No. 3 of notification No.12/2017 – Central Tax (Rate) dated 28.06.2017 and hence deduction is not required.
Municipality is making payment of Rs.5 Lakh to a supplier in respect of cleaning of drains where the value of supply of goods is not more than 25% of the value of composite supply.	No	This supply of service is exempt in terms of Sl. No. 3A of notification No.12/2017 – Central Tax (Rate) dated 28.06.2017 as amended by notification no. 2/2018- Central Tax (Rate) dated 25.01.2018 and hence deduction is not required.
Government school is making a payment of Rs.3 Lakh to a supplier for supply of cooked food as mid-day meal under a scheme sponsored by Central/State Government.	No	This supply of service is exempt in terms of Sl. No. 66 of notification No. 12/2017 – Central Tax (Rate) dated 28.06.2017 as amended and hence deduction is not required.
Health Department is making payment of Rs.10 Lakh to a supplier for supply of Hearing Aids.	No	This supply of goods is exempt in terms of Sl. No.142 of notification No. 2/2017 – Central Tax (Rate) dated 28.06.2017 as amended and hence deduction is not required.

Sec.24(vi). Persons who are required to deduct tax u/s 51,
whether or not separately registered under this Act

- **Example:-** M/s XYZ Ltd., a public sector undertaking which is also notified as one of the person liable to deduct TDS, has INR 15 Lacs aggregate turnover in financial year. Here, M/s XYZ Ltd. may not require registration as normal taxable person in GST for not crossing the threshold limit, but it is mandatorily required to take registration as tax deductor without any threshold limit.
- It may be noted that although GST registrations for entities mandated to collect and deduct TDS started from 18.09.2017, the date from which TDS will be deducted is notified later vide notification no. 50/2018- Central tax dated 13.09.2018 as applicable only from 01.10.2018.

Registration can be PAN or TAN based



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e-Way Bill System

New Return (Trial)

Home > Registration

English



New Registration

• indicates mandatory fields

New Registration Temporary Reference Number (TRN)

I am a

Tax Deductor

State / UT

Select

State selected in Part A, will be the state in which the business has its Principal Place of Business. Please make your selection carefully.

Legal Name of the Tax Deductor (As mentioned in PAN)

Enter Legal Name of Business

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Legal Name of the Tax Deductor (As mentioned in PAN) *

I have a

- Permanent Account Number (PAN)
- Tax Deduction Account Number (TAN)

Permanent Account Number (PAN) *

ⓘ If you don't have PAN, Click [here](#) to apply

Eg: A B C D E 1 2 3 4 X

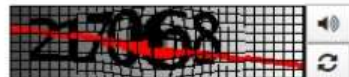
Email Address *

ⓘ OTP will be sent to this Email Address

Mobile Number *

ⓘ Separate OTP will be sent to this mobile number

Type the characters you see in the image below *



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My Saved Applications

Creation Date	Form No.	Form Description	Expiry Date	Status	Action
26/09/2017	GST REG-07	Application for Registration as Tax Deductor at source	11/10/2017	Draft ⓘ	

Track Application Status

You do not have any submitted applications



Goods and Services Tax

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- Services
- Notifications & Circulars
- Acts & Rules
- Downloads
- Search Taxpayer

Home > TDS Registration

English

Application Type	Last Modified	Due Date to Complete	Profile
TDS Application	26/09/2017	11/10/2017	15%

- Business Details
- Drawing and Disbursing Officer
- Authorized Signatory
- Office Address of Tax Deductor
- Verification

Applicant Details

• indicates mandatory fields

Legal Name of the Tax Deductor URVASHI JAIN	Email Address auindiacs@gmail.com	Mobile Number 8619684559
Permanent Account Number (PAN) ASMPJ1082H	Type of Registration Tax Deductor	

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Electronic Cash Ledger

Help ROHIT SHARMA 03ASEPS5089D1ZP

Select Period

• indicates mandatory fields

From: •

01/07/2019

To: •

30/11/2019

GO

Viewing Ledger details from 01/07/2019 to 30/11/2019

Sr.No	Date of deposit/Debit	Time of deposit	Reporting date (by bank)	Reference No.	Tax Period, if applicable	Description	Transaction Type (Debit/Credit)	Amount debited / credit			
								Integrated Tax	Central Tax	State Tax	C
1	-	-	-	-	-	Opening Balance	-	-	-	-	
2	05/10/2019	18:57:08	-	AA0305193860941	-	TCS Credit	Credit	8,781.00	114.00	114.00	0
3	08/11/2019	15:51:42	-	AA031118269015I	-	TCS Credit	Credit	31,746.00	370.00	370.00	0
4	08/11/2019	16:07:36	-	AA0312186589412	-	TCS Credit	Credit	10,856.00	128.00	128.00	0
5	08/11/2019	16:13:09	-	AA030119382085C	-	TCS Credit	Credit	11,597.00	138.00	138.00	0

<< 1 2 3 >>

BACK SAVE AS PDF SAVE AS EXCEL

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TDS Credit received

TDS Credit received		
Number of Records : 0		
Total Accepted Count	Total Accepted Taxable Value	Total Accepted Tax Amount
0	₹0.00	₹0.00
Total Rejected Count	Total Rejected Taxable Value	Total Rejected Tax Amount
0	₹0.00	₹0.00

Amendments to TDS Credit Received		
Number of Records : 0		
Total Accepted Count	Total Accepted Taxable Value	Total Accepted Tax Amount
0	₹0.00	₹0.00
Total Rejected Count	Total Rejected Taxable Value	Total Rejected Tax Amount
0	₹0.00	₹0.00

TCS Credit received

TCS Credit received		
Number of Records : 0		
Total Accepted Count	Total Accepted Taxable Value	Total Accepted Tax Amount
0	₹0.00	₹0.00
Total Rejected Count	Total Rejected Taxable Value	Total Rejected Tax Amount
0	₹0.00	₹0.00

Amendments to TCS credit received		
Number of Records : 0		
Total Accepted Count	Total Accepted Taxable Value	Total Accepted Tax Amount
0	₹0.00	₹0.00
Total Rejected Count	Total Rejected Taxable Value	Total Rejected Tax Amount
0	₹0.00	₹0.00

Steps to file your TDS and TCS Credit received form

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TCS Credit Received - Summary
 Uploaded by Collector

Processed Records Records to view per page Search by GSTIN/Trade or legal name of collector

Select	GSTIN of Collector	Trade name/Legal name of Collector	Tax Period of GSTR-8	Gross Value (₹)	Supplies returned (₹)	Net Value (₹)	Amount of tax collected by e-commerce operators			Action
							Integrated Tax (₹)	Central Tax (₹)	State/UT Tax (₹)	
<input checked="" type="checkbox"/>	03AACCO1714E1CG	Shop101	Feb-2020	9,120.00	0.00	9,120.00	91.20	0.00	0.00	NO ACTION TAKEN
<input checked="" type="checkbox"/>	03AAECC3074B1CN	CLUES NETWORK PRIVATE LIMITED	Feb-2020	16,17,067.07	10,81,911.50	5,35,155.57	5,212.84	69.36	69.36	NO ACTION TAKEN
<input checked="" type="checkbox"/>	03AACCF6368D1C7	Fashnear Technologies Private Limited	Feb-2020	10,746.67	5,244.76	5,501.91	55.02	0.00	0.00	NO ACTION TAKEN
<input checked="" type="checkbox"/>	03AAICA3918J1C3	AMAZON SELLER SERVICES PRIVATE LIMITED	Feb-2020	4,47,602.84	1,76,571.63	2,71,031.21	2,667.07	21.62	21.62	NO ACTION TAKEN
<input checked="" type="checkbox"/>	03AACCF0683K1C2	Flipkart Internet Private Limited	Feb-2020	8,84,471.00	5,85,060.00	2,99,411.00	2,930.31	31.90	31.90	NO ACTION TAKEN

BACK REJECT ACCEPT

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Electronic Cash Ledger

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Select Period

• indicates mandatory fields

From: •

To: •

Viewing Ledger details from 01/07/2019 to 30/11/2019

Sr.No	Date of deposit/Debit	Time of deposit	Reporting date (by bank)	Reference No.	Tax Period, if applicable	Description	Transaction Type (Debit/Credit)	Amount debited / credit			
								Integrated Tax	Central Tax	State Tax	C
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4	08/11/2019	16:07:36	-	AA0312186589412	-	TCS Credit	Credit	10,856.00	128.00	128.00	0
5	08/11/2019	16:13:09	-	AA030119382085C	-	TCS Credit	Credit	11,597.00	138.00	138.00	0

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**Para 55 & 56 of circular 125/44/2019
Refund of TDS/TCS deposited in excess**

55. Tax deducted in accordance with the provisions of section 51 of the CGST Act or tax collected in accordance with the provisions of section 52 of the CGST Act is required to be paid while discharging the liability in **FORM GSTR 7** or **FORM GSTR 8**, as the case may be, by the deductor or the collector, as the case may be.

56. It has been reported that, there are instances where taxes so deducted or collected is deposited under the wrong head (e.g. an amount deducted as Central tax is deposited as Integrated tax/State tax), thereby creating excess balance in the cash ledger of the deductor or the collector as the case may be. Doubts have been raised on the fate of this excess balance of TDS/TCS in the cash ledger of the deductor or the collector. It is clarified that such excess balance may be claimed by the tax deductor or the collector as the excess balance in electronic cash ledger. In this case, the common portal would debit the amount so claimed as refund. However, in case where tax deducted or collected in excess is also paid while discharging the liability in **FORM GSTR 7** or **FORM GSTR 8**, as the case may be, and the said amount has been credited to the electronic cash ledger of the deductee, the deductee can adjust the same while discharging his output liability or he can claim refund of the same under the category "refund of excess balance in the electronic cash ledger".

Refund of TDS

```
graph TD; A[Refund of TDS] --> B[Refund to deductor only when amount is not credited in electronic cash ledger ledger of deductee]; A --> C[Refund to deductee only when amount is credited in Electronic cash ledger]; B --- D[DEDUCTOR]; C --- E[DEDUCTEE];
```

Refund to deductor only
when amount is not credited
in electronic cash ledger
ledger of deductee

DEDUCTOR

Refund to deductee only
when amount is credited in
Electronic cash ledger

DEDUCTEE

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