



## Chapter 9 - E-Commerce Transactions

### Part A - ICAI TYK

- 1) Nishpaksh Associates is a supplier selling its own products through a web site hosted by it. Does it fall under the definition of an "electronic commerce operator"? Whether Nishpaksh Associates is required to collect TCS on such supplies?

Sol: As per the definitions in sections 2(44) and 2(45), Nishpaksh Associates will come under the definition of an "electronic commerce operator".

However, according to section 52, 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 TCS as per the provisions of this section. These transactions will be liable to GST at the prevailing rates.

Thus, Nishpaksh Associates is not required to collect TCS on the supplies made by it through its own website.

- 2) If Sitcom Technologies Ltd. purchases goods from different vendors and thereafter sells them on its own website under its own billing. Is TCS required to be collected on such supplies?

Sol: No. According to section 52, TCS is required to be collected on the net value of taxable supplies made through ECO by other suppliers where the consideration is to be collected by the ECO. In this case, there are two transactions - Sitcom Technologies Ltd. purchases the goods from the vendors, and thereafter those goods are sold through its own website.

For the first transaction, GST is leviable, and will need to be paid to vendor, on which credit is available to Sitcom Technologies Ltd. The second transaction is a supply on own account of Sitcom Technologies Ltd., and not by other suppliers and there is no requirement to collect TCS. The transaction will attract GST at the prevailing rates.

- 3) Whether the rate of tax of 0.5% notified under section 52 is CGST or SGST or a combination of both CGST and SGST?

Sol: The rate of TCS as notified under CGST Act is payable under CGST and the equal rate of TCS is expected under the SGST Act also, in effect aggregating to 0.5%.

- 4) Is every e-commerce operator required to collect tax on behalf of actual supplier?

Sol: Yes, every e-commerce operator is required to collect tax where consideration with respect to the supply made through it is being collected by the ecommerce operator.

However, no TCS is required to be collected in the following cases:

- (i) on supply of services notified under section 9(5) of the CGST Act, 2017.
- (ii) on exempt supplies

(iii) on supplies on which the recipient is required to pay tax on reverse charge basis.

5) State whether the provisions pertaining to tax collected at source under section 52, will be applicable in below mentioned scenarios -

(a) Fitan sells watch on its own through its own website

(b) ABC limited who is dealer of Fitan brand sells watches through Slipkart, an electronic commerce operator

Sol: Answers for both the scenarios is as follows:

(a) As per section 52, every electronic commerce 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 (currently aggregate 0.5% rate notified), 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. Hence, if the person sells on his own, provisions pertaining to tax collected at source (TCS) won't be applicable.

(b) If ABC limited who is dealer of Fitan brand sells watches through Slipkart, then the provision of TCS will be applicable to Slipkart.

6) A is an e-commerce operator supplying goods through its electronic portal in capacity of an agent. The goods belong to B and the consideration for such supplies is received by A and remitted to B as per the contractual arrangement. A requires your help in arriving at the rate at which tax shall be collected from the amount which is received by it against the supplies?

Sol: As per section 52(1), the TCS provisions are not applicable in cases where the ECO is an agent of the supplier. In the present case, A being an ECO is supplying goods through the electronic portal in capacity of an agent and hence the liability to collect tax as per Section 52 shall not arise in this case.

7) X booked a Hotel in Udaipur, Rajasthan through an e-commerce portal for an amount of ₹ 25,000. As per the terms and conditions, the amount was payable at the hotel at the time of check in. Whether TCS provisions shall apply in the present case?

Sol: No, as per the provisions under section 52, the TCS provisions shall trigger only when the ECO is receiving the consideration for supply from the recipient of supply. In the present case, the supplier i.e. the hotel is directly receiving the consideration from the recipient of the services i.e. X. Hence, the present transactions shall not trigger the TCS provisions under section 52.

8) Sumitra Nandan books a Hotel - Hillpoint Residency, registered under GST- via Zitcom Technologies Ltd. - an ECO - who in turn is integrated with another ECO-Techsuper Ltd. who has agreement with Hillpoint Residency. You are required to determine who is required to collect TCS in the given case.

Sol: The given case is a case of multiple e-commerce model wherein a customer orders supplies via ECO-1 who in turn is integrated with ECO-2 who has agreement with the supplier. In this case, ECO-1 will not have any GST information of the supplier. 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.

Thus, in the given case, TCS is to be collected by ECO-Techsuper Ltd. who is making payment to Hillpoint Residency for the supply happening through it,

- 9) AB Pvt. Ltd., Pune, Maharashtra, provides house-keeping services. The company supplies its services exclusively through an e-commerce website owned and managed by Hi-Tech Indya Pvt. Ltd., Pune. The turnover of AB Pvt. Ltd. in the current financial year is ₹ 18 lakh. Advise AB Pvt. Ltd. as to whether it is required to obtain GST registration. Will your advice be any different if AB Pvt. Ltd. sells readymade garments exclusively through the e-commerce website owned and managed by Hi-Tech Indya Pvt. Ltd.?

Sol: As per section 22, every supplier of goods or services or both is required to obtain registration in the State/ Union territory from where he makes the taxable supply if his aggregate turnover exceeds threshold limit in a financial year.

However, section 24 enlists certain categories of persons who are mandatorily required to obtain registration, irrespective of their turnover. Persons who supply goods or services or both through such electronic commerce operator (ECO), who is required to collect tax at source under section 52, is one such person specified under clause (ix) of section 24. However, where the ECO is liable to pay tax on behalf of the suppliers of services under a notification issued under section 9(5), the suppliers of such services are entitled for threshold exemption.

Section 2(45) defines ECO as any person who owns, operates or manages digital or electronic facility or platform for electronic commerce. Electronic commerce is defined under section 2(44) to mean the supply of goods or services or both, including digital products over digital or electronic network. Since Hi-Tech Indya Pvt. Ltd. owns and manages a website for e-commerce where both goods and services are supplied, it will be classified as an ECO under section 2(45).

Notification No. 17/2017 CT (R) dated 28.06.2017 issued under section 9(5) specifies services by way of house-keeping, except where the person supplying such service through ECO is liable for registration under section 22(1), as one such service where the ECO is liable to pay tax on behalf of the suppliers.

In the given case, AB Pvt. Ltd. provides house-keeping services through an ECO. It is presumed that Hi-Tech Indya is an ECO which is required to collect tax at source under section 52. However, house-keeping services provided by AB Pvt. Ltd., which is not liable for registration under section 22(1) as its turnover is less than ₹20 lakh, is a service notified under section 9(5). Thus, AB Pvt.

Ltd. will be entitled for threshold exemption for registration and will not be required to obtain registration even though it supplies services through ECO.

In the second case, AB Pvt. Ltd. sells readymade garments through ECO. Such supply cannot be notified under section 9(5) as only supplies of services are notified under that section. However, in the second case also, AB Pvt. Ltd. will be entitled for threshold exemption and will not require to obtain registration as presently supplier of goods making supply through ECO who is required to collect TCS is entitled for threshold exemption **subject to fulfilment of certain conditions**.

10) Starkart Limited owns and operates a web portal in the name of "Starkart" and is registered with the jurisdictional GST authorities in Delhi as an electronic commerce operator and is liable to collect tax at source under section 52. Starkart provides listing service to various sellers for selling the goods to ultimate customers. Besides this, Starkart also sells its own products through the same web portal.

For the listing services provided to sellers, Starkart charges a listing fee at the rate of 10% of turnover of goods sold by the seller in a particular month. Such listing fee is recovered from the seller irrespective of any return of goods sold through Starkart. The customers can choose from wide range of goods listed on the web portal and place an online order for goods.

The payment is made by the customers through the payment gateway in online mode only. At the time of monthly settlement, Starkart makes the payment to the sellers after adjusting the tax collection at source at the applicable rates.

The invoice for goods sold on Starkart is issued by the seller in the name of customers and tax is charged on the basis of location of seller and customer. The goods are shipped directly by the seller to the customer and there is no responsibility of shipping the goods on Starkart for such third-party sellers.

In case of return of goods by the customer, the shipping is arranged by Starkart. It charges a fee equivalent to 20% of the value of goods returned as cancellation charges and refunds the balance amount to the customer.

Further, 10% of the value of goods returned is collected from the seller by Starkart as handling charges for return of goods.

In the month of January, Pulkit, a resident of Rajasthan, purchased following goods from Starkart:

- a. Laptop having a value of ₹ 50,000 and a printer having a value of ₹ 10,000. Both the products are sold by Infocom Limited, a seller listed on Starkart and registered under GST in the State of Uttar Pradesh.
- b. Mobile phone having a value of ₹ 30,000 sold by Starkart in its own capacity.
- c. CCTV camera system having a value of ₹ 1,00,000 sold by Secure World, listed on Starkart and registered under GST in the State of Gujarat.

All the amounts given above are exclusive of GST, wherever applicable.

The opening balance of input tax credit for the relevant tax period for Starkart, Infocom Limited and Secure World is nil. Further, there is no other inward or outward supply transaction for Starkart, Infocom Limited and Secure World in January apart from the aforementioned transactions. Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled.

GST is applicable on all inward and outward supplies at the following rates unless otherwise specified:

CGST - 9%, SGST - 9%, IGST - 18%

Compute the net tax liability (including amount collected as TCS) of Starkart Limited and net GST payable in cash (after set-off of credits, if any) of Infocom Limited and Secure World, for the month of January.

**Sol: Computation of net tax liability (including amount collected as TCS) of Starkart Limited for January**

Particulars	₹
TCS to be collected from Infocom Limited on supply of Laptop and a printer to Pulkit [Starkart is an ECO since it owns and operates a web portal through which Infocom Limited supplies goods. Further, IGST is applicable on said inter-State transaction since supplier - Infocom Limited is located in the State of Uttar Pradesh and place of supply is Rajasthan [i.e. where movement of goods terminates in terms of section 10(1)(a) of the IGST Act, 2017]. Thus, Starkart will collect TCS @ 0.5% of [₹ 50,000 + ₹ 10,000]	300
GST to be paid by Starkart on supply of mobile phone made on its own account @ 18% (IGST) of ₹ 30,000. IGST is applicable on said inter-State transaction since supplier - Starkart is located in Delhi and place of supply is Rajasthan [i.e. where movement of goods terminates in terms of section 10(1)(a) of the IGST Act, 2017]. Since supply has been made by Starkart on its own account, no TCS needs to be collected.	5,400
TCS to be collected from Secure World on supply of CCTV camera system to Pulkit [ECO - Starkart is liable to collect TCS on this transaction. Further, IGST is applicable on said inter-State transaction since supplier - Secure World is located in the State of Gujarat and place of supply is Rajasthan [i.e. where movement of goods terminates in terms of section 10(1)(a) of the IGST Act, 2017]. Thus, Starkart will collect TCS @ 0.5% of ₹ 1,00,000]	500
Listing services provided by Starkart to Infocom Limited and Secure Limited @ 10% of turnover for the month of January. Turnover of Infocom Limited and Secure Limited is ₹ 60,000 and ₹ 1,00,000 respectively. [IGST @ 18% on (₹ 1,60,000 × 10%) is applicable on said interState transaction since supplier - Starkart is located in Delhi and place of supply is Uttar Pradesh and Gujarat respectively [i.e. location of recipient in terms of section 12(2) of the IGST Act, 2017]	2,880

Total GST liability (including TCS) of Starkart for January	9,080
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**Computation of net GST payable in cash by Infocom Limited for the month of January**

Particulars	₹
Gross GST liability [18% of turnover for January (₹ 50,000 + ₹ 10,000)]	10,800
Less: ITC of GST payable on listing services received from [(10% of ₹ 60,000) × 18%]	(1,080)
Net GST payable from Electronic Cash Ledger	9,720
Less: TCS credited to Electronic Cash Credit Ledger	(300)
<b>Net GST payable in cash</b>	<b>9,420</b>

**Computation of net GST payable in cash by Secure World for the month of January**

Gross GST Liability [18% of turnover for January (₹ 1,00,000)]	18,000
Less: ITC of GST payable on listing services received from [(10% of ₹ 1,00,000) × 18%]	(1,800)
Net GST payable from Electronic Cash Ledger	16,200
Less: TCS credited to Electronic Cash Credit Ledger	(500)
<b>Net GST payable in cash</b>	<b>15,700</b>

**Part B - PYQs/RTPs/MTPs**

11) Top Fashions, a designer cloth dealer and registered in the State of West Bengal, effected supply through 'QUICK DEAL', an electronic commerce operator. Net value of taxable intra-State supplies effected for the month of October 2019 was Rs. 1,50,000. Whether TCS is applicable?

Sol: An electronic commerce operator (ECO) is required to collect TCS an amount @ 0.5% (CGST 0.25% and SGST @ 0.25%) of the net value of taxable supplies made through it by other suppliers.

= Rs. 1,50,000 × 0.25%

= Rs. 375 (CGST) & Rs. 375 (SGST)

12) Mr. Sanjay of New Delhi made a request for a Motor cab to "Super ride" for travelling from New Delhi to Gurgaon (Haryana). After Mr. Sanjay pays the cab charges using his debit card, he gets details of the driver Mr. Jorawar Singh and the cab's registration number.

"Super ride" is a mobile application owned and managed by D.T. Ltd. located in India. The application "Super ride" facilitates a potential customer to connect with the persons providing cab service under the brand name of "Super ride".

D.T. Ltd. claims that cab service is provided by Mr. Jorawar Singh and hence, he is liable to pay GST under the provisions of Goods and Service tax laws.

With reference to the provisions of IGST Act, 2017, determine who is liable to pay GST in this case?

Would your answer be different, if D.T. Ltd. is located in New York (USA)? Also briefly state the statutory provisions involved. [PYQ]

Sol: Section 5(5) of IGST Act, 2017 provides that tax on inter-State supplies of specified services notified by Government shall be paid by the electronic commerce operator (ECO) located in taxable territory if such services are supplied through it. Services by way of transportation of passengers by a motor cab supplied through ECO is one of the notified service.

Electronic commerce operator means any person who owns, operates or manages digital or electronic facility or platform for supply of goods or services or both, including digital products over digital or electronic network.

Since DT Ltd. owns and manages a mobile application to facilitate supply of passenger transportation service in motor cabs over a digital network, it is an ECO. Thus, DT Ltd., an ECO located in India is liable to pay GST in the given case.

However, where an ECO does not have a physical presence in the taxable territory, person representing ECO is liable to pay tax. Further, where ECO has neither the physical presence nor any representative in the taxable territory, person appointed by the ECO for the purpose of paying the tax is liable to pay tax.

Accordingly, if D.T. Ltd. is located in New York (USA), any person representing DT Ltd. for any purpose in India is liable to pay tax.

Further, if D.T. Ltd. also does not have a representative in India, it shall appoint a person in India for the purpose of paying tax and such person shall be liable to pay tax.

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