



## Chapter 11 - Tax Invoice, Credit & Debit Notes

### Part A - ICAI TYK

- 1) Jai, a registered supplier, runs a general store in Ludhiana, Punjab. Some of the goods sold by him are exempt whereas some are taxable. You are required to advise him on the following issues:
- Whether Jai is required to issue a tax invoices in all cases, even if he is selling the goods to the end consumers?
  - Jai sells some exempted as well as taxable goods valuing ₹ 5,000 to a school student. Is he mandatorily required to issue two separate GST documents?
  - Jai wishes to know whether it's necessary to show tax amount separately in the tax invoices issued to the customers. You are required to advise him.

Sol: (i) No, he is not required to issue tax invoice in all cases. As per section 31(1), every registered person supplying taxable goods is required to issue a 'tax invoice'. Section 31(3)(c) stipulates that every registered person supplying exempted goods is required to issue a bill of supply instead of tax invoice.

Further, rule 46A provides that a registered person supplying taxable as well as exempted goods or services or both to an un-registered person may issue a single 'invoice-cum-bill of supply' for all such supplies.

However, as per section 31(3)(b) read with rule 46 and 49, a registered person may not issue a tax invoice/bill of supply if:

- value of the goods supplied < ₹ 200,
- the recipient is unregistered; and
- the recipient does not require such invoice.

(ii) Instead, such registered person shall issue a Consolidated Tax Invoice/bill of supply for such supplies at the close of each day in respect of all such supplies.

As per rule 46A, where a registered person is supplying taxable as well as exempted goods or services or both to an unregistered person, a single "invoice-cum-bill of supply" may be issued for all such supplies. Thus, there is no need to issue a tax invoice and a bill of supply separately to the school student in respect of supply of the taxable and exempted goods respectively.

(iii) As per section 33, where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which shall form part of the price at which such supply is made.

As per rule 46(m), a tax invoice shall contain the various particulars, inter alia, namely, amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);

Hence, Jai has to show the tax amount separately in the tax invoices issued to customers.

2) Avtaar Enterprises, Kanpur started trading exclusively in ayurvedic medicines from July 1. Its turnover exceeded ₹ 40 lakh on October 3. The firm applied for registration on October 31 and was issued registration certificate on November 5.

Examine whether any revised invoice can be issued in the given scenario. If the answer to the first question is in affirmative, determine the period for which the revised invoices can be issued as also the last date up to which the same can be issued.

Sol: As per section 31(3)(a), a registered person may, within one month from the date of issuance of certificate of registration, issue a revised invoice against the invoice already issued during the period beginning with the effective date of registration till the date of issuance of certificate of registration to him.

Further, rule 10(2) lays down that the registration shall be effective from the date on which the person becomes liable to registration where the application for registration has been submitted within a period of 30 days from such date.

In the given case, Avtaar Enterprises has applied for registration within 30 days of becoming liable for registration. Thus, the effective date of registration is the date on which Avtaar Enterprises became liable for registration i.e., October 3. Therefore, since in the given case there is a time lag between the effective date of registration (October 3) and the date of grant of certificate of registration (November 5), revised invoices can be issued. The same can be issued for supplies made during this intervening period i.e., for the period beginning with October 3 till November 5. Further, the revised invoices can be issued for the said period till December 5.

3) Discuss the provisions relating to issue of an invoice/document in the following circumstances:

- i. Advance payment is received against a supply, but subsequently no supplies are made.
- ii. Goods are sent on approval for sale or return and are removed before the supply takes place.
- iii. Mr. Mohan provides continuous supply of services to his client, where the due date of payment for such services is not ascertainable. No advance has been received in this behalf.

Sol. (i) As per section 31(3)(e), where advance payment is received against a supply for which receipt voucher has been issued, but subsequently no supplies are made and no tax invoice is issued in pursuance thereof, a refund voucher may be issued to the person who had made the advance payment.

(ii) As per section 31(7), where the goods are sent on approval for sale or return and are removed before the supply takes place, the invoice shall be issued before or at the time of supply or 6 months from the date of removal, whichever is earlier.

(iii) As per section 31(5)(b), in case of continuous supply of services, where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment.

4) Pari & Sons is an unregistered dealer of taxable supplies in Kerala. On 10th August, aggregate turnover of Pari & Sons exceeded ₹ 20,00,000. The firm applied for registration on 27th August and was granted the registration certificate on 1st September.

Under CGST Rules, 2017, you are required to advise Pari & Sons as to what is the effective date of registration in its case. It has also sought your advice regarding period for issuance of revised tax invoices.

Sol. Section 22(1) provides that every supplier is liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds the threshold limit (₹ 20 lakh).

Section 25(1) provides that a supplier whose aggregate turnover in a financial year exceeds the threshold limit in a State/UT is liable to apply for registration within 30 days from the date of becoming liable to registration (i.e., the date of crossing the threshold limit).

Where the application is submitted within the said period, the effective date of registration is the date on which the person becomes liable to registration vide rule 10(2); otherwise it is the date of grant of registration in terms of rule 10(3).

In the given case, since Pari & Sons have applied for registration on 27th August which is within 30 days from the date of becoming liable to registration (10th August), its effective date of registration is 10th August.

Further, every registered person who has been granted registration with effect from a date earlier than the date of issuance of registration certificate to him, may issue revised tax invoices in respect of taxable supplies effected during this period within one month from the date of issuance of registration certificate [Section 31(3)(a) read with rule 53(2)].

In view of the same, Pari & Sons may issue revised tax invoices against the invoices already issued during the period between effective date of registration (10th August) and the date of issuance of registration certificate (1st September), on or before 1st October.

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

5) Enumerate the suppliers to whom the Dynamic Quick Response (QR) code is not applicable when they issue an invoice to an unregistered person. [PYQ]

Sol. Dynamic Quick Response (QR) code is not applicable to the following suppliers when they issue an invoice to an unregistered person:

(i) Insurer or banking company or financial institution including NBFC

(ii) GTA (Goods transport agency) supplying services in relation to transportation of goods by road in a goods carriage

- (iii) Supplier of passenger transportation service
- (iv) Person supplying services by way of admission to exhibition of cinematograph films in multiplex screens
- (v) Supplier of OIDAR (online information and database access or retrieval) services.
- (vi) In case of exports

6) The aggregate turnover of Sangri Services Ltd., Delhi exceeds Rs. 20 lakhs on 12<sup>th</sup> August. He applied for registration on 3rd September and was granted the registration certificate on 6th September. You are required to advise Sangri Services Ltd. as to what is the effective date of registration in its case. It has also sought your advice regarding period for issuance of Revised Tax Invoices. [MTP Nov'19]

Sol. As per section 25 read with CGST Rules, 2017, where an applicant submits application for registration within 30 days from the date he becomes liable to registration, effective date of registration is the date on which he becomes liable to registration. Since, Sangri Services Ltd.'s turnover exceeded Rs. 20 lakh on 12th August, it became liable to registration on same day. Further, it applied for registration within 30 days of so becoming liable to registration, the effective date of registration is the date on which he becomes liable to registration, i.e. 12th August.

As per section 31 read with CGST Rules, 2017, every registered person who has been granted registration with effect from a date earlier than the date of issuance of certificate of registration to him, may issue Revised Tax Invoices. Revised Tax Invoices shall be issued within 1 month from the date of issuance of certificate of registration. Revised Tax Invoices shall be issued within 1 month from the date of issuance of registration in respect of taxable supplies effected during the period starting from the effective date of registration till the date of issuance of certificate of registration.

Therefore, in the given case, Sangri Services Ltd. has to issue the Revised Tax Invoices in respect of taxable supplies effected during the period starting from the effective date of registration (12th August) till the date of issuance of certificate of registration (6th September) within 1 month from the date of issuance of certificate of registration, i.e. on or before 6th October.

7) MBM Caretakers, a registered person, provides the services of repair and maintenance of electrical appliances. On April 1, it has entered into an annual maintenance contract with P for its Air Conditioner and Washing Machine. As per the terms of contract, maintenance services will be provided on the first day of each quarter of the relevant financial year and payment for the same will also be due on the date on which service is rendered. During the year, it provided the services on April 1, July 1, October 1, and January 1 in accordance with the terms of contract. When should MBM Caretakers issue the invoice for the services rendered? [PYQ]

Sol. Continuous supply of service means, inter alia, supply of any service which is provided, or agreed to be provided continuously or on recurrent basis, under a contract, for a period exceeding 3 months with periodic payment obligations.

Therefore, the given situation is a case of continuous supply of service as repair and maintenance services have been provided by MBM Caretakers on a quarterly basis, under a contract, for a period of one year with the obligation for quarterly payment.

In terms of section 31, in case of continuous supply of service, where due date of payment is ascertainable from the contract (as in the given case), invoice shall be issued on or before the due date of payment.

Therefore, in the given case, MBM Caretakers should issue quarterly invoices on or before April 1, July 1, October 1, and January 1.

- 8) Subhashini Ltd. agreed to provide consultancy services to Madhu Enterprises in the month of May for which it received an advance of Rs.1,00,000 on 20th April from Madhu Enterprises. Subsequently, in the month of May, before supply of service, the said service contract has to be cancelled owing to some inadvertent circumstances. However, Subhashini Ltd. has issued the invoice for the advance received in April itself and has paid the GST thereon.

You are the tax consultant of Subhashini Ltd. Please advise whether it can claim refund of tax paid or is it required to adjust its tax liability in its returns? [RTP Nov'20]

Sol. In case GST is paid by the supplier on **advances received for a future event which got cancelled subsequently** and for which invoice is issued before supply of service, the **supplier is required to issue a "credit note"** in terms of section 34 of the CGST Act, 2017. He shall **declare the details** of such credit notes **in the return for the month** during which such **credit note has been issued**. The **tax liability shall be adjusted** in the return subject to conditions of section 34. There is no need to file a separate refund claim.

However, in cases where there is **no output liability** against which a credit note can be adjusted, registered persons may proceed to **file a refund claim** [Circular No. 137/07/2020 GST dated 13.04.2020].

Therefore, in the given case, **Subhashini Ltd. is required to issue a credit note, declare its details in the return for the month during which such credit note has been issued and adjust the tax liability**. However, **if there is no output liability of Subhashini Ltd. against which the said credit note can be adjusted, it may proceed to file a refund claim**.

- 9) Sanmati Industries, registered in the State of Maharashtra, receives a machinery for repair in its workshop located in Mumbai, Maharashtra from Titsubishi Ltd., an automobile manufacturing company based in Japan. The repair work was carried out by Sanmati Industries for which it was to be paid in convertible foreign exchange and goods were returned to Titsubishi Ltd. after being used for some time in India.

While raising the invoice for the said consideration, the accountant of Sanmati Industries approaches you as to whether the Dynamic Quick Response (QR) code is mandatorily required on said invoice? You are required to advise him on the same.

Note - Titsubishi Ltd. is not registered in India. Further, the aggregate turnover of Sanmati Industries was Rs. 550 crores in the preceding financial year. [RTP Nov'22]

Sol. The **place of supply** for the services provided by Sanmati Consultants to Titsubishi Ltd. is as follows:

As per section 13(3)(a) of the IGST Act, 2017, in case where the services are supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services, the place of supply of such services shall be the location where the services are actually performed. In the given case, for carrying out the repair work, machinery was required to be made physically available by Titsubishi Ltd. to Sanmati Consultants. Thus, the place of supply of services in this case is the location where the services are actually performed i.e., **Maharashtra, India.**

Further, sixth proviso to rule 46 read with Notification No. 14/2020 CT dated 21.03.2020 provides that all invoices issued by a registered person whose aggregate turnover in any preceding financial year from 2017-18 onwards exceeds Rs. 500 crores, in respect of B2C supplies (supply of goods or services or both to an unregistered person), will mandatorily have a Dynamic QR code.

Thus, the invoices issued by Sanmati Consultants to unregistered persons are mandatorily required to have a Dynamic QR Code. Accordingly, since **Titsubishi Ltd. is not registered in India, the invoice to be raised by Sanmati Consultants to it should mandatorily have a Dynamic Quick Response (QR) code.**

However, **Circular No. 165/21/2021 GST dated 17.11.2021** has clarified that wherever an **invoice is issued to a recipient located outside India**, for supply of services, for which the **place of supply is in India**, as per the provisions of IGST Act 2017, and the **payment is received by the supplier in convertible foreign exchange**, such invoice **may be issued without having a Dynamic QR Code**, as such dynamic QR code cannot be used by the recipient located outside India for making payment to the supplier.

Thus, the **Dynamic Quick Response (QR) code is NOT mandatorily required on the invoice** to be issued by Sanmati Consultants to Titsubishi Ltd.

10) An international trade exhibition is going to be held in United States of America in January. Ayaat Niryat Export House (ANEH) has participated in it. It intends to send 100 units of taxable goods manufactured by it to USA for display in the said exhibition.

ANEH is of the view that the activity of sending the goods out of India for exhibition is a zero-rated supply. However, its tax advisor does not concur with its view. Examine whether the view of ANEH is correct.

Assuming that ANEH could not sell any goods at the exhibition and brings back entire 100 units to India (i) in February, (ii) in August,

Discuss the requirement to issue invoice, if any, in each of the above independent cases.

Would your answer be different if ANEH sells an aggregate of 65 units of the taxable goods in USA exhibition on different dates in January and remaining 35 units are brought back on 31st January. The tax advisor of ANEH advises ANEH that the export of 65 units qualify as zero-rated supply and it should apply for refund of the unutilized ITC in respect of the same. Examine the technical veracity of the tax advisor's advice. [RTP May'20]

Sol. No, the view of ANEH that the activity of sending the goods out of India for exhibition is a zero-rated supply, is not correct. As per section 7 of the CGST Act, for any activity or transaction to be considered a supply, it must satisfy twin tests namely-

- (i) it should be for a consideration by a person; and
- (ii) it should be in the course or furtherance of business.

The exceptions to the above are the activities enumerated in Schedule I of the CGST Act which are treated as supply even if made without consideration. Further, section 2(21) of the IGST Act defines "supply", wherein it is clearly stated that it shall have the same meaning as assigned to it in section 7 of the CGST Act.

Section 16 of the IGST Act defines "zero rated supply" as any of the following supplies of goods or services or both, namely :-

- (a) export of goods or services or both; or
- (b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.

Thus, only such "supplies" which are either "export" or are "supply to SEZ unit/ developer" would qualify as zero-rated supply.

In view of the above provisions, Circular No. 108/27/2019 GST dated 18.07.2019 clarified that the activity of sending/ taking the goods out of India for exhibition or on consignment basis for export promotion, except when such activity satisfy the tests laid down in Schedule I of the CGST Act, do not constitute supply as the said activity does not fall within the scope of section 7 of the CGST Act as there is no consideration at that point in time. Since such activity is not a supply, the same cannot be considered as "zero rated supply" as per the provisions contained in section 16 of the IGST Act.

The said circular further clarified that the activity of sending/ taking goods out of India for exhibition is in the nature of "**sale on approval basis**" wherein the goods are sent/ taken outside India for the approval of the person located abroad and it is only when the said goods are approved that the actual supply from the exporter located in India to the importer located abroad takes place.

The activity of sending/ taking specified goods is covered under the provisions of section 31(7) of the CGST Act, 2017 read with rule 55 of CGST Rules, 2017. As per said provisions, in case of the goods being sent or taken on approval for sale, the invoice shall be issued before/at the time of supply or 6 months from the date of removal, whichever is earlier. The goods which are taken for supply on approval basis can be moved from the place of business of the registered supplier to another place within the same State or to a place outside the State on a delivery challan.

In view of the said provisions, ANEH is not required to issue invoice at the time of taking the goods out of India since the activity of merely sending/ taking the taxable goods out of India is not a supply. However, the goods shall be accompanied with a delivery challan. Further,

- (i) In case the entire quantity of goods (100 units) sent to USA is not sold but brought back by ANEH in February, i.e. within the stipulated period of 6 months from the date of removal, no tax invoice is required to be issued as no supply has taken place in such a case.
- (ii) In case, the entire quantity of goods (100 units) sent to USA is not sold and brought back by ANEH in August, i.e. after 6 months from the date of removal, a tax invoice is required to be issued for entire 100 units of taxable goods in accordance with the provisions contained in section 12 [determining time of supply of goods] and section 31 [tax invoice] of the CGST Act, 2017 read with rule 46 [tax invoice] of the CGST Rules, 2017 within the time period stipulated under section 31(7) of the CGST Act, 2017.

However, if an aggregate of 65 units of the goods are sold in USA exhibition by ANEH on different dates in January (i.e. within the stipulated period of 6 months), a tax invoice would be required to be issued for these units, at the time of each of these sales, in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules. When the goods are sold in exhibition, actual supply from the exporter in India to the importer located abroad takes place and this supply qualifies as export. Export of goods is a zero-rated supply in terms of section 16(1)(a) of the IGST Act, 2017.

If the remaining 35 units are brought back on 31st January, i.e. within the stipulated period of 6 months from the date of removal, no tax invoice is required to be issued as no supply has taken place in such a case.

Further, tax advisor's advice is technically correct. Since the activity of sending / taking specified goods out of India is not a zero-rated supply, execution of a bond/Letter of Undertaking (LUT), as required under section 16 of the IGST Act, is not required.

However, the sender can prefer refund claim even when the specified goods were sent / taken out of India without execution of a bond/LUT, if he is otherwise eligible for refund as per the provisions contained in section 54(3) of the CGST Act, 2017 read with rule 89(4) of the CGST Rules, 2017 in respect of zero-rated supply of 65 units.

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