

Chapter 14: Tax Deduction at Source and Collection of Tax at Source

Descriptive Questions

Easy

Question 1

PYQ Nov '22

BSA Corporation is a Public Sector Undertaking registered in Karnataka. For entertainment events in Bengaluru and at Mumbai, BSA has given contract to Mr. A, a renowned artist, registered person in Maharashtra, to perform on contemporary Bollywood songs. BSA Corporation agreed to pay ₹ 12,39,000 and ₹ 18,29,000, inclusive of GST, for Mumbai and Bengaluru events respectively. BSA Corporation seeks your advice regarding amount of TDS to be deducted assuming GST rate @ 18% (CGST @ 9%, SGST @ 9%, IGST @18%) **5 Marks**

Answer:

A Public Sector Undertaking is required to deduct tax @ 2% (on inter-State supplies) from payment made to the supplier of taxable services where the total value of such supply, excluding tax indicated in the invoice, under a contract, exceeds ₹ 2,50,000.

Value of supplies excluding tax are

₹ 10,50,000 (₹ 12,39,000 × 100/118) and

₹ 15,50,000 (₹ 18,29,000 × 100/118)

Further, in the given case, since the location of supplier is Maharashtra and place of supply of services provided by Mr. A to BSA Corporation is the location of recipient, viz. Karnataka, said services provided at both Mumbai and Bengaluru events are inter -State supplies.

Accordingly, in the given case, BSA Corporation is required to deduct tax as follows:

(i) ₹ 10,50,000 × 2% = ₹ 21,000 (IGST)

(ii) ₹ 15,50,000 × 2% = ₹ 31,000 (IGST)

Moderate

Question 1

MTP April '21

Shubi Enterprises is entitled for exemption from tax under GST law. However, it collected tax from its buyers worth Rs. 50,000 in the month of August. It has not deposited the said amount collected as GST with the Government. You are required to brief to Shubi Enterprises the consequences of collecting tax, but not depositing the same with Government as provided under section 76 of the CGST Act, 2017. **5 Marks**

Answer:

It is mandatory to pay amount, collected from other person representing tax under GST law,



to the Government. Every person who has collected from any other person any amount as representing the tax under GST law, and has not paid the said amount to the Government, shall forthwith pay the said amount to the Government, irrespective of whether the supplies in respect of which such amount was collected are taxable or not. For any such amount not so paid, proper officer may issue show cause notice (SCN) for recovery of such amount and penalty equivalent to amount specified in notice.

The proper officer shall, after considering the representation, if any, made by the person on whom SCN is served, determine the amount due from such person and thereupon such person shall pay the amount so determined alongwith interest at the rate specified under section 50 of the CGST Act, 2017 from the date such amount was collected by him to the date such amount is paid by him to the Government.

Question 2

MTP March '23

Ragini Traders, a registered supplier of Jaipur, is engaged in supply of various goods and services exclusively to Government departments, agencies, local authority and persons notified under section 51 of the CGST Act, 2017.

You are required to briefly explain the provisions relating to tax deduction at source under section 51 and also determine the amount of tax, if any, to be deducted from each of the receivables given below (independent cases) assuming that the payments as per the contract values are made on 31st October. The rates of CGST, SGST and IGST may be assumed to be 6%, 6% and 12% respectively.

- 1) Supply of computer stationery to Public Sector Undertaking (PSU) located & registered in Mumbai. Total contract value is ₹ 2,72,000 (inclusive of GST)
- 2) Supply of air conditioner to GST department located & registered in Delhi. Total contract value is ₹ 2,55,000 (exclusive of GST)
- 3) Supply of generator renting service to Municipal Corporation of Jaipur (not exempt under GST law). Total contract value is ₹ 3,50,000 (inclusive of GST)

Answer:

As per section 51 of the CGST Act, 2017, Government departments, agencies, local authority and notified persons are required to deduct tax @ 2% (1% CGST + 1% SGST/UTGST) or IGST @ 2% from payment made to the supplier of taxable goods and/ or services where the total value of such supply [excluding tax and compensation cess indicated in the invoice], under a contract, exceeds ₹ 2,50,000. Since in the given case, Ragini Traders is supplying goods and services exclusively to Government departments, agencies, local authority and persons notified under section 51 of the CGST Act, 2017, applicability of TDS provisions on its various receivables is examined in accordance with the above-mentioned provisions as under:



S. No.	Particulars	Total contract value due to be received [excluding GST] (₹)	Tax to be deducted		
			CGST @ 1% (₹)	SGST @ 1% (₹)	IGST @ 2% (₹)
(1)	Supply of computer stationery to PSU in Mumbai [Since the total value of supply under the contract [excluding IGST (being inter-State supply)] does not exceed ₹ 2,50,000, tax is not required to be deducted.]	2,42,857 [2,72,000 × 100 / 112]	--	--	
(2)	Supply of air conditioner to GST Department in Delhi [Since the total value of supply under the contract [excluding IGST (being inter-State supply)] exceeds ₹ 2,50,000, tax is required to be deducted.]	2,55,000	--		5,100
(3)	Supply of a generator renting service to Municipal Corporation of Jaipur [Since the total value of supply under the contract [excluding CGST and SGST (being intra-State supply)] exceeds ₹ 2,50,000, tax is required to be deducted.]	3,12,500 [3,50,000 × 100 / 112]	3,125	3,125	
	Total		3,125	3,125	5,100

Question 2

PYQ Nov '20

- 1) A Central Government Department located at Uttar Pradesh is registered with the Commercial Tax Department UP State for deducting GST. It enters into a contract with a Public Sector Undertaking (PSU), registered under GST in the State of Delhi, for supplying goods valued ₹3,50,000. The PSU argues that no tax is deductible on this supply by the Central Government Department as it is located outside the State of Uttar Pradesh and therefore not liable to tax under CGST and SGST as it is a local levy and IGST tax deduction is not applicable if it is located in another State, other than the State in which the Department is registered. You are required to comment on this.
- 2) Would there be any difference, if instead of the PSU if it was an entity in the private sector? Applicable tax rate for deduction is 1% CGST, 1% SGST and 2% IGST.
- 3) If the private sector entity undertakes works contract, for the above Department in New Delhi. What would be the position of tax deduction when the contract value is ₹5,00,000?
- 4) The disbursing officer has not paid the tax deducted in the month of February 2019,



amounting to ₹2,00,000 under CGST and 2,00,000 under SGST to the Government's account on the relevant due date, but has paid it on 14th May, 2019. Further, return for that month is also filed on that date and the certificate is also issued simultaneously. What are the consequences, on such failures, to the disbursing officer under the GST law? **4 Marks**

Answer:

1. Certain specified persons are required to deduct tax from the payment made to the supplier of taxable goods and/or services, where the total value of such supply [excluding GST] under a contract, exceeds ₹2,50,000.

However, the tax is not liable to be deducted at source when supply of goods and/or services has taken place between one specified person to another specified person. Since both Central Government Department and PSU are the specified persons, tax is not deductible in case of supply of goods between them.

2. Central Government Department is mandatorily required to deduct IGST @ 2% since a private entity is not the specified person.

3. Since, in the given case, the location of supplier and place of supply is in the same State, i.e., Delhi and location of recipient is in UP, Central Government Department is not required to deduct TDS although the total value of supply under the contract is more than ₹ 2,50,000.

4. Failure to deposit TDS with the Government and failure to furnish TDS return within the stipulated time period will result in following consequences:

- Interest @ 18% p.a. on the amount of tax deducted shall be payable.
- Late fee of ₹100 per day for the period of delay in furnishing return, or ₹ 5,000, whichever is lower, shall be payable. Equal amount of late fee will be payable under the respective State law.
- Applicable penalty will also be levied.

Question 3

PYQ Jan '21

From the following information of independent cases, your expert advice, with appropriate reasoning, is sought on the applicability of TDS/TCS provisions of the CGST Act, 2017. You shall also quantify the amount of TDS/TCS, as the case be, if the same is applicable.

- (i) 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 ₹ 1,50,000.
- (ii) M/s Super Builders, a registered supplier in Tamil Nadu, was awarded a works contract by Government of Tamil Nadu amounting to ₹ 4,30,000. Of this, value of exempt supply was ₹ 1,00,000.
- (iii) Tasty Caterers, a registered supplier of Kerala, provided catering services in Kochi, Kerala to Government of Andhra Pradesh for its annual training camp held for its staff. Value of said services was ₹ 4,50,000. **4 Marks**



Answer:

- (i) An electronic commerce operator (ECO) is required to collect TCS - an amount @ 1% (CGST 0.5% and SGST @ 0.5%) of the net value of taxable supplies made through it by other suppliers.
 $= ₹ 1,50,000 \times 0.5\% = ₹ 750$ (CGST) & $₹ 750$ (SGST)
- (ii) A State Government is required to deduct tax from the payment made to the supplier of taxable goods and/or services, where the total value of such supply [excluding GST] under a contract, exceeds ₹ 2,50,000. TDS to be deducted in the given intra-State supply (since place of supply and location of supplier is in Tamil Nadu) is as follows:
 $= ₹ (4,30,000 - 1,00,000) \times 1\% = ₹ 3,300$ (CGST) = $₹ 3,300$ (SGST)
- (iii) Since, in the given case, the location of supplier and place of supply are in the same State, i.e., Kerala and location of recipient is in Andhra Pradesh, Andhra Pradesh Government is not required to deduct TDS although the total value of supply under the contract is more than ₹ 2,50,000.

Note: In above question, it has been assumed that the value given is exclusive of GST, wherever applicable, since the rate of tax is not given in the question.

Difficulty**Question 1**

RTP May '19, MTP April 19, MTP Oct'22

Manihar Enterprises, registered in Delhi, is engaged in supply of various goods and services exclusively to Government departments, agencies etc. and persons notified under section 51 of the CGST Act, 2017. It has provided the information relating to the supplies made, their contract values and the payment due against each of them in the month of October, 20XX as under:

	Particulars	Total contract value (inclusive of GST) (₹)	Payment due in October, 20XX (₹)
(i)	Supply of stationery to Fisheries Department, Kolkata	2,60,000	15,000
(ii)	Supply of car rental services to Municipal Corporation of Delhi	2,95,000	20,000
(iii)	Supply of a heavy machinery to Public Sector Undertaking located in Uttarakhand	5,90,000	25,000
(iv)	Supply of taxable goods to Delhi office of National Housing Bank, a society established by Government of India under the Societies Registration Act, 1860	6,49,000	50,000
(v)	Interior decoration of Andhra Bhawan located in Delhi. Service contract is entered into with the Government of Andhra Pradesh (registered only in Andhra Pradesh).	12,39,000	12,39,000



(vi)	Supply of printed books and printed post cards to a West Delhi Post Office [Out of total contract value of ` 9,72,000, contract value for supply of books (exempt from GST) is ` 7,00,000 and for supply of printed post cards (taxable under GST) is ` 2,72,000.]	9,72,000	50,000 for books & 20,000 for printed post cards
(vii)	Maintenance of street lights in Municipal area of East Delhi* [The maintenance contract entered into with the Municipal Corporation of Delhi also involves replacement of defunct lights and other spares. However, the value of supply of goods is not more than 25% of the value of composite supply.] *an activity in relation to any function entrusted to a Municipality under article 243W of the Constitution	3,50,000	3,50,000

You are required to determine amount of tax, if any, to be deducted from each of the receivable given above assuming the rate of CGST, SGST and IGST as 9%, 9% and 18% respectively. Will your answer be different, if Manihar Enterprises is registered under composition scheme? **4 Marks**

Answer:

As per section 51 of the CGST Act, 2017 read with section 20 of the IGST Act, 2017 and Notification No. 50/2018 CT 13.09.2018, with effect from 01.10.2018, following persons are required to deduct CGST @ 1% Effective tax 2% (1% CGST + 1% SGST/UTGST)] or IGST @ 2% from the payment made/credited to the supplier (deductee) of taxable goods or services or both, where the total value of such supply, under a contract, exceeds ` 2,50,000:

- a) a department or establishment of the Central Government or State Government; or
- b) local authority; or
- c) Governmental agencies; or
- d) an authority or a board or any other body, -
 - 1) set up by an Act of Parliament or a State Legislature; or
 - 2) established by any Government, with 51% or more participation by way of equity or control, to carry out any function; or
- e) Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860, or
- f) Public sector undertakings.

Further, for the purpose of deduction of tax, the value of supply shall be taken as the amount excluding CGST, SGST/UTGST, IGST and GST Compensation Cess indicated in the invoice.

Since in the given case, Manihaar Enterprises is supplying goods and services exclusively to Government departments, agencies etc. and persons notified under section 51 of the CGST Act, 2017, applicability of TDS provisions on its various receivables is examined in accordance with the above-mentioned provisions as under:



S. No.	Particulars	Total contract value (₹)	Payment due (₹)	Tax to be deducted		
				CGST (₹)	SGST (₹)	IGST (₹)
(i)	Supply of stationery to Fisheries Department, Kolkata (Note-1)	2,60,000	15,000	--		
(ii)	Supply of car rental services to Municipal Corporation of Delhi (Note-2)	2,95,000	20,000	--		
(iii)	Supply of a heavy machinery to Public Sector Undertaking located in Uttarakhand (Note-3)	5,90,000	25,000			500
(iv)	Supply of taxable goods to Delhi office of National Housing Bank, a society established by Government of India under the Societies Registration Act, 1860 (Note-4)	6,49,000	50,000	500	500	
(v)	Interior decoration of Andhra Bhawan located in Delhi (Note-5)	12,39,000	12,39,000	--		
(vi)	Supply of printed books and printed post cards to a West Delhi Post Office (Note-6)	9,72,000		--		
(vii)	Maintenance of street lights in Municipal area of East Delhi (Note-7)	3,50,000	3,50,000	--		

Notes:

1. Being an inter-State supply of goods, supply of stationery to Fisheries Department, Kolkata is subject to IGST @ 18%. Therefore, total value of taxable supply [excluding IGST] under the contract is as follows:

$$= ₹ 2,60,000 \times 100 / 118$$

$$= ₹ 2,20,339 \text{ (rounded off)}$$

Since the total value of supply under the contract does not exceed ₹ 2,50,000, tax is not required to be deducted.

2. Being an intra-State supply of services, supply of car rental services to Municipal Corporation of Delhi is subject to CGST and SGST @ 9% each. Therefore, total value of taxable supply [excluding CGST and SGST] under the contract is as follows:

$$= ₹ 2,95,000 \times 100 / 118$$

$$= ₹ 2,50,000$$

Since the total value of supply under the contract does not exceed ₹ 2,50,000, tax is not required to be deducted.

3. Being an inter-State supply of goods, supply of heavy machinery to PSU in Uttarakhand is subject to IGST @ 18%. Therefore, total value of taxable supply [excluding IGST] under the contract is as follows:



$$= ₹ 5,90,000 \times 100 / 118$$

$$= ₹ 5,00,000$$

Since the total value of supply under the contract exceeds ₹ 2,50,000, PSU in Uttarakhand is required to deduct tax @ 2% of ₹ 25,000, i.e. ₹ 500.

4. Being an intra-State supply of goods, supply of taxable goods to National Housing Bank, Delhi is subject to CGST and SGST @ 9% each. Therefore, total value of taxable supply [excluding CGST and SGST] under the contract is as follows:

$$= ₹ 6,49,000 \times 100 / 118$$

$$= ₹ 5,50,000 \text{ (rounded off)}$$

Since the total value of supply under the contract exceeds ₹ 2,50,000, National Housing Bank, Delhi is required to deduct tax @ 2% (1% CGST + 1% SGST) of ₹ 50,000, i.e. ₹ 1,000.

5. Proviso to section 51(1) of the CGST Act, 2017 stipulates that no tax shall be deducted 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.

Section 12(3) of the IGST Act, 2017, inter alia, stipulates that the place of supply of services, directly in relation to an immovable property, including services provided by interior decorators, shall be the location at which the immovable property is located or intended to be located.

Accordingly, the place of supply of the interior decoration of Andhra Bhawan shall be Delhi. Since the location of the supplier (Manihar Enterprises) and the place of supply is Delhi and the State of registration of the recipient - Government of Andhra Pradesh is Andhra Pradesh, no tax is liable to be deducted in the given case.

6. If the contract is made for both taxable supply and exempted supply, tax shall be deducted if the total value of taxable supply in the contract exceeds ₹ 2,50,000. Being an intra-State supply of goods, supply of printed post cards to a West Delhi Post Office is subject to CGST and SGST @ 9% each. Therefore, total value of taxable supply [excluding CGST and SGST] under the contract is as follows:

$$= ₹ 2,72,000 \times 100 / 118$$

$$= ₹ 2,30,509 \text{ (rounded off)}$$

Since the total value of taxable supply under the contract does not exceed ₹ 2,50,000, tax is not required to be deducted.

7. Composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply provided to, inter alia, local authority by way of any activity in relation to any function entrusted to a Municipality under article 243W of the Constitution is exempt from GST. Thus, maintenance of street lights (an activity in relation to a function entrusted to a Municipality) in Municipal area of East Delhi involving replacement of defunct lights and other spares where the value of supply of goods is not more than 25% of the



value of composite supply is a service exempt from GST. Since tax is liable to be deducted from the payment made or credited to the supplier of taxable goods or services or both, no tax is required to be deducted in the given case as the supply is exempt.

The answer will remain unchanged even if Manihar Enterprises is registered under composition scheme. Tax will be deducted in all cases where it is required to be deducted under section 51 of the CGST Act, 2017 including the scenarios when the supplier is registered under composition scheme.

CA VIVEK GABA



Multiple Choice Questions

Question 1

March Oct'19

In which of the following supplies of goods and services made exclusively to Government departments, agencies etc., TDS is required to be deducted?

- (i) Health Department executed a contract with a local supplier to supply "medical grade oxygen" of ` 2.6 lakh (including GST @ 18%) and is making full payment.
- (ii) Government school is making a payment of ` 3.5 Lakh to a supplier for supply of cooked food as mid- day meal under a scheme sponsored by Central/State Government
- (iii) Municipal Corporation of Kolkata purchases a heavy generator from a supplier in Delhi. Now, it is making payment of ` 5 lakh and IGST @18% on ` 5 lakh for such purchase.
- (iv) Finance Department is making a payment of ` 3 lakh (including GST @ 18%) to a supplier of 'printing & stationery'.

Assume all other conditions for deduction of TDS are fulfilled

- (a) (i), (ii) and (iii)
- b) (ii), (iii) and (iv)
- c) Only (i) and (ii)
- (d) Only (iii) and (iv)

Question 2

MTP April'19

Analyze the transactions mentioned below-

1. Mr. Abhinay, provides architect services to Institute for Rural Development, a Government Agency for Rs. 2,80,000/- (inclusive of Rs. 30,000/- GST) under a contract in October, 2018. Mr. Abhinay, is registered under GST. Being a registered supplier, Institute for Rural Development deducted TDS of supplier.

2. M/s. Manmohak Apparels, is registered under GST in Madhya Pradesh. It sells leather handbags across India through e-commerce operator Pingpong. Pingpong, is also registered with Madhya Pradesh GST Authority as TCS collector and collected TCS @ 1% (0.5% CGST + 0.5% SGST) on supplies made through it. M/s. Manmohak Apparels made sales of Rs. 3,45,000/- and received sales returns of Rs. 67,700/- in the month of October, 2018. Sales are inclusive of tax. Leather handbags are taxable @ 18% GST. Pingpong, collected TCS of Rs. 2,350/- from M/s Manmohak Apparels. Which of the transactions are in compliance with section 51 or section 52 of CGST Act?

- (a) Only (i)
- b) Only (ii)
- c) Both (i) and (ii)
- (d) Neither (i) nor(ii)



Question 3

MTP April'19

A taxable person has made following supplies in January, 2018 - Sales within the State - Rs. 2,00,000. Exports out of India- Rs. 60,000.

Supplies to SEZ located within the State - Rs. 40,000. He does not intend to clear goods under Letter of Undertaking (LUT) or bond. The input tax credit available to him during January, 2018 - IGST - Nil. CGST - Rs.10,000. SGST - Rs. 20,000.

There is no opening balance in his electronic cash ledger or electronic credit ledger. Tax rates are - SGST - 9%, CGST - 9%, IGST - 18%. How much amount is payable by him in cash?

- (a) CGST - Rs. 8,000 SGST - Nil
 (b) CGST - Rs. 11,600 SGST - Rs. 1,600
 (c) CGST - Rs. 8,000, SGST - Nil, IGST - Rs. 5,200
 (d) CGST - Rs. 8,000 SGST - Nil, IGST - Rs. 16,000

Question 4

MTP Mar'22

Sachi Traders, registered in Maharashtra, purchased machinery two years back worth ` 2,00,00,000 and did not avail ITC on said machinery at the time of its purchase. After using the machinery for two years, it gave said machinery free of cost in the month of September (in the current year) to an unrelated person in Punjab. On the date of transfer, open market value of the machinery was ` 1,25,00,000 and the written down value was ` 1,53,00,530.

In the month of September, it also supplied taxable goods worth ` 50,00,000 to Hike Oil Corporation Limited in the territorial waters. The said territorial waters are located at a distance of 5 nautical miles from the baseline of the State of Maharashtra and 7 nautical miles from the baseline of the State of Kerala.

All above amounts are exclusive of GST and rates of applicable CGST, SGST and IGST in above cases are 9%, 9% and 18%.

You are required to determine the amount of net CGST and SGST and/or IGST payable in the month of September.

- (a) CGST: ` 4,50,000; SGST: ` 4,50,000; IGST: Nil
 (b) CGST: Nil; SGST: Nil; IGST: ` 9,00,000
 (c) CGST: Nil; SGST: Nil; IGST: Nil
 (d) CGST: ` 4,50,000; SGST: ` 4,50,000; IGST: ` 22,50,000

Question 5

RTP Nov'20

In respect of a consignment supplied on 20th August, provisional assessment was resorted to. The assessment was finalized on 20th November and the taxpayer became liable to pay differential IGST of ` 10,000/-. The taxpayer paid this amount on 20th February next year.

The number of days for which the taxpayer is liable to pay interest are-

- a) 184 days
 b) 153 days
 c) 92 days
 d) 204 days

