



AN INSIGHT OF SECTION 35(1) AND RULE 56 OF GOODS AND SERVICES TAX

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GST shall be levied on supply of goods or services or both on the transaction value as defined in section 15 of GST Act read with the valuation rules. The taxable person shall maintain their own records and shall pay tax on monthly/ quarterly basis based on their value of the supply. All records are basically private records. The taxing authorities at the time of assessment shall call for the submission of such private records to verify and assess the tax liability as discharged by the taxable person on monthly basis or quarterly basis. Sub section 1 of Section 35 stipulates that every registered person shall *keep and maintain*, at his principal place of business, true and correct account of -

- (a) Production or manufacture of goods
- (b) Inward and outward supply of goods or services or both
- (c) Stock of goods
- (d) Input tax credit availed
- (e) Output tax payable and paid
- (f) Such other particulars as may be prescribed

An attempt has been made to analyze the section 35(1) of CGST Act, 2017.

Applicability of section 35(1): Section 35(1) is applicable to all persons registered under GST Act and such person shall not only keep but also maintain true and correct books of accounts. There are two ways of getting registration under GST. One is compulsory registration and other is voluntary registration. The former is applicable where a supplier is making taxable supplies and his aggregate turnover in a financial year exceed rupees twenty lakh.

(a) Production or manufacturing of goods:

The word production and manufacturing are synonymous to each other. Section 2(72) has defined the term manufacture means processing of raw material or inputs in any manner

that results in emergence of a new product having a distinct name, character. Manufacturers have to maintain a true and correct account of their production or manufacturing records. The records should be in quantitative as well as value based as the section has not specified that only quantitative records will be maintained. All registered persons engaged in manufacturing of goods have to maintain the quantitative as well as value based manufacturing records. However, rule 56(12) has specified that every registered person manufacturing the goods has to maintain monthly quantitative records of raw materials or services used in manufacturing of goods and quantitative details of goods so manufactured including the waste and by products thereof.

We may say based on section 35(1) read with rule 56(12) that every registered person engaged in manufacturing of goods has to maintain on monthly basis the quantitative records of raw materials or services used in manufacturing and also records of goods so manufactured including the waste and scrap thereof. These records are not limited only to quantitative but extends to value base also. How the value of goods so manufactured is to be determined is not defined in the act. The principles of determination of value of goods manufactured are governed by GACAP and CAS as issued by the Institute of Cost Accountants of India.

(b) Inward and outward supply of goods or services or both:

Registered person shall maintain the records of all inward supply of goods and services. Inwards supply includes the supplies on which registered person is liable to pay tax on reverse charge. In addition to inward supply the registered person shall maintain outward supply details of goods or services. Rule 56(1) also mandated that every person shall maintain true and correct account of supplies attracting payment of tax on reverse charge along with the relevant documents including vouchers, bills of supply, delivery

challan, credit notes, debit notes, receipt vouchers, payment vouchers and refund vouchers.

(c) Stock of goods:

As per section 35(1) every registered person shall maintain stock of goods. It is also prescribed in rule 56(2) that every registered person, **other than a person paying tax under section 10**, shall maintain the accounts of stock in respect of **goods received and supplied by him**, and such accounts shall contain particulars of the opening balance, receipt, supply, goods lost, stolen, destroyed, written off or disposed of by way of gift or free sample and the balance of stock including raw materials, finished goods, scrap and wastage thereof. Here the phrase “goods received and supplied” is used. Rule 56(12) has mandated for every taxable person engaged in manufacturing of goods shall maintain the stock of goods.

It may be concluded that rule 56(2) is applicable for registered person engaged in purchase and sale (trading activity only) of goods only. However, this is applicable for all registered person except person registered under composition scheme.

As per section 35(1) it is mandated for every registered taxable person to maintain stock of goods. Person under composition scheme under section 10 is also a registered person. However rule 56(2) has restricted the stock maintenance only to registered person under normal scheme. Here a doubt arises. Can a rule override the provision of the act? Here is a gap between section 35(1) and rule 56(2) which needs to be at harmonized.

(d) Input tax credit availed, output tax payable and paid:

Definition of input tax and input tax credit and output tax are as follows:

Section 2(62) - input tax in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes –

- (a) the integrated goods and services tax charged on import of goods;
- (b) the tax payable under the provisions of sub-sections (3) and (4) of section 9;
- (c) the tax payable under the provisions of sub-sections (3) and (4) of section 5 of the Integrated Goods and Services Tax Act;
- (d) the tax payable under the provisions of sub-sections (3) and (4) of section 9 of the respective State Goods and Services Tax Act;
- or
- (e) the tax payable under the provisions of sub-sections (3) and (4) of section 7 of the Union Territory Goods and Services Tax Act,

but does not include the tax paid under the composition levy.

Section 2(63) input tax credit means the credit of input tax

Section 2(82) output tax in relation to a taxable person, means the tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent but

excludes tax payable by him on reverse charge basis. Tax payable under reverse charge is not output tax as per section 2(82) of CGST Act 2017.

As per section 35(1), every taxable person shall maintain the details records of input tax credit availed and output tax payable and paid. However rule 56(4) has limited this scope only to taxable person other than the person opted for composition scheme. As per rule 56(4) every registered person **other than a person paying tax under section 10** shall keep and maintain:

- Details of tax payable (including tax payable in accordance with the provisions of sub-section (3) and sub-section (4) of section 9)
- Tax collected and paid
- Input tax, input tax credit claimed
- Register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period.

Person under composition scheme shall pay tax at the fixed rate on his turnover as mentioned in section 10 subject to some conditions and restrictions. However, such person shall pay tax under reverse charge also at the applicable on such goods or services so procured, based on their HSN or SAC code. So there is also a gap between section 35(1) and rule 56(4). The responsibility of maintaining the proper records by all taxable persons regarding supplies attracting payment of tax under reverse charge is also supported by rule 56(1). Rule 56(1) states that “*every registered person shall keep and maintain, in addition to the particulars mentioned in sub section (1) of section 35, a true and correct account of **supplies attracting payment of tax on reverse charge along with the relevant documents.....**”*

(e) Such other particulars as may be prescribed:

1. Every registered person shall maintain records of advances received, paid and adjusted made thereto. [Rule 56(3)]
2. Every registered person shall maintain debtors and creditors list, complete address of all godowns. [Rule 56(5)]
3. Works contractors shall maintain the details of description, value and quantity (wherever applicable) of goods or services received, utilized in execution of works contract, details of payment received in respect of each works contract. [Rule 56(14)]
4. Every agent shall maintain records for authorization received from each principal to receive or supply goods or services on behalf of principal, details of goods or services received and supplied on behalf of every principal, tax paid on receipts or on supply of goods or services effected on behalf of principal.