



GST IMPACT ON ELECTRONIC COMMERCE OPERATORS (ECO)

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The advent of electronic commerce has brought in new dimensions in taxation of digital transactions. Unlike a dealer who deals in goods and or services and offer the same to his customers on a digital network, an ECO is a facilitator who plays the role of bringing the buyer and seller to a common platform.

Prior to GST, the indirect tax laws became archaic and the tax provisions lost pace with the transactions in the digital space. The GST Act and Rules do recognize the significance of electronic commerce and has specific provisions which govern various facets of such transactions. The objective of this articles is to provide a perspective about the relevant provisions in GST Act and Rules impacting the ECO.

Registration of ECO for GST:

Section 22 of the CGST Act (“the Act) prescribes that a supplier is liable to obtain registration in the state or UT from where he makes a taxable supply subject to the condition that the aggregate turnover of such supplier exceeds INR 20lakhs in a financial year. However, Section 24 overrides this provision in certain cases and one such case is that ECO. Section 24 (x) of the Act prescribes that an ECO shall have the obligation of obtaining mandatory registration in GST. This could imply that an ECO would be obligated to obtain registration in every state irrespective of the fact whether the ECO has taxable supplies in a state or irrespective of the fact that aggregate turnover of the ECO does not cross the prescribed threshold. It is also important to mention that the threshold would not apply to a supplier of goods or service if he is engaged in supply through an ECO and the ECO is required to deduct a tax on his supplies.

Payment of GST by ECO

A supplier is liable to pay GST on his taxable supplies. However, Section 9(5) of the Act has a specific provision wherein the Government is empowered to notify certain categories of services if supplied

through an ECO, the liability of GST in such cases would be payable by the ECO. Notification 17/2017- Central Tax (Rate) notifies such services, one such example being services of transportation provided by radio-tax, motorcab, maxicab and motor cycle. Similar provisions also exist in the Integrated Tax Act to cover inter- state supplies made in respect of notified services such as above through an ECO.

The Section also provides that in case the ECO does not have a presence in a taxable territory, a person representing the ECO in that territory or a person duly appointed by the ECO would be liable to comply with the requirement of payment of tax on behalf of the ECO.

Tax Collection at Source

Section 52 of the Act prescribes that an ECO shall be liable to collect an amount up to one per cent of the net value of taxable supplies made by other suppliers through such ECO where the consideration of such supplies is required to be collected by the ECO. Such amount would be known as Tax Collected at Source (TCS). The TCS would need to be collected during the month when consideration is received from the recipient of supplies. Further, the TCS collected would need to be deposited with the Government within 10th of the following month for which the TCS has been collected along with a statement containing the details of TCS collected. In addition, the ECO is also required to submit an annual statement by December 31st for TCS collected during the previous financial year. The detailed notifications regarding effective date of implementation of the above provisions are awaited from the Government at this stage.

Conclusion

Thus, it is evident from the above, that an ECO has the onerous task of compulsory registration in each state and comply with the requirements of TCS. Therefore, in addition to account and comply in respect of the income earned from their own operations, an ECO would need to maintain and keep records of transactions conducted through it by various suppliers which would enable them comply with the TCS provisions. While, it appears simple, the implementation of the same is challenging considering the infrastructure and legal requirements in respect of the transactions.