



GOODS AND SERVICE TAX UNDER REVERSE CHARGE - PROVISIONS & ITS COMPLIANCES

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Normally Goods and Service Tax (GST) is payable by the Taxable person who is supplying goods and services. Reverse Charge is a mechanism under Goods and Service Tax Laws (GST Acts), where the liability to pay tax is on the recipient of supply of goods or services instead of the supplier of such goods or services in respect of notified categories of supply (ref section 2(98) of CGST Act). The recipient must be a 'Registered person' as defined in section 2(94) of the Act means a person who is registered under section 25. There are two types of reverse charge scenarios provided in GST Laws. (Provisions of CGST Act stated below are the same to SGST ACT / UTGST Act)

(1) Notified Goods & Services: As per the provisions of section 9(3) of CGST/SGST (UTGST) Act, 2017/ & section 5(3) of IGST Act, 2017, the Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both. Taxability arises in the hands of recipient under this section which are as follows.

- Supplies Goods: **Five** categories of goods have been notified vide Notification No.4/2017-CT (Rate) dated. 28.06.2017 & No.4/2017-IT dated.28.06.2017 where the recipient to pay GST
- Supplies of Services: **Eleven services (nine under CGST Act & two under IGST Act)**, have been notified vide Notification No. 13/2017-CT (Rate) dated.28.06.2017 & No.10/2017 -IT (Rate) 28th June, 2017 where the recipient to pay GST.

Service providers are not required to take registration, when GST will be paid by the recipient under reverse charge even if the supply is made in the Inter State (outside of state / union territory). As per Notification No.5/2017-CT dated.19.06.2017, exemption is given to persons providing services where recipient is liable to pay GST. However there is no bar on taking registration for supply of eleven services as stated above.

100% GST liability is payable by recipient registered person on total value of supply of goods or services at applicable rates and no exemption on value is available like procurement from unregistered suppliers as stated in section 9(4) of CGST Act details explained below.

The supplier of goods or services must mention in his tax invoice that the GST is payable on reverse charge.

(2) Purchases from Unregistered supplier of Goods & Services:

Section 9(4) of CGST/SGST (UTGST) Act, 2017/section 5(4) of IGST Act, 2017, provides that the tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

On analysis of the aforementioned provisions, one can infer that tax on reverse charge basis shall be payable only when following four conditions are satisfied simultaneously:

- There must be **supply** of goods or services
- Supply must be of **taxable** goods or services
- The **supplier** of goods or services is an **unregistered person**
- The **recipient** of such goods or services must be a **registered person**

Accordingly, whenever a registered person procures supplies from an unregistered supplier, he shall pay GST on reverse charge basis. However, supplies where the aggregate value of such supplies of goods or services or both received by a registered person from any or all the unregistered suppliers is less than five thousand rupees in a day are exempted for such payment of tax. Few important points to be remembered while paying GST under reverse charge basis by the registered person.

- The expression "supply" in section 7 of CGST Act includes *"all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person **in the course or furtherance of business;**"*
- No GST shall be payable if the goods or services supplied by unregistered person to registered person on which tax is not leviable / exempted or attracts at Nil rate.

- Supply of goods and services shall be made by unregistered person to registered person either in interstate or intra state.
- GST on reverse charge is to be paid at rates applicable on the goods or services being supplied by the unregistered person to the registered person (either 6%, 12% 18% or 28%).
- GST under reverse charge is not required to be paid if purchases from unregistered supplier of goods or services in aggregate do not exceed ₹.5,000/- per day for a GSTIN (all locations covered under registration) - Notification No.8/2017 - Central Tax (Rate) 28th June, 2017. If value of supply per day exceeds ₹.5,000 per day, then on such amount GST is payable. (if it is ₹.5001/- then GST on ₹.5,001 is payable).
- No exemption of ₹.5,000 per day for a GSTIN as above applied to interstate supplies by unregistered person to registered person.
- While calculating inward supplies of ₹.5000 per day from unregistered person, Non GST supplies, /petroleum products, supplies specified in Schedule III (neither goods/services or nether goods and service) to CGST Act and supplies notified under section 9(3) shall be excluded.
- Reverse Charge is applicable on receipt of goods / services from unregistered dealers directly or indirectly, expenditure incurred out of imprest payments or payment made to the employees as a reimbursement against such supplies that used in business, advance payment against such supplies etc.
- Reverse charge is applicable to all payments against supply of goods and services from unregistered dealers whether such expense is booked under capital expenditures / revenue expenditures.

Following are details of provisions enumerated that are applicable to the liability for payment of GST under reverse charge under both situations as stated above (1) & (2)

Compulsory registration for Recipient: All persons who are required to pay tax under reverse charge have to register for GST irrespective of the threshold even if not engaged in the taxable supply.

Issue of Tax Invoice: A registered person who is liable to pay GST under section 9(3) or section 9(4) of CGST Act / section 5(3) or section 5(4) of IGST Act shall issue a Tax Invoice in the prescribed format as stated in Rule 46 of CGST Rules in respect of goods or services or both received by him from unregistered suppliers. A consolidated tax invoice in the prescribed format (in the name of self) for all such transactions may be issued daily or weekly or monthly as per convenience.

Issue of Payment Vouchers: A registered person who is liable to pay GST under section 9(3) or section 9(4) of CGST Act / section 5(3) or section 5(4) of IGST Act shall issue a Payment Voucher in

the prescribed format as stated in rule 52 of CGST Rules for goods or services or both received by him from unregistered suppliers.

Time of Supply: As per GST law the time of supply (liability of recipient registered person for payment of GST) is as follows:

In case of Service: The time of supply of service is the earliest of following

- date of payment as per books of accounts or date of debit in bank account whichever is earlier
OR
- the date immediately following sixty days from the date of issue of invoice.

The liability of recipient registered person arises on the date of payment or 60 days from date of BILL / Bill of supply /invoice whichever is earlier.

In case of goods: The time of supply of goods is the earliest of following

- the date of receipt of goods or
- the date of payment as per books of accounts or debit in bank account whichever is earlier or
- the date immediately following 30 days from the date of issue of invoice.

In this case the suppliers are required to raise their claim / Issue 'BOS / bills/ 'Invoice' without charging GST, immediately on supply of goods. The liability of recipient registered person arises on the date of receipt of goods or date of payment (in accounts / or bank which is earlier) or 30 days from date the date of issue of invoice whichever is earlier.

Payment of GST & Input Tax Credit: As per section 49(4) of CGST Act'2017, ITC can be used for payment of output tax only. Therefore, GST payable under reverse charge shall be paid by cash i.e. through Electronics Cash Ledger only. Tax paid on reverse charge basis will be available to the recipient for input tax credit if such goods and/or services are used, or will be used, for business.

Composition dealer: If the composite dealer falls under reverse charge mechanism then the dealer is ineligible to claim any credit of the tax paid. The dealer is liable to pay tax at normal rates applicable to such supply and not the rate applicable for composition scheme.

Applicability of Compensation Cess: GST Compensation Cess will be applicable on tax paid under reverse charge mechanism also as the amount shall be utilised for payment of compensate States for loss of revenue on implementation of GST.

Filing of Return: Return as prescribed under GST Laws to be filed by the recipient registered persons of inward supplies. There will be no auto population of details of the GST paid under the RCM in GSTR 2, but it will be subjected to the manual furnishing of details.

Conclusion: From the above detail discussion, it is concluded that, Tax will be paid by the registered dealer and all the provisions of the act will be applicable to him as if he is the supplier of the goods or services. The objective of law is to prevent tax evasion since it would not be possible to collect tax by respective Government from the unregistered persons engaged in supply of taxable goods or services. It would increase tax compliance and promotes transparency. Input credit will be allowed to the registered dealer of the tax paid by him under the reverse charge mechanism. But at the same time it will increase volume of work to maintain details of receipt of goods or services, its reconciliations, issues of self tax invoices & payment vouchers in respect of such supplies, payment of taxes keeping in view the time of supply, filing of returns and other compliances at the cost of registered persons. Moreover for the small recipient registered persons this leads to little harsh and may not be the objective of the law.