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COMPOSITION LEVY IN GOODS AND SERVICE TAX

Goods and Service Tax is implemented in India from 1st July 2017 with the intention of making a single market for the trade and industry and for this reason it is being dubbed as One Nation, One Market, and One Tax. In reality, it is true. The rollout for the GST has been received by the trade and industry as a knee-jerk reaction as most of them are not prepared for the same. The government on its side has conducted many outreach programs for the trade and industry so that all the stakeholders can understand and implement it smoothly and ensure that none of them are impacted. The major objective of the government is to ensure that the end consumer does not pay higher price as input tax credit is available across the supply chain cycle. To address this, the anti profiteering is introduced in the GST Act by taking a clue from the Malaysian GST Implementation.

In the erstwhile tax regime, the threshold limit was varying from state to state for the Value Added Tax, and now under GST, the same is increased to Rs 20 Lacs in all states except in the states with special category status, where it is Rs 10 Lacs. The threshold for the registration is given Section 22(1) of the CGST Act. This amount is higher amount compared to the erstwhile VAT Regime and Service Tax, but when it comes to the Central Excise, it is on a very lower side. The

threshold amount in the erstwhile regime for Central Excise is Rs 150 Lacs.

Another sea change introduced in GST is in the areas of reporting, now under GST reporting is online and transaction level data has to be submitted by the taxpayers. Once the transaction level data is submitted, the same is matched for processing of the input tax credits. As this is a cumbersome process and all taxpayers will do not have the technical know-how, they have retained the turnover tax scheme of VAT in GST also known as Composition Scheme, Section 10 of the CGST Act.

In GST, the taxpayer can be classified as regular taxpayer and composition taxpayers broadly keeping the others like Casual Taxpayer, TDS Tax Payers & TCS Tax Payer. The provisions for the Composition Levy is given in Section 10 of the CGST Act 2017 and from Rule 3 to Rule 8 in the CGST Rules. There will be provisions for the SGST and UT GST Laws.

Threshold

The threshold limit for the composition levy is given in section 10 (1) of the CGST Act. As per the provisions, the threshold limit which is prescribed minimum is Rs 50 Lacs, and there is a

provision to extend it maximum to Rs 1 Crore. The increase in the limit can be notified based on the recommendations of the GST Council.

- VII. Sikkim,
- VIII. Tripura,
- IX. Himachal Pradesh

The limit has been increased to Rs 75 Lacs for the composition levy during 16th GST Council Meeting held on 11th June 2017. The same is notified wide Notification No 8 /2017 Central Tax.

Now the same has been increased to Rs 1 crore during the 22nd GST Council Meeting held on 6th October 2017. The formal notification is expected shortly.

The threshold limit for the taxpayers having registration in the given states below is Rs 50 Lacs. These states are of special category status, and they are

Tax Rates

The tax rates for the supplies made by the composition are taxed at a lower rate. The tax rates are given in Section 10 (1) clause (a) to (c).

- I. Arunachal Pradesh,
- II. Assam,
- III. Manipur,
- IV. Meghalaya,
- V. Mizoram,
- VI. Nagaland,

Sr. No	Category of Registered Persons	Rate of Tax
1	<p>All manufacturers are eligible except for the manufacturers of goods listed below</p> <ol style="list-style-type: none"> 1. Ice cream and other edible ice, whether or not containing cocoa. (HSN Code – 21050000) 2. Pan masala (HSN Code – 21069020) 3. All goods, i.e., Tobacco and manufactured tobacco substitutes (HSN Code – 24) <p>The list of the manufactures who are not eligible for composition levy is notified through <u>Notification No 8 /2017 Central Tax</u></p>	CGST 1% + SGST 1%
2	<p>supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration. Services specified in clause (b) of paragraph 6 of Schedule II</p>	CGST 2.5% + SGST 2.5%
3	<p>Any other supplier eligible for composition levy under section 10 and the provisions of this Chapter, i.e., is applicable for all other taxpayers who are not manufactures or not providing services to point 2 of this table</p>	CGST 0.5% + SGST 0.5%

Eligibility under Composition Levy

Every supplier of goods or services is not eligible to register under the composition scheme of GST. There are certain conditions laid down in the CGST Act, and they are

- The taxpayer should not be a supplier of services other than services mentioned in clause (b) of paragraph 6 of Schedule II.
- The taxpayer is not manufacturing any goods listed in Notification No 8 /2017 Central Tax
- The taxpayer should not make any interstate supplies
- The taxpayer is not engaged in making any supply of goods which are not leviable to tax under this Act
- The taxable person is neither a casual taxable person or non-resident taxable person

The taxpayers how are not falling in any of the above-mentioned points are eligible to take opt for composition levy under GST.

Tax Implications

The person registered under composition levy has to follow these

- Should not issue a tax invoice and in lieu of tax invoice a bill of supply for the outward supplies
- Is not eligible to take input tax credit on all inward supplies, i.e., supply of goods or services or inputs or capital goods
- Should not levy or collect taxes from the customers on his /her outward supplies
- On inward supplies should be paying on reverse charge for supplies from unregistered taxpayers and not eligible to take input tax credit.

Bill of Supply

A bill of supply is required to be issued by a registered taxpayer under composition levy on outward supplies based on clause (c) of sub-section (3) of section 31 of the CGST Act 2017 and should contain the following on the basis of Rule 49 of the CGST Rules

- a) name, address, and Goods and Services Tax Identification Number of the supplier;
- b) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters hyphen or dash and slash symbolized as “-” and “/” respectively, and any combination thereof, unique for a financial year;
- c) date of its issue;
- d) name, address, and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;
- e) Harmonized System of Nomenclature Code for goods or services;
- f) description of goods or services or both;
- g) value of supply of goods or services or both taking into account discount or abatement, if any; and
- h) signature or digital signature of the supplier or his authorized representative:

Provided that the provisos to rule 46 shall, mutatis mutandis, apply to the bill of supply issued under this rule:

The composition taxpayer may not issue a bill of supply if the supplied value is less than Rs 200 or if the recipient does not ask for it or the recipient is a unregistered taxpayer.

Conditions for Composition Levy

The following are the conditions are to be met by a taxpayer registering under composition levy as per Rule 5 of the CGST Rules

- The person registering under GST for composition levy should not be a casual taxable person or non-resident taxable person
- Taxpayer registered under the erstwhile tax regime will be eligible under GST for composition levy only if the goods held as on the appointed day does not contain purchases from the following sources
 - Goods imported from outside the country
 - Goods purchased from outside the state from where he is taking registration
 - Goods received from a branch outside the state
 - Goods received from an agent or principal outside the state
- Goods in stock are not purchased from unregistered taxpayers as per provisions of sub-section (4) of section 9 of CGST Act 2017
- The person registering under composition levy is required to pay reverse charge on inward supplies from unregistered taxpayer's or based on a list of goods or services notified by the government on the recommendations of the GST Council and will not take input tax credit on the same.
- The person registering under composition levy should not have manufactured goods during the previous financial year
- The person registering under composition levy shall mention the words "composition taxable person, not eligible to collect tax on supplies" at the top of the bill of supply issued by him.

- The person registering under composition levy shall mention the words "composition taxable person" on every notice or signboard displayed at a prominent place at his principal place of business registered and at every additional place or places of business registered under GST.

Renewal

The person registering under composition levy may not file fresh application/intimation for every financial year and continue to be under composition levy till he follows/satisfies all the conditions for a composition levy in place from time to time.

Returns under Composition Levy

Return filing for the taxpayers under GST is different from the regular taxpayers. The number of returns to be filed will be lesser, and it will be only one return per quarter as they will be paying very lesser tax rate and also not availing input tax credit. They have file one return for each and every quarter known as GSTR - 4. Filing of returns on a quarterly basis is based on the provisions of Sub-section 2 of section 39 of the CGST Act 2017.

The GSTR – 4 contains the following information

- Inward supply of goods or services or both including the supplies which attract reverse charge or tax is to be paid on reverse charge.
- Any changes or debit/credit notes issued for the above supplies
- Taxes payable on outward supplies by rate wise for central and state taxes
- Advance received during the month and also supplies made against advances received in the previous months.
- TDS credit received

- The amount of total tax payable along with the amount of tax paid.
- Any late fee or interest payable or paid
- If any refund received

The registration of the composition taxpayer is liable to be canceled by the concerned office if the taxpayer under composition levy does not file returns continuously for three quarters. This based on the provisions given in clause (b) of subsection 2 of section 29 of the CGST Act 2017.

Transition from regular taxpayer to composition taxpayer

In the normal course of business, it is common for a taxpayer to migrate from the regular scheme to composition based on their business reasons or for any other reason. In such cases, the taxpayer has to pay the input tax credit on the stock of goods as on the date of shifting from regular to composition levy. The provisions for the same are given in subsection 4 of section 18 of the CGST Act.

For migrating from regular to composition scheme, the taxpayer has to submit the FORM GST CMP-02, which is duly signed or verified through electronic verification code, on the common portal, either directly or through a Facilitation Centre notified by the Commissioner. The form has to be filed before the beginning of the financial year.

For payment of taxes on the stock of goods, the taxpayer has to file the FORM GST ITC-03 within 60 days from the date of the beginning of the financial year basis of the provision of sub-rule 4 of rule 44 of the CGST Rules.

Transition from composition levy to regular taxpayer

There will be certain business cases where the taxpayer registered under composition levy wants to shift to regular tax payment as he may feel that it will provide him more market access

and also allow to sell at a competitive price or sell to more customers from the B2B category.

In such cases also there is provision for the taxpayer to move from composition levy to regular taxpayer based on the provision of clause (c) of subsection 1 of Section 18 of the CGST Act 2017.

The taxpayer has to file FORM GST ITC-01 to claim the credit on closing stock within 30 days from the date of becoming eligible to avail the input tax credit. These provisions are based on Rule 40 the CGST Rules 2017.

Who should go for composition levy?

Till now we have seen the additional facilities which a taxpayer registered under composition levy will get and also the conditions for availing the same. Now the question which comes to everyone's mind is to whom the composition scheme is beneficial? Anyone would say that it would be beneficial to a taxpayer whose turnover is less than or equal to the threshold limit prescribed in the law.

As a CMA's we need to do a deep dive and come to a conclusion. Underlined is an illustration which explains clearly the basis for composition levy.

Particulars	Regular	Composition	Un Registered
Purchase Price	50,000	50,000	50,000
GST @ 28%	14,000	14,000	14,000
Total Cost	50,000	64,000	64,000
Profit	5,000	5,000	5,000
Selling Price	55,000	69,000	69,000
GST @ 28%	15,400		
Cost to Customer	70,400	69,000	69,000
Tax paid by composition taxpayer		690	
Actual Profit	5,000	4,310	5,000
Cost to B2C	70,400	69,000	69,000
Cost to B2B	55,000	69,000	69,000

Form the illustration it is clear that for the taxpayers who have more revenue from the B2B category should opt as regular taxpayers and for taxpayers who have more revenue or only from the B2C category they should opt for the composition levy. The tax amount paid by the composition taxpayer can be paid from his profit earned as shown above or charges to the customer as extra amount inclusive of the tax. This decision is purely based on the composition taxpayer.