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# **ISSUES IN – OUTWARD SUPPLY & REVENUE RECOGNITION**

# **Issues in Outward Supply and Revenue Recognition, Discounts, Debit/Credit Notes, Free Supply, Exports and Imports, Refunds, High Sea Sales, Merchant Trade Transactions**

# Supply

7. (1) For the purposes of this Act, the expression “**supply**” includes –

- a) 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**;
- b) import of services for a consideration **whether or not in the course or furtherance of business**;
- c) the activities specified in Schedule I, made or agreed to be **made without a consideration**; and
- d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.

Current definition of Supply

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**(1A)** where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II

Changes in definition of supply as per CGST Amendment Act

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New definition of Supply after Amendment Act coming into effect

# Revenue Recognition

Revenue recognition according to Accounting Standards and Financial Statements may be in variance from the Turnover for the purpose of GST

- Turnover - Excise duty considered as a tax on manufacture/ production and treated as cost of goods manufactured was a part of Turnover. GST collected on the behalf of government at the time of supply of goods or services to be excluded from revenue.
- After implementation of GST, turnover of entities like manufacturing concerns will fall depending on the rate of duty on its products without any reduction in activity or output.
- Opening Stock could be loaded with Excise Duty while Closing Stock would not have any tax inclusion.
- Unbilled Revenue – unbilled revenue at the beginning and the end of financial year needs to be identified. Entities like construction, mining, Infra, etc. may do billing on Percentage Completion basis, yet the revenue is recognised as per Accounting Standard as per Accrual basis
- Tax on advances received – In Accounts revenue is not recognised; in GST it is part of turnover
- Discounts not allowable in GST - In Accounts revenue is adjusted for discounts; in GST it could be a part of turnover

# Revenue Recognition

Revenue recognition according to Accounting Standards and Financial Statements may be in variance from the Turnover for the purpose of GST

- In Accounts revenue is recognized when the goods are sold, or services are rendered; and in GST turnover is recognised when supply of goods or services is made
- Point of Revenue recognition – In accounts either at a point in time or over a period of time. In GST the time of supply is when the invoice is raised, or payment is made or the provision of service
- Sale of Fixed Assets – In Accounts revenue is not recognized on the sale or disposal of fixed assets, except for profit on sale of such assets; In GST it could be a supply and included in turnover
- Transfer of goods to branches – In Accounts revenue is not recognised; in GST it is part of turnover
- Services rendered to branches - In Accounts revenue is not recognised; in GST it could be a part of turnover
- Different elements in one contract – In accounts total consideration may be allocated on the basis of fair value. In GST it would be according to valuation Rules

# Revenue Recognition

Revenue recognition according to Accounting Standards and Financial Statements may be in variance from the Turnover for the purpose of GST

- Valuation of contracts – In Accounts value may not include interest on delayed payment, expenditure incurred by the recipient etc.; in GST value is the transaction value and includes any duties and taxes paid under any other law other than GST, incidental expenses incurred to meet such supplies, interest charged
- Supplies without consideration: In Accounts transactions without any consideration may not form a part of the Financial Statements; in GST tax is leviable on certain transactions made without consideration – like supply of goods from principal to agent, disposal of business assets, supplies to related parties etc.
- Rate of foreign exchange for supply – In Accounts foreign currency transactions may be recorded by applying the exchange rate at the date of the transaction; in GST for Goods the rate of exchange for determination of value of taxable goods is the applicable rate of exchange as notified by the Board under section 14 of Customs Act, 1962 for the date of time of supply of such goods



# ISSUES IN – DISCOUNTS & FREE SUPPLY

# DISCOUNT

Type of discount	Whether deductible from transaction value	Condition
Discount at the time of supply	Yes	Discount should be duly recorded on the invoice itself
Discount after the supply/post sale	Yes	<ul style="list-style-type: none"><li>• Discount should be known at the time of the transaction</li><li>• Credit note issued should have reference to the original invoice/ linked to the original invoice</li><li>• Buyer should reverse the portion corresponding to discount on the Credit availed earlier</li></ul>

# Free Supply

‘Free Supply’ would mean supply of goods or services without consideration

- Free Supplies between related /distinct person –

Para 2 to Schedule I to Section 7 of CGST Act:

Supplies between related persons or distinct persons in the course or furtherance of business even if not for a consideration shall be termed as supply

- Transfer of Business Assets without Consideration –

Para I to Schedule I to Section 7 of CGST Act:

Permanent Transfer or disposal of Business Asset where ITC has been availed on such asset is treated as supply, includes free supplies between both related and unrelated person

- Disposal of Assets to Related person or Distinct Person

# Free Supply

‘Free Supply’ would mean supply of goods or services without consideration

Gifts to incentivise Distributors –

- Goods manufactured or in which dealing on their own or
- Goods purchased from other vendors
- Procurement or manufacturing of such Goods entails availing ITC and it is a Business Asset.  
Giving them free can be considered as Supply.
- But as per Sec 17(5)(h) ITC has to be Reversed for goods, destroyed, written off or disposed of by way of gift or free samples. The same not be considered as supply and ITC to be reversed.
- But if Goods distributed to distributors are benefitting in promoting the sales those may not be considered as gift. Hence, ITC should be available

# Free Supply

‘Free Supply’ would mean supply of goods or services without consideration

- Buy 2 Get 1 Free –
  - It is actually a Discount
  - Discount not to be included in the value of supply
  - Suggestion that under such schemes, Invoice Value would include value of all goods including those supplied free, Reduce the value of goods provided free of cost, as a trade discount. ITC not to be Reversed
- Disposal by way of Free Samples –
  - In case of clearance of samples distributed free of cost, the ITC availed on the said samples has to be reversed. No tax payable on giving samples

# ISSUES IN – CREDIT/ DEBIT NOTES

## Credit/Debit Notes

Credit Note may be issued when –

- Taxable **value or tax charged** in that tax invoice is found to **exceed** the taxable value or tax payable in respect of such supply,
- Where the goods supplied are **returned** by the recipient, or
- Where goods or services or both supplied are found to be **deficient**

### Declare the Details of such Credit Note

In the Return for the month during which such credit note has been issued

but not later than September following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier

## Credit/Debit Notes

### Credit/ Debit Note issues –

- To be linked to an Invoice, one Credit Note for One Invoice
- No reduction in output tax liability permitted, if the incidence of tax and interest on such supply has been passed on to any other person
- ITC attributable to the Discount has been Reversed by the Recipient
- For credit notes issued /claimed after the stipulated date, deductions would not be available to the supplier



# ISSUES IN – IMPORTS & EXPORTS

# IMPORTS

## Import issues –

### Import of services is taxable –

- Import of services for Consideration whether or not in course or furtherance of business is Supply
- Import of Services by Taxable person from a Related Party or his establishment outside India even Without Consideration is supply, in the course or furtherance of business
- OIDAR services supplier from non-taxable territory to a non-taxable online recipient
- Services provided by SEZ Unit or Developer

# IMPORTS

## Import issues –

### Ocean Freight on Import –

- If importer avail **services of foreign shipping entity** for bringing goods into India then **RCM** will apply
- Because supplier of Ocean freight transport is outside India and recipient is in India
- If import is FOB then importer pays RCM on ocean freight, besides IGST on FOB value at Custom clearance
- But if import is CIF then importers are liable to pay IGST as RCM on ocean freight @ 5 % on 10 % of the CIF value of goods being imported, in respect of the transportation of goods by vessel services
- And IGST on CIF value, which includes ocean freight, at the time of Custom clearance, resulting in double IGST on ocean freight

# IMPORTS

Re-import of goods after Export happens –

- On Cancellation of Export Order
- For any Trade Disputes like Quality Reasons, Default of Payments etc.
- After Exhibition / Display in overseas Country
- On Return after Project / Contract Closure or Completion
- On Re-import of Exported Goods for Repairs, Reconditioning, Reprocessing
- Imported Goods sent abroad within Warranty Period and Re-import after repair
- Because of some Compliance / Regulatory / Restrictions in the Importing Country etc.

# IMPORTS

## IGST on Re-import of goods after Export –

- The general principle is that the exporters who re-import after export
- should not get away with any benefits which may have been given
- as an export incentive or exemption or any other benefits like duty drawback / rebate claims,
- export under bond or under other export incentive claims, duty exemption schemes, EPCG scheme etc and
- Then these benefits should be recovered by way of duty
- **Notification No. 45/2017 – Customs; dt 30th June, 2017**

# EXPORTS

## Export issues –

### Definition of Export of Services

Supply of any service when, –

- supplier of service is located in India;
- recipient of service is located outside India;
- place of supply of service is outside India;
- **the payment** for such service has been received by the supplier of service in **convertible foreign exchange**;
- supplier of service and the recipient of service are not merely establishments of a distinct person

# EXPORTS

## Export issues –

- Export to Nepal and Bhutan
- FIRC or BRC of payment in Foreign Currency
- LUT
- Period within which export allowed
- LUT for Exempt Goods
- Merchant Exporter
- Deemed Export

# ISSUES IN – HIGH SEA SALES or MERCHANT TRADE TRANSACTIONS



# HIGH SEA SALES

## High Sea and Bonded Warehouse Sales –

- IGST on High Sea Sales only at the time of clearance from Customs – **Circular no. 33/2017 dt. 01.08.2017**
- Applicability of IGST / GST on goods transferred / sold while being deposited in a warehouse - **Circular No. 46/2017-Customs dt. 24.11.2017**
- IGST shall **NOT** apply on Supply of goods while being deposited in a customs bonded warehouse - **Circular 3/1/2018-IGST dated 25 May 2018**

# ISSUES IN OUTWARD SUPPLY – REFUNDS

# Refund - Issues in Outward Supplies

## Refund - Issues in Outward Supply –

### Definition of Adjusted Total Turnover

- Adjusted Total turnover" means the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding –
  - (a) the value of exempt supplies other than zero-rated supplies and
  - (b) the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both, if any, during the relevant period;

## Refund - Issues in Outward Supplies

Refund - Issues in Outward Supply –

Definition of Adjusted Total Turnover

Adjusted Total Turnover” means the sum total of the value of-

- turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the turnover of services; and
- turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services,
- excluding-
  - (i) the value of exempt supplies other than zero-rated supplies; and
  - (ii) the turnover of supplies in respect of which refund is claimed under sub- rule (4A) or sub-rule (4B) or both, if any, during the relevant period

**Notification 39/2018-CT, dated 04.09.2018**

# Refund - Issues in Outward Supply

## Refund - Issues in Outward Supply –

- BRC/FIRC date before or after Invoice date
- Filing of EGM
- Errors/ Adjustments in GSTR 3B
- Transition ITC and Capital Goods ITC in Exports with payment of Tax
- Validations in the Portal for Outward Supply
- Refund denied for certain Supplies in case of Inverted Tax Structure

# THANK YOU

For deeper and more insightful conversation on the subject matter please contact:

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