Saarth
E-Journal of Research

ISSN NO: 2395-339X

National Conference
On:

Impact of GST on E-Commerce in India

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Today e-commerce in India is mired in a host of taxes: VAT / CST / Excise / Service Tax / TDS with more than one tax applicable on any given transaction. Involvement of logistics / reverse logistics, advertising & promotion services, goods like software, music, e-books etc. makes it hard to differentiate Goods & Services component of each transaction. The prevalence of statutory forms / e-way bills etc. make it complex to do interstate transactions. Market places also need to comply with requirements of registrations and declaration of turnover to multiple state tax departments. Under GST, India would become a common market and drive uniformity, reduce compliance costs. Due to restrictions on cross utilization of input of central taxes against state taxes there is price escalation due to taxes sticking to products sold.

A number of e-commerce transactions are also undefined in tax laws (Ex: e-wallet, gift vouchers, drop shipments, advance receipts, COD etc.). With interstate transactions becoming tax neutral vis-à-vis local sales under GST, the warehousing strategy of ecommerce companies would also need reengineering to meet client proximity needs and not be driven by tax consideration. On the positive side pricing of product, profitability would be more predictable and agnostic to destination of customer.

For e-commerce companies who buy stock, store inventory and sell, in place of 12.5% Excise they will have to shell out 17-18% GST thus driving up prices. They will also be taxed on unsold inventory held in warehouses.

Draft GST Law:

The model draft GST law lays to rest many of these confusions and provides clarity on valuation, definition of services (all intangibles) and goods, Place of supply and point of taxation. The model draft law also defines terms such as ‘electronic commerce’, ‘aggregator’, ‘electronic commerce operator’ etc.

Business Process Change:

Registration:

Sellers or suppliers on e-commerce platforms will have to register under GST irrespective of threshold which could be unfair as it is not applicable to offline sellers who are below threshold (Turnover of 10 lakhs for Rest of India and 5 Lakhs for NE states and Sikkim). Ecommerce companies like Amazon and Flipkart operate under the market place model, wherein they store the goods from sellers at their warehouse and supply to end users upon receiving orders. These warehouses are registered as additional place of business under local VAT by sellers and e-commerce companies do not register under VAT.

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ISSN NO: 2395-339X
Under GST both ecommerce companies and sellers would have to simultaneously register these warehouses as Principal and Additional Place of Business, respectively. This would be challenging as these warehouses do not have dealer wise physically segregated or designated areas within the warehouse.

Stock Transfer:

Also the treatment of stock transfer from seller to the warehouse under GST would be different as any 'supply' is taxable. This might lead to cascading of taxes as typically sellers do not 'sell' stock to e-commerce companies.

However, on the positive side the 'Fulfilled by Amazon', 'Flipkart Advantage' or 'Snapdeal Plus' model wherein dealers store their products at warehouse is currently disallowed in states like Karnataka may be revived. Currently registration of market place warehouse as additional place of business is disallowed and under GST regime this may change. Market places will also have to take registration in each of the states (optional) and union territories.

Freebies and discounts:

Freebies or discounts will have to be explicitly mentioned in the invoice to arrive at transaction value on which GST is applicable. Any post sale discount will attract GST.

Place of Supply:

While determining place of supply of goods to customers may be easy to determine, the place of supply of services by ecommerce firms to the sellers may be little difficult (Ex: for large vendors like shoppers stop who supply from multiple locations).

Tax Deduction at Source (TDS)

Under the prevailing tax laws sellers on e-commerce platforms are required to deduct Tax at source (TDS) on the commission they pay to the platform. They would have to deposit the TDS, obtain Form 16 submit to the e-commerce player and get refund (Since in practice, platforms deduct their commission and pay to seller thereby sellers do not have an option to deduct TDS on commission).

The entire process has been flipped over in Model draft GST, wherein the marketplace would deduct its commission as well as TDS (presumably @ 1%) and file TDS return. The TDS deducted would appear automatically as credit in the electronic credit ledger of seller which he can use to discharge his tax liability. The impact is graver when sales returns happen (ecommerce grapples with 10-20% returns based on product type) and the deducted TDS has to be reversed.

Return Matching:

Both e-commerce player and seller will have to upload invoice wise details of supplies in their respective returns and the GST system will match them. In case of any supply reported by platform and not reported by marketplace, unless reconciled will be added to the liability of the seller which appears to be harsh.

Impact:

Apart from sudden increase in compliance needs for both seller and ecommerce platform, new rules impact cash flows of small sellers (due to TDS). If an ecommerce platform wrongfully reports supply against a seller unless reconciled, it is considered as supply by seller which is unfair. The platforms will have to develop mechanism for all cash to flow through their platform to seller such that TDS can be effected. In case of direct

Saarth
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shipping by seller to the end customer, cash on delivery has to be disabled. More clarity needed on other forms of e-commerce in areas of logistics (aka Ola / Uber), ticketing and tourism (Ex: IRCTC/goibibo/makemytrip), adventure or events (Ex: Thrillophilia), Hotels or resort bookings (Trip advisor) and B2B e-commerce (Indiamart, Capitalfloat etc.) and other similar industries wherein sellers supply services to end customers but not necessarily involve cash flow via the platform. Commission in many cases is collected periodically (Ex: Drivers paying commission on cash payments to platform by end of month).

System Changes:

- Market places will have to make necessary changes to their ERPs to handle the new requirements emerging due to GST:
- Each Order or Invoice will now need to carry HSN or SAC code as well.
- Place of Supply has to be determined (based on GSTIN for B2B and delivery address for B2C)
- ERP needs to be tweaked for deduction and accounting of TDS and reversal of the same in case of sales return.
- Return filing in itself be a huge process (reporting invoice level sales, debit notes, tracking mismatches etc.)

Conclusion:

While ‘legal recognition’ to e-commerce model in India as per GST Act is a welcome move, more needs to be done to address the complexities in execution of the same. The sooner they are settled, smoother will be the rollout of GST.