



GST- Impact on Ecommerce

With the rapid growth of e-commerce business & ever evolving regulatory landscape in India had posed a very significant question on the twilight prior to the enforceability of Goods & Service Tax (“GST”) which is to be effective from July 01, 2017- What will be the impact of GST on e-commerce? Unlike, brick & mortar business models, where e-commerce business are working on various different business models, will the impact be same or differ for e-commerce business- a question which is yet struggling to find answer and keep many of the players hinged on the pivot.

Growth of any business is good news for the economy and it's been expected that to keep the same path of growth, there has to be clarity on taxation matters and ease of doing business. Of lately, there are several apprehensions in business world- Whether GST be a more hurdle rather than a catalyst for growth?

Present issues under VAT & Service Tax faced by Ecommerce business:

1. Firstly, e-commerce sector dealing in trading of goods have experimented with various business models. Starting with the traditional 'stock-and-sell' model, the e commerce companies have transformed into a multi-model platform over time by introducing 'market place' and / or services model, thereby having to grapple with a more complex tax framework involving VAT / CST, excise, and / or service taxes. However, the indirect tax laws have not been able to recognize and accommodate the evolving business models and hence have become an impediment in the operation of the newer market place or services model.
2. Secondly, the e-commerce sector is having a hard time categorising their offerings into 'goods' or 'services' for charging either value added tax (VAT) / Central Sales Tax (CST) or service tax. This situation aggravates in the case of digital downloads involving software, music, e-books etc. wherein it becomes challenging to assess whether the transaction is for sale of goods attracting VAT / CST or a provision of service that should be charged to service tax. Both VAT and service tax authorities exercise right over such digital transactions leading to disputes and never-ending litigations.
3. Thirdly, inter-state movement of goods from one state to another is a nightmare for an e-commerce operator. The requirement of statutory forms, way-bills, road-permits etc. and the recently contemplated imposition of local registration requirements for the e-commerce market place entity by certain States under the VAT / CST legislations for entry or sale of goods into the state has made the inter-state transaction an awkward experience for the sector.
4. Fourthly, the non-fungible VAT and service tax results in significant non-recoupable tax cost impact for the e-commerce sector.

In addition to the above, the tax laws in India have also failed the e-commerce sector by not providing enough clarity / guidelines on taxation and documentation management for typical e-commerce sector transactions like e-wallet (advance deposits by consumers), cash-on-delivery (payment collected at the door-step of the consumer), gift vouchers, drop-shipment (direct delivery of goods from the e-commerce company vendor to the e-commerce company



customer) etc. Absence of specific direction on treatment of the above transactions under various tax legislations has led to diverse practice being adopted by the e-commerce sector.

E-commerce sector is here to stay and would be one of the pillars of the Indian economy in the near future. Businesses can thrive and grow only in a tax conducive environment and it is obvious that the above issues cannot continue forever and would need resolution sooner than later. While the e-commerce sector is eagerly looking forward to the upcoming budget to address the concerns and act as a business catalyst for the sector, the Goods & Services Tax (GST) which would replace the current indirect tax regime and expected to be implemented in India from 1 July, 2016, could hold the key to unlock the issues faced by the e-commerce sector.

1. **Standardization of Taxes & Pricing:** Under the present tax structure, different states impose different VAT rates on the same goods. For example, Karnataka has a tax rate of 5% on mobile phones, whereas Maharashtra has 13.5%. Online marketplaces list sellers who need to charge lower taxes thus making the product cheaper than local retail prices. The e-tailers often enter exclusive tie-ups to take advantage from tax arbitrage. Post GST, there will be standard tax rates for each product and tax arbitrage will not be possible, bringing e-tailers and offline sellers to the same level in terms of costing and pricing.
2. **Ecommerce & Working Capital:** Under GST, online marketplaces will have to deduct 2% tax per transaction while making payments to sellers listed on their portal. This Tax Collected at Source ("TCS") will be handed over as collection towards GST to the government. This rule however does not apply to offline retailers. With TCS, capital will be locked away for periods between 20-50 days depending on the transaction date. The significant impact on the cash flow will force smaller firms to seek additional working capital or ignore the e-commerce marketplace altogether, as it may not offer envisaged convenience and benefits.
3. **Mandatory Registration:** While GST registration in normal case is mandatory where turnover is Rs. 20 lakh or more, if a trader wishes to sell through online portals he needs to get registered irrespective of turnover. Merchants without proper registration will be forced to move out of the online system. Now, all sellers will be required to be registered and charge taxes at standard rates creating a level playing ground for all online sellers in terms of product pricing.
4. **Additional Liability on refund & cancellation of orders:** Majority of the products sold online carry a return date of 30 days which translates to about 15 - 20 million transactions per month and the returns and refunds for these have to be done with utmost care. The returns are required to be filed monthly now by both parties and refund adjustment will need special attention affecting tax liability.

There are several other issues which may be faced by Ecommerce such as adjustment of profit so not to fall under the net of anti profiteering.

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