

## **The Government Entities and Required Compliances under GST Law**

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**Abstract:** This paper has studied the provisions of GST law applicable to Government entities and focused on evaluating the impact of those provisions on the structures and processes of Government entities. GST being a revolutionary tax reforms in India, requires specific compliances. Many of the provisions have been included and notifications issued under GST law to give relaxations to Government entities, however as far taxable supplies of goods and services are concerned, Government entities will be treated equally at par with the private players. The Government entities will be required to reshape and retune its systems and processes to adapt itself to the changing needs of GST law.

**Key words:** Input tax credit, Job work, supply and TDS

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### **1. Introduction**

GST has been introduced with a view to bring dramatic improvement in the systems and procedures existed under earlier tax laws. GST will bring efficiency and transparency in the indirect tax mechanism, Sri Ram P. Govind, (2011). GST will bring reduction in compliance cost due to getting rid of multiple records keeping (My GST, CBEC resources, advantages of GST to Centre/State Government). The paper studies the related provisions under the GST law applicable to Government entities and discusses how those provisions are going to affect the Government entities as far as their dealings of goods and services are concerned both as supplier and as a recipient.

GST law has created new compliances for the Government sector. Section 2(88) of the CGST Act, 2017, defines the term “person” in such a way that it includes also the Central Government, State Government and a Local authority within its ambit. Further, as per section 2(17) of said act, the term “business” includes any activity or transaction undertaken by the Central Government, State Government and a Local authority. Thus, intention of law is very clear unless otherwise exempted, the Government entities will be treated at par with private parties as far the GST compliances are concerned.

It is worth noting that many of the provisions have been included and notifications issued under GST law to give relaxations to Government entities regarding many of the aspects in their dealings in goods and services. But at the same time GST law has also added to the responsibilities of the Government entities to ensure tax compliances on the part of private parties, particularly unorganized sector. The contribution of unorganized sector segment still accounted for 57% of total Net Domestic Product, A.C. Kulshreshtha (2011).

A Government entity making taxable supplies exceeding threshold limit of twenty lakh (Ten Lakh in case of North Eastern States) will require PAN based (regular) registration and again one another TAN based (TDS) registration shall also be needed for deducting tax at source (Section 22 and section 51 of CGST Act, 2017)

Special provisions have been made for supply to and by Canteen Stores Department of Ministry of Defence (Notification no. 6/2017, Central Act). Many of the services by government or local authority have been exempted (nil rated) under GST law (see tax rate booklet for goods and services). The Government entities that are not making taxable supplies but are involved in making inter-state purchases will be allotted unique identity number by the respective state tax authorities (FAQs no. 17, CBEC, dated 31<sup>st</sup> March, 2017). Thus, this unique identity number may also be quoted by Government organizations in case of import of goods and services by them.

### **2. Literature Review**

Raj Kumar (2016) emphasized that GST will lead to growth of both Government sector and private sector and added that it will simplify the tax processes and eliminate the cascading effect. A.C. Kulshreshtha (2011) held that share of unorganized sectors are significant in India in activities of trade transport, construction and manufacturing. Azharuddin Mohammad Mussaiyib (2016) concluded that as far as economic well being are

concerned; GST will play a commendable role in this regard. It was also added that GST will be helpful in bringing ease of doing business. Dr. R. Rupa (2017) studied about basic concept of GST and its impact in domestic as well as international transactions and further emphasized that States will face many challenges due to GST. Girish Garg (2014) focused on benefits and challenges of GST. The study came out with the conclusion that GST is the most logical steps towards the comprehensive indirect tax reform in India. Hitesh K. Prajapati (2016) stressed that successful implementation of GST in India will be a challenging exercise for the Government. Jaspreet Kaur (2016) held that GST will positively impact the Indian Economy and added that GST will improve the efficiency in the system by shifting the trade from unorganized sector to organized sector. National council of applied economic research (2009) came with the conclusion that GST will lead to efficient allocation of resources and it will positively impact growth rate of India. Monika Sehrawat and Upasana Dhanda (2015) put forward that GST would be a simple, user friendly and will bring a transparent tax system in India. However the effective implementation of GST is a challenge for India and this can be achieved only through more analytical research on the subject matter. Research department, the institute of Cost Accountants of India (2015) concluded that provisions of GST should be clear to avoid any confusion and further added that Government should device effective mechanism for settlements of litigation. Akanksha Khurana and Aastha Sharma (2016) suggested that all sectors of Indian economy will be benefitted by GST but its implementation needs concentrated efforts of all stake holders

### 3. GST provisions affecting Government Entities

#### 3.1. Registration

Under the GST law, the person is required to be registered if it is making taxable supply of goods and services exceeding the threshold limit of 20/10 lakh (Section 22 of the CGST Act, 2017). For obtaining this registration, the person should be having permanent account number (PAN). Further, the person who is required to deduct at source under section 51 also requires compulsory registration irrespective of threshold limit. However, Tax deduction and collection account number (TAN) is sufficient for obtaining registration for deducting tax in lieu of permanent account number (Section 25, subsection 6 of CGST Act, 2017)

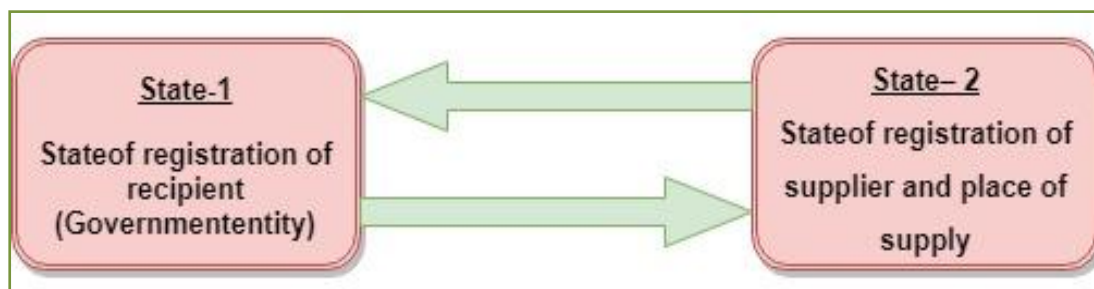
The Government entities which are not making outward supply of goods and services but are involved in making inter-state purchases would be given a unique identity number by the respective State tax authorities. However, mere holding unique identity number does not mean that Government entity is a registered person and no input tax credit can be claimed based on only unique identity number (Section 2, subsection 94, CGST Act, 2017)

#### 3.2. Provision for Tax Deducted at source

As per section 51 of the CGST Act, 2017, every Government department, local authority and other prescribed person shall be required to deduct tax at source if the value of supply exceeds Rs. 2.5 lakh. The rate of TDS shall be 1% CGST and 1% SGST in case of intra-state supply and 2% IGST in case of inter-state supply. The amount so deducted shall be paid to the credit of the Government up to 10<sup>th</sup> day of the month immediately following the month in which tax was so deducted. Further a return in prescribed form GSTR-7 shall also be required to be filed up to 10<sup>th</sup> day of the month immediately following the month in which tax was so deducted. The deductor shall issue a certificate to the deductee in prescribed form within 5 days of the date in which amount was so paid to the credit of the Government. However, no tax deduction is required to be made where the location of supplier and place of supply are in a state or union territory which is different from the location of Government entity (Chart-1). In case of non compliances of TDS provisions, both interest and penalties may be levied.

A person who is required to deduct tax at source requires compulsory registration (Section 24, CGST Act, 2017)

Chart-1: Nature of supply where no tax is required to be deducted



### **3.3. Liability to pay tax on inward supplies**

If the Government entity is a registered person and if the supplier of taxable goods and services is unregistered, the Government entity will be liable to pay tax under reverse charge basis by virtue of section 9(4) of CGST Act, 2017. On the contrary, if the supplier of taxable goods and services is registered and Government entity is unregistered person, the Government entity shall be liable to pay tax on forward charge basis on the invoice issued by the supplier.

### **3.4. Concessional Job Work provisions**

If the Government entity is a registered person, it can send and inputs and capital goods to the premises of job worker subject to intimation and conditions without payment of duty. However, inputs should be received within one year and capital goods within three years of their being sent. Further if the Job worker is registered, said goods may be supplied directly from the premises of Job worker. If the Job worker is unregistered, said goods may be supplied directly from the premises of Job worker if Government entity declares the premises of Job worker as his additional place of business (Section 19, CGST Act, 2017)

### **3.5. Benefit of input tax credit**

Input tax credit means credit of taxes paid on inputs against taxes payable on outputs. Benefit of input tax credit has been given under the GST law to avoid double taxation effect. Thus, the provision of input tax credit shall bring down over all level of taxes on goods and services. Except blocked credits and subject to conditions, input tax credit is available for all taxable supplies. However for availing benefit of input tax credit, the Government entity should be a registered person (Section 16, CGST, Act, 2017)

### **3.6. Place and time of supply for goods and services**

The provisions regarding place and time of supply shall apply in the same way to the Government entity as they apply in other cases. Thus, the supply shall be intra-state if the location of supplier and place of supply happens to be in the same state. However, if the location of supplier and place of supply are in different states, it will be interstate supply (Section 17, IGST, Act, 2017). Time of supply in case of goods shall be earlier of date of receipt of payment and issue of invoice. In case of supply of services, time of supply shall be earlier of date of receipt of payment and issue of invoice if invoice has been issued within prescribed time. However, if invoice has not been issued within prescribed time, the time of supply shall be earlier of date of receipt of payment and date of provision of service (Section 12, CGST, Act, 2017)

### **3.7. Exemptions for services available to Government Entities**

Many of the services provided by or to Central Government, State Government, Union territory or Local authority are exempted (taxable at nil rates) subject to conditions. However this exemption is not available in relation to services provided by department of post to persons other than Central Government, State Government, Union territory, and services to air craft or vessel, services of transportation of goods or passengers and services by way of renting of immovable property (Serial number, 6, rate of GST on services)

### **3.8. Treatment of advances and deposits**

According to meaning given to supply under GST law, now agreement to supply will also be included within the meaning of supply and hence liability to pay GST shall also arise if advances are paid for booking orders. However, liability to pay GST shall not arise in case of deposits. The true test to decide whether a sum of money is advance or deposit will depend upon a fact whether this money can be applied towards consideration or not. If this money can be applied towards consideration, it is advance. However, if this money cannot be applied towards consideration and this is refundable in nature, it is deposit. The supplier will issue receipt voucher to the person making order after charging GST on advances. Tax invoice will be issued at the time of actual supply, after deducting the amount of advance and GST shall be payable only on the balance. However, no Input tax credit can be taken on advance unless the person receives tax invoice. If order is cancelled refund voucher will be issued.

## **4. Findings of the study**

Many of the services to or by the Government entities have been exempted. However where Government entity is involved in making taxable supply of goods and/or services, it will be treated at par as far as compliances under GST are concerned. The provisions relating to deducting tax at source has been deferred to provide more time for smooth roll out of GST. Further, inward supplies of goods and services up to INR five thousand per day has been exempted from the provisions of reverse charge. Government entities exclusively

involved in exempted, nil rated or non GST goods are not required to obtain registration. In such cases these entities may obtain unique identity number for making inter-state purchases.

All taxable supplies made to Government entities shall be treated as business to consumer (B2C) and all provisions of GST shall apply accordingly. Specific concessions have been given for supplies made to CSD (owned by ministry of defence) and sale by CSD to unit canteens.

### **5. Conclusion**

Both Government sector and private sector have well defined role in the Indian economy. GST being a revolutionary tax reform requires specific compliances. The Government entities will be required to reshape and retune its systems, processes to adapt itself to the changing needs of GST. GST will bring a rationalized tax structure in India and boost economic growth in India. It is expected to bring buoyancy to the Government Revenue by widening the tax base and improving the taxpayer compliance (CBEC, Benefits of GST, on line version, dated 7<sup>th</sup> June, 2017)

### **References**

- [1]. C. Kulshrestha, 2011, Measuring the unorganized sector in India, The review of income and wealth series 57, 123 – 134
- [2]. Akanksha Khurana and Aastha Sharma, Goods and Services tax in India - A positive reform for indirect tax system, 2016, International Journal of Advanced Research, 4(3), 500-505
- [3]. Annual report 2016-17, Ministry of commerce and industry, Department of commerce, Government of India
- [4]. Azharuddin Mohammad Mussaiyib, Goods and Services Tax in India: An Insight, 2016, International Journal of Research and Innovation in Applied Science (IJRIAS), I (VI), 10-15
- [5]. Dr. R. Rupa, GST in India: an overview, 2017, International education and research journal, 3(2), 88-89
- [6]. Girish Garg, Basic Concepts and Features of Good and Service Tax In India, 2014, International Journal of scientific research and management (IJSRM), 2(2), 542-549
- [7]. Hitesh K. Prajapati, Challenges and Implementation of GST (Goods and Service Tax) in India, 2016, paripex - Indian Journal of Research, 5(7), 96-98
- [8]. Jaspreet Kaur, Goods and service tax (GST) and its impact, 2016 , International Journal of Applied Research, 385-387
- [9]. Monika Sehwat and Upasana Dhanda, GST in India: a key tax reform, 2015, International Journal of Research – Granthaalayah , 3(12), 133-141
- [10]. Moving to goods and services tax in India: impact on India's growth and international trade, December 2009, Final report of National Council of Applied Economic Research, prepared for thirteenth finance commission, Government of India.
- [11]. Raj Kumar, Comparison between Goods and Services Tax and Current Taxation System A Brief Study, 2016, International Journal of Allied Practice, Research and Review, III (VI), 09-16
- [12]. Research department, The institute of Cost Accountants of India, An insight of GST in india, October, 2015, I, October, 1-227
- [13]. cbsc.gov.in