



**E-commerce, TDS, stock  
transfer in GST, Job  
work, Offence and  
penalties**

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1.

# E-commerce operator

Tax deduction on Source




## Various provisions related to the E-commerce operator

Sl.no	Section	Basic provision
1	Section 2(44)	Definition of E-commerce
2	Section 2(45)	Definition of E-commerce operator
3	Section 24	Registration liability of E-commerce operator and vendor selling through it
4	Section 52	TCS by the E-commerce operator



## Section 2(44)


“electronic commerce” means the supply of goods or services or both, including digital products over digital or electronic network”





## Section 2(45)

“electronic commerce operator” means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce ”



# Practical cases of variety of e-commerce operators

	Key activity	ECO or not	Liable for TCS
Flipkart	Selling the goods of others and making collection	yes	yes
Ola/Ubar	Selling services for others and making collection	yes	yes
Paytm	Payment banker	no	No
Urban Clap	Manage profile of service providers (Not collecting)	Yes	No
Portia medical	Sells the services of others	Yes	Yes



# When TCS is required to be deducted

- » *consideration with respect to such supplies is to be collected by the operator.*
  - » *electronic commerce operator shall not be working as an agent*
  - » *such rate not exceeding one per cent to be prescribed by government*
  - » *Deduction will be on net value of taxable supplies made through it*
- 



# Deduction

- » *TCS @ (not exceeding) 1% will be deducted*
  - » *Such amount will be deposited to the account of government within 10 days of next month*
  - » *Net value of taxable supplies=*
    - *The aggregate value of taxable supplies of goods or services or both, by all registered persons through the operator in a month*
    - *(Less) services notified under sub-section (5) of section 9,*
    - *(Less) the aggregate value of taxable supplies returned to the suppliers during the said month*
- TCS @x% will be calculated on this amount*

XXXXXX

XXXXXX

XXXXXX


XXXXXX







# Depositng the TCS to government

- » *The amount collected TCS shall be paid to the Government by the operator **within ten days** after the end of the month in which such **collection is made**,*
  - » *Every operator who collects the TCS shall furnish a statement,*
    - *details of outward supplies of goods or services or both effected through it,*
    - *The supplies of goods or services or both returned through it,*
    - *The amount of TCS collected , within **ten days** after the end of such month.*
    - *This statement will be in FORMGSTR-8*
- 

# Types of e-commerce operator can be in GST

## Covered in section 9(5)

Will be required to take registration without threshold limit

Will pay tax on supplies made through it

## E-commerce but not making collection

Will be required to take registration without threshold limit

But not required to deduct TCS

## E-commerce plus collection

Will be required to take registration without threshold limit

Will also be liable to deduct TDS and deposit it to govt

## E-commerce working as agent

Will be required to take registration without threshold limit

Will have to pay tax on supplies



# 2. Stock Transfer

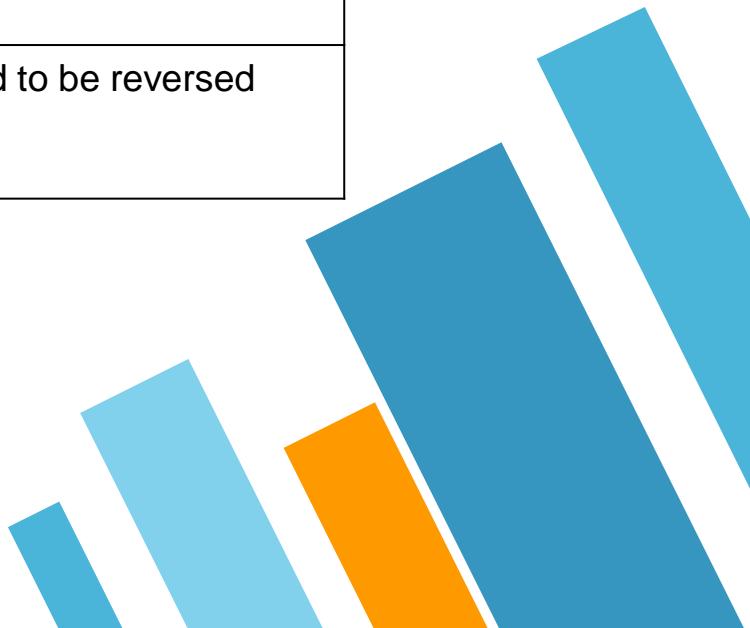
In existing and GST regime





## Stock transfer in Excise

<b>Transfer of Finished Product</b>	In excise duty is payable at the time of removal even if it is intra state
Transfer of Input/Capital Goods as such on which ITC was availed	Credit is required to be reversed



Delhi

Kerala

T:1 Excise Duty: on removal from factory to warehouse (even if intra state )



Excise

No GST

Excise

IGST

F-1 There will be GST only when goods will cross the state or sold to other dealer

No VAT/Sales tax on stock transfer

W-1

Haryana

UP

No VAT/Sales tax on stock transfer



IGST

No VAT/Sales tax on stock transfer

IGST

T-1

T-2

# Ideal structure for manufacturing in GST

State-I

T:1 Excise Duty: on removal from factory to  
warehouse (even if intra state )

State-II



F-1

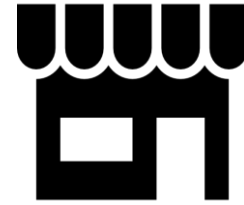
No GST

IGST

CGST & SGST



V



V

State-III

IGST



V

IGST

State-IV



V




# 3. Tax deduction at Source

Section 51 of CGST Act





# Who can be mandated to deduct TDS

- (a) a department or establishment of the Central Government or State Government; or
  - (b) local authority; or
  - (c) Governmental agencies; or
  - (d) such persons or category of persons as may be notified by the Government on the recommendations of the Council
- 





# Deduction

## **Rate of TDS**

TDS will be deducted @1% from “the paymnt made or credited to the supplier

## **When to deduct TDS**


where the total value of such supply,  
under a contract, **exceeds** two lakh and fifty thousand rupees





## When TDS is not required

No deduction shall be made if the

- location of the supplier
  - and the place of supply is in a State or Union territory which is
  - different from the State or as the case may be, Union territory of
  - registration of the recipient.
- 



Deduct @ 1%

Pay amount deducted to government upto 10<sup>th</sup> of Next month


Furnish a TDS certificate within 5 days of payment

Late fee of Rs.100 per day upto Rs.5000

Will liable to pay interest

It will reflect in Cash ledger of deductee

Will be able to utilise it to make payment

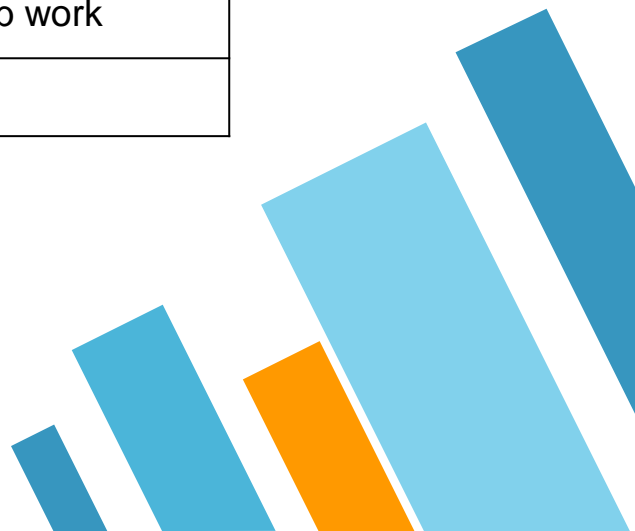





# 5. Job Work

Section 51 of CGST Act



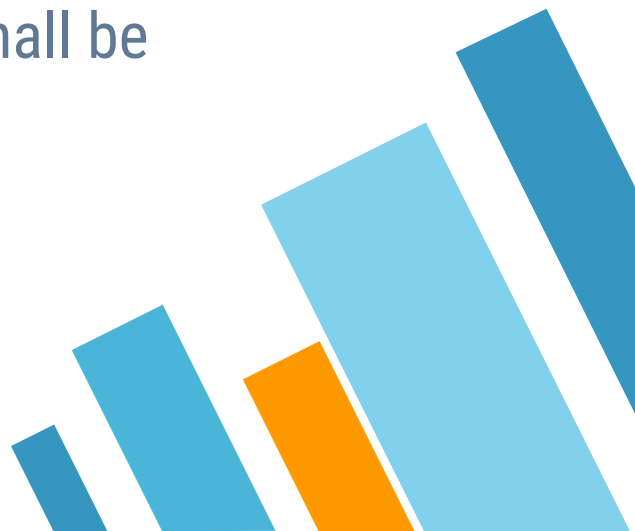


Sl.no.	Section	Provision Covered
1	Section 2(68)	Definition of Job work
2.	Section 19	ITC related to input/CG sent for job work
3	Section 143	Job work procedure.




## Definition of Job work

“job work” means any treatment or process undertaken by a person on goods belonging to another registered person and the expression “job worker” shall be construed accordingly





## Inputs:

- a) Inputs can be removed without payment of duty
  - b) Can be sent directly without payment of duty
  - c) If inputs are not returned within One year. The removal will become a supply
- 



# Capital Goods:

- a) Capital Goods can be removed without payment of duty
- b) Can be sent directly without payment of duty
- c) If Capital Goods are not returned within Three years. The removal will become a supply

Moulds,dies and jigs are not required to returned to the supplier





# Job work procedures

Principal can bring back the inputs or capital goods within one or three years

Supply them from the place of job worker if his place is shown as an additional place of business

If the job worker is registered supply can be made even if it is not shown as an additional place of business

Any waste and scrap generated during job work can be may be supplied by the job worker directly from his place on payment of tax if registerd, or by principal if not registered



# 6. Offence and penalties

Chapter XIX of CGST Act



Offence by	Offence	Penalty
1)	Registered taxable person ➤ for 21 defaults mentioned in section 122(1)	Higher of Rs.10,000 or an amount equals to tax evaded
2)	Registered taxable person for 5 defaults mentioned in section 122 (2) other than by reason of ➤ Fraud ➤ wilful misstatement ➤ suppression of facts	Higher of Rs. 10,000 or 10 % of tax due
3)	Any person for five defaults mentioned in section 122(3)	Penalty which may extend to Rs. 25000
4)	Any person General Penalty Section 125	Penalty which may extend to Rs.25000

# Offence and penalties: section 122 (1)

## Offence by registered person

- |     |   |
|-----|---|
| I   | supplies any goods and/or services without issue of any invoice or issues an incorrect or false invoice with regard to any such supply  |
| II  | issues any invoice or bill without supply of goods and/or services in violation of the provisions of this Act, or the rules made thereunder   |
| III | collects any amount as tax but fails to pay the same to the credit of the appropriate Government beyond a period of three months from the date on which such payment becomes due;   |
| IV  | collects any tax in contravention of the provisions of this Act but fails to pay the same to the credit of the appropriate Government beyond a period of three months from the date on which such payment becomes due   |
| V   | fails to deduct the tax in terms of sub-section (1) of section 51 , or deducts an amount which is less than the amount required to be deducted under the said sub-section, or where he fails to pay to the credit of the appropriate Government under sub-section (2) thereof, the amount deducted as tax |

# Offence and penalties: section 122(1)

## Offence by registered person

VI	fails to collect tax in terms of sub-section of section 52 , or collects an amount which is less than the amount required to be collected under the said sub-section, or where he fails to pay to the credit of the appropriate Government under subsection thereof, the amount collected as tax;
VII	takes and/or utilizes input tax credit without actual receipt of goods and/or services either fully or partially, in violation of the provisions of this Act, or the rules made thereunder
VIII	fraudulently obtains refund of any CGST/SGST under this Act
IX	takes or distributes input tax credit in violation of section 21, or the rules made thereunder
X	falsifies or substitutes financial records or produces fake accounts and/or documents or furnishes any false information or return with an intention to evade payment of tax due under this Act
XI	is liable to be registered under this Act but fails to obtain registration
XII	furnishes any false information with regard to registration particulars, either at the time of applying for registration, or subsequently
XIII	obstructs or prevents any officer in discharge of his duties under the Act;

# Offence and penalties: section 122(1)

## Offence by registered person

XIV	transports any taxable goods without the cover of documents as may be specified in this behalf
XV	suppresses his turnover leading to evasion of tax under this Act
XVI	fails to keep, maintain or retain books of account and other documents in accordance with the provisions of this Act or the rules made thereunder
XVII	fails to furnish information and/or documents called for by a CGST/SGST officer in accordance with the provisions of this Act or rules made thereunder or furnishes false information and/or documents during any proceedings under this Act
XVIII	supplies, transports or stores any goods which he has reason to believe are liable to confiscation under this Act
XIX	issues any invoice or document by using the identification number of another taxable person
XX	tampers with, or destroys any material evidence
XXI	disposes off or tampers with any goods that have been detained, seized, or attached under this Act

➤ **Penalty will be Rs. 10,000 or amount of default- Whichever is higher**

# Offence and penalties: section 122(2)

## Offence by registered person

Any registered taxable person who supplies any goods or services on which any

- tax has not been paid or
- short-paid or
- erroneously refunded, or where
- the input tax credit has been wrongly availed or
- utilized for any reason,
- other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax,
- **Penalty of ten thousand rupees or ten percent of the tax due from such person, whichever is higher**
- **Penalty will be Rs.10,000 or tax evaded whichever is higher**

# Offence and penalties: section 122(3)

## Offence by any person

- |     |  |
|-----|--|
| I   | aids or abets any of the offences specified in clauses (i) to (xxi) of sub-section (1) above   |
| II  | acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with any goods which he knows or has reason to believe are liable to confiscation under this Act or the rules made thereunder |
| III | receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reason to believe are in contravention of any provisions of this Act or the rules made thereunder   |
| IV  | fails to appear before the CGST/SGST officer, when issued with a summon for appearance to give evidence or produce a document in an enquiry  |
| V   | fails to issue invoice in accordance with the provisions of this Act or rules made thereunder, or fails to account for an invoice in his books of account  |

**Shall be liable to a penalty which may extend to Rs. 25,000**





# Thank You

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