E-COMMERCE TRANSACTIONS AND COMPOSITION SCHEME
UNDER MODEL GST LAW

- APARNA NANDAKUMAR,
- ADVOCATE & TAX CONSULTANT,
- MADRAS HIGH COURT
- 9600178450
- Nandakumar.aparna2@gmail.com

@all rights reserved
E-COMMERCE TRANSACTIONS UNDER MODEL GST LAW
E-COMMERCE- A BACKGROUNDER

• How it all started:
• Inventory Model: Bipartite Model
  • “Inventory Model of e-commerce means an ecommerce activity where inventory of goods and services is owned by the e-commerce entity and is sold to customers directly”: FDI Policy

• The trader:
  • Manages inventory
  • Customer interface
  • logistics
Inventory Model to Marketplace Model: SEA CHANGE

FDI Policy Restrictions:

- **Guidelines for FDI on e-commerce issued by Department of Industrial Policy and Promotion Press Note 3 (2016 Series) dated 29.03.2016;**

- No FDI for inventory model

- 100% FDI permitted for marketplace model

- ‘Inventory Model’ and ‘marketplace’ Model defined

- ‘E-commerce Entity’ defined to include a foreign Company under Section 2(42) of the Companies Act
E-COMMERCE- A BACKGROUNDER

• ‘Marketplace Model’:

• Definition: “means providing of an information technology platform by an e-commerce entity on a digital & electronic network to act as a facilitator between the buyer and seller”: FDI Policy by DIPP

• Conditions:

• Can enter into transactions with sellers registered on its platform on B2B basis;
• can provide support services to sellers in respect of warehousing, logistics, order fulfilment, call centre, payment collection;
• No ownership over inventory;
• not to permit more than 25% of a vendor’s sales to take place through its site
• Seller’s name and address known
E-COMMERCE- A BACKGROUNDER

• OTHER PREVALENT MODELS;
• Aggregator Model (Not for goods only for services): Ola, Uber
• C2C or re-commerce Model (for second hand goods): OLX, Quikr
• Online information services: Shaadi.com, bookmyshow.com

@all rights reserved
ELECTRONIC COMMERCE under MODEL GST ACT, 2016

JUNE MODEL LAW

- **Sections:**
- **43B: Definitions:**
  - Aggregator
  - E-Commerce
  - E-Commerce Operator
  - Brand name
  - Branded services

- **43C: Tax Collection at Source (TCS)**

NOVEMBER MODEL LAW

- **Sections:**
- E-commerce Section 2(41)
- E-commerce operator Section 2(42)
- Agent: Section 2(5)

- **56: Tax Collection at Source (TCS)**
<table>
<thead>
<tr>
<th>NOVEMBER</th>
<th>JUNE</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Owns, operates, Manages</td>
<td>• Owns, manages, operates an e-platform, directly or indirectly</td>
</tr>
<tr>
<td>• Digital or electronic facility or platform</td>
<td>• Facilitating the supply of any goods and /or services, or in providing information incidental to or in connection therewith</td>
</tr>
<tr>
<td>• for electronic commerce</td>
<td>• Not on their own behalf</td>
</tr>
<tr>
<td></td>
<td>• Registration compulsory irrespective of turnover limit</td>
</tr>
</tbody>
</table>
AGENT

• Factor, broker, commission agent, arhatia, del credre agent, auctioneer, any other mercantile agent,

• Who carries on the supply or receipt of goods or services

• On behalf of another

• Whether disclosed or not

• [covers aggregator]
## ELECTRONIC COMMERCE

### JUNE

1. Supply or receipt of goods and/or services
2. Transmitting of funds or data over an electronic network preliminarily the internet.
3. Using applications that rely on the internet like but not limited to e-mail, instant messaging, shopping cards, web-services, UDDI, FTP, EDI
4. Payment may or may not be online
5. Delivery of goods or services may or may not be done by operator.

### NOVEMBER

1. Supply or receipt of goods and/or services
2. Including digital products
3. Over digital or electronic framework
E- COMMERCE

• **Electronic Commerce – Tax Collection at Source:**
  
  **SECTION 56**

• **Non obstante clause**

• Tax to be collected at source:-

• 1% of **net value of supplies** made through it

• Where consideration is to be collected by the ECO

• **EXCEPTION:** Certain ECOs notified by Central/State Govt. Recommended by Council, shall pay the tax directly as if he is the person liable to pay [Section 8(4)]
E- COMMERCE

• Net value of Supplies:

• Aggregate value of taxable supplies of goods and /or services by registered taxable persons through the operator in a month

• MINUS

• Aggregate value of taxable supplies returned to the suppliers during the said month
E-COMMERCE - TCS

1. Collected tax amount to be credited to the treasury by ECO **Within 10 days after the end of the month in which the collection is made**

2. **Electronic statement of outward supplies** to be furnished within the same time limit.

3. **Electronic statement of outward supplies** should show
   - 1. amount collected
   - 2. details of outward supplies
   - 3. details of supplies returned to supplier
   - **DEEMING CLAUSE**
     a. Payment made by ECO to Treasury deemed to be on behalf of supplier
     b. Supplier entitled to get credit in his **electronic cash register**.

- Matching of **GSTR-1 (Section 32)** of Supplier with the **outward supplies statement** of ECO
- Any discrepancy/ mismatch in value of supply: communicated to both
- Discrepancy added to output tax liability of supplier
E-Commerce - TCS

• Issuance of Notice before or during any proceeding by Jurisdictional Officer – Joint Commissioner or above:
• requiring the ECO to furnish details of:
  • a) Supplies of goods/services effected through such operator
  • b) Stock of goods held by suppliers in godowns or warehouses managed by operators declared as additional place of business of suppliers.
• ECO to supply information within 15 days from date of receipt of notice.

Failure to furnish information - penalty extending to Rs.25,000/-
Without prejudice to Section on Offences and Penalties
In case of mismatch, supplier liable
COMPOSITION OF TAX: SECTION 9

• Registered Taxable person can opt for composition
• Turnover to be below Rs.50 lakhs in a financial year
• OPTION CANNOT BE EXERCISED BY FOLLOWING PERSONS:
  (1) Supplier of services
  (2) Supplier of non taxable goods
  (3) manufacturer of such notified goods
  (4) inter-State outward supplier
  (5) Suppliers through ECO
• Rate of tax: To be prescribed but not less than 2.5% for manufacturer and 1% in any other case
• All entities having same PAN should opt for composition
COMPOSITION OF TAX: SECTION 9

- CTP cannot collect tax and cannot claim ITC
- Permission to Opt shall stand withdrawn the day when the aggregate TO exceeds Rs.50 lakhs in a financial year
- If found ineligible, tax + penalty payable: draconian provision
• THANK YOU