

CHAPTER IV

TIME AND VALUE OF SUPPLY

Commentary :

TIME OF SUPPLY: Point of taxation means the point in time when the goods or services are deemed to be supplied. The liability to pay GST arises upon the time of supply.

12. TIME OF SUPPLY OF GOODS.

- (1) The liability to pay tax on goods shall arise at the time of supply, as determined in accordance with the provisions of this section.
- (2) The time of supply of goods shall be the earlier of the following dates, namely:—
 - (a) the date of issue of invoice by the supplier or the last date on which he is required, under sub-section (1) of section 31, to issue the invoice with respect to the supply; or
 - (b) the date on which the supplier receives the payment with respect to the supply:

Provided that where the supplier of taxable goods receives an amount up to one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice in respect of such excess amount.

Explanation 1.—For the purposes of clauses (a) and (b), “supply” shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.

Explanation 2.—For the purposes of clause (b), “the date on which the supplier receives the payment” shall be the date on which the payment is entered in his books of account or the date on which the payment is credited to his bank account, whichever is earlier.

Commentary :

For example, A supplies goods to B on 5th July and issues the invoice on the same date. B pays by cheque on 20th July and the cheque is credited to A’s account on 22nd July. A records the receipt of payment on 23rd July after receiving confirmation that the cheque has been cleared. The point of supply of the goods shall be 5th July.

However in the same case, if B pays half of the consideration in advance on 2nd July, then in respect to such amount the point of taxation shall be the date of receipt of such payment as recorded in his books of accounts or the date on which it is credited to his bank account, whichever is earlier, in this case to be July 22.

- (3) In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely:—
 - (a) the date of the receipt of goods; or

- (b) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or
- (c) the date immediately following thirty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier:

Provided that where it is not possible to determine the time of supply under clause (a) or clause (b) or clause (c), the time of supply shall be the date of entry in the books of account of the recipient of supply.

Commentary :

GST is normally payable by the supplier of goods or services. But when the same is payable by the recipient of goods/services, instead of the supplier, it is called reverse charge. The term "reverse charge" is defined under section 2 (98) of CGST Act.

The supplies in respect of which tax is payable on reverse charge basis are specified in sub-section (4) and (5) of section 9 of CGST Act. The government can further notify such categories under sub-section (3) of section 9 of CGST Act.

- (4) In case of supply of vouchers by a supplier, the time of supply shall be—
 - (a) the date of issue of voucher, if the supply is identifiable at that point; or
 - (b) the date of redemption of voucher, in all other cases.

Commentary :

The term "voucher" is defined under section 2 (118) of CGST Act.

- (5) Where it is not possible to determine the time of supply under the provisions of sub-section (2) or sub-section (3) or sub-section (4), the time of supply shall—
 - (a) in a case where a periodical return has to be filed, be the date on which such return is to be filed; or
 - (b) in any other case, be the date on which the tax is paid.
- (6) The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.

13. TIME OF SUPPLY OF SERVICES.

- (1) The liability to pay tax on services shall arise at the time of supply, as determined in accordance with the provisions of this section.

- (2) The time of supply of services shall be the earliest of the following dates, namely:—
- (a) the date of issue of invoice by the supplier, if the invoice is issued within the period prescribed under sub-section (2) of section 31 or the date of receipt of payment, whichever is earlier; or
 - (b) the date of provision of service, if the invoice is not issued within the period prescribed under sub-section (2) of section 31 or the date of receipt of payment, whichever is earlier; or
 - (c) the date on which the recipient shows the receipt of services in his books of account, in a case where the provisions of clause (a) or clause (b) do not apply:

Provided that where the supplier of taxable service receives an amount up to one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice relating to such excess amount.

Explanation.—For the purposes of clauses (a) and (b)—

- (i) the supply shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment;
- (ii) “the date of receipt of payment” shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.

Commentary :

The provision in respect to services is more or less similar to that in respect to goods. However in case of goods, where the supplier does not issue the invoice, the last date on which he is required to issue the same under the law is to be considered, whereas in case of services, the date of provision of services is to be considered.

Further, the provision in respect to service provides for an additional provision which states that in case it is still not possible to determine the time of supply on the basis of the date of issue of invoice or the date of provision of the service or the date of receipt of the payment, the date of receipt of services as reflected in the book of accounts of the recipient of service shall be considered.

- (3) In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earlier of the following dates, namely:—
- (a) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or
 - (b) the date immediately following sixty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier:

Provided that where it is not possible to determine the time of supply under clause (a) or clause (b), the time of supply shall be the date of entry in the books of account of

the recipient of supply:

Provided further that in case of supply by associated enterprises, where the supplier of service is located outside India, the time of supply shall be the date of entry in the books of account of the recipient of supply or the date of payment, whichever is earlier.

- (4) In case of supply of vouchers by a supplier, the time of supply shall be—
 - (a) the date of issue of voucher, if the supply is identifiable at that point; or
 - (b) the date of redemption of voucher, in all other cases.
- (5) Where it is not possible to determine the time of supply under the provisions of sub-section (2) or sub-section (3) or sub-section (4), the time of supply shall—
 - (a) in a case where a periodical return has to be filed, be the date on which such return is to be filed; or
 - (b) in any other case, be the date on which the tax is paid.
- (6) The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.

14. CHANGE IN RATE OF TAX IN RESPECT OF SUPPLY OF GOODS OR SERVICES.

Notwithstanding anything contained in section 12 or section 13, the time of supply, where there is a change in the rate of tax in respect of goods or services or both, shall be determined in the following manner, namely:—

- (a) in case the goods or services or both have been supplied before the change in rate of tax,—
 - (i) where the invoice for the same has been issued and the payment is also received after the change in rate of tax, the time of supply shall be the date of receipt of payment or the date of issue of invoice, whichever is earlier; or
 - (ii) where the invoice has been issued prior to the change in rate of tax but payment is received after the change in rate of tax, the time of supply shall be the date of issue of invoice; or
 - (iii) where the payment has been received before the change in rate of tax, but the invoice for the same is issued after the change in rate of tax, the time of supply shall be the date of receipt of payment;
- (b) in case the goods or services or both have been supplied after the change in rate of tax,—
 - (i) where the payment is received after the change in rate of tax but the invoice has been issued prior to the change in rate of tax, the time of supply shall be the date of receipt of payment; or

- (ii) where the invoice has been issued and payment is received before the change in rate of tax, the time of supply shall be the date of receipt of payment or date of issue of invoice, whichever is earlier; or
- (iii) where the invoice has been issued after the change in rate of tax but the payment is received before the change in rate of tax, the time of supply shall be the date of issue of invoice:

Provided that the date of receipt of payment shall be the date of credit in the bank account if such credit in the bank account is after four working days from the date of change in the rate of tax.

Explanation.—For the purposes of this section, “the date of receipt of payment” shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.

Commentary :

Where taxable service has been provided BEFORE the change of rate of tax, the point of taxation shall be date of payment or date of invoice, whichever is EARLIER, in case payment is received and invoice issued, both are before change of rate.

Where taxable service has been provided AFTER the change of rate of tax, and

- (a) the date of invoice as well as the date of payment, BOTH are PRIOR to the change,

the point of taxation shall be date of payment or date of invoice, whichever is EARLIER.

- (b) the date of invoice OR the date of payment, EITHER of the TWO is AFTER the change,

the point of taxation shall be date of payment or date of invoice, whichever is LATER.

15. VALUE OF TAXABLE SUPPLY.

Commentary :

The amount of GST payable is calculated by applying the rate of GST to the value of the supply, which is determined by these provisions.

- (1) The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.

- (2) The value of supply shall include -
- (a) any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier;
 - (b) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;
 - (c) incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;
 - (d) interest or late fee or penalty for delayed payment of any consideration for any supply; and
 - (e) subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.

Explanation.—For the purposes of this sub-section, the amount of subsidy shall be included in the value of supply of the supplier who receives the subsidy.

Commentary :

Section 15(2) provides the following list of adjustments that could be added to Transaction value:-

- a) Any amounts paid by the recipient that are obligation of supplier to pay
- b) Money value of goods or services provided free or at concession by recipient
- c) Royalties and license fees payable by the recipient as a condition of supply
- d) Taxes levied under any other laws (other than SGST/CGST or IGST)
- e) Expenses incurred by the supplier before supply and charged separately
- f) Subsidy realized by supplier on the supply
- g) Reimbursements claimed separately by the supplier
- h) Discounts allowed after supply has been effected except when known before supply (Discounts allowed as a normal trade practice and reflected on the face of the invoice shall not be included)

- (3) The value of the supply shall not include any discount which is given—
- (a) before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply; and
 - (b) after the supply has been effected, if—
 - (i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and

- (ii) input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

Commentary :

A purchases an Air conditioner from B for ` 20,000. B gives cash discount of ` 2,000 to A on the sale invoice itself.

Transaction value will be ` 18,000, being price of the goods after reducing the discount offered at the time of sale.

A purchases an Air conditioner from B for ` 20,000 on July 1, 2017. On August 1, 2017, A gives discount of ` 5,000 to B and B makes a payment of ` 15,000 to A.

If discount is not known before or at time of supply, transaction value will be ` 20,000 being net price of the goods plus discount allowed after the supply has been effected.

If discount is known before or at the time of supply, transaction value will be ` 15,000 being net price of the goods.

- (4) Where the value of the supply of goods or services or both cannot be determined under sub-section (1), the same shall be determined in such manner as may be prescribed.

Commentary :

Where the supplier and the recipient of the supply are RELATED or the price is NOT the sole consideration for the supply, then value would not be determined in terms of sub-section (1) of section 15 of CGST Act. In those cases, the value shall be determined in terms of the rules notified under sub-section (4) of section 15 of CGST Act.

- (5) Notwithstanding anything contained in sub-section (1) or sub-section (4), the value of such supplies as may be notified by the Government on the recommendations of the Council shall be determined in such manner as may be prescribed.

Commentary :

Where the Government notifies the value in respect to any supply, such value shall be the applicable value and shall override the value calculated in terms of sub-section (1) or sub-section (4) of section 15 of CGST Act.

Explanation.—For the purposes of this Act,—

- (a) persons shall be deemed to be “related persons” if—
 - (i) such persons are officers or directors of one another’s businesses;
 - (ii) such persons are legally recognised partners in business;
 - (iii) such persons are employer and employee;

- (iv) any person directly or indirectly owns, controls or holds twenty-five per cent or more of the outstanding voting stock or shares of both of them;
 - (v) one of them directly or indirectly controls the other;
 - (vi) both of them are directly or indirectly controlled by a third person;
 - (vii) together they directly or indirectly control a third person; or
 - (viii) they are members of the same family;
- (b) the term "person" also includes legal persons;
- (c) persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.

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