Name of the semester : M.com 2nd Semester

Name of the subject : Indirect Tax and Corporate Tax Planning

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Lecture No: 01

**Goods and Services Tax**

Salient features of GST

1. GST is an indirect tax

2. No distinction is made between goods and services except in certain cases for certain purpose.

3. For the words manufacture, Sale, Service etc, the only word ‘Supply’ is used, Supply covers all forms of supplies like sale, barter, rental, lease, exchange.

4. GST is levied on supply of goods or services or both.

5. It is a Consumption based tax. Tax is payable in the State where goods or services are finally consumed.

6. GST is levied both by Central Government and State Government / Union Territory on a Common base.

Objectives of GST

1. GST aims to replace most of the indirect taxes levied on goods and service by the Central and State Governments.

2. To avoid Cascading effect of various indirect taxes

3. To develop national market – one nation one tax.

4. To eliminate distinction between goods and services to avoid overlapping of State and Central Government.

5. Avoiding unhealthy competition among the State trhough uniform tax rates

6. To ease the administrative Control.

7. To reduce the compliance Govt.

2

Difference between Direct tax and Indirect Tax

1. Definition : Direct tax is such tax which is directly imposed on tax payer and he is liable to pay such tax.

Indirect tax is such tax which is imposed on the tax payer but is actually borne by another person.

2. Nature of tax : Direct tax is collected by way of levying income tax, professional tax it Indirect tax is collected by way of GST.

3. Tax Base : The basis of tax for direct tax is income, profit, property,

Indirect tax is imposed on production distribution, consumption of goods and services.

4. Removal of Income : Direct taxes are considered as an important instrument of removing inequalities of income and wealth as they fall more heavily on the rich than poor.

Indirect taxes fall on all incomes whether rich or poor.

5. Tax Planning : Tax burden can be removed by using proper tax planning in case of direct tax.

Tax planning is not useful in case of indirect tax.

6. Effect of inflation : There is no effect of inflation for charge of direct thax. Govt. of goods and services increases due to levy of indirect tax.

Taxes Under GST

Intra – State Movement Intra – State movement

Central GST (CGST) Integrated GST

State GST (SGST) (IGST)

3

Taxes subsumed into GST

Eight Central taxes and nine state taxes have been subsumed into GST.

Central taxes subsumed into GST

1. Central Excise duty.

2. Duties of Excise (Medicinal preparations)

3. Additional Duties of Excise (Goods of special importance)

4. Additional Duties of Excise (Textile)

5. Additional Duties of Customs (CVD)

6. Special Additional Duty of Customs (SAD).

7. Service Tax

8. Central surcharge and Cess relating to supply of goods & services.

State taxes subsumed into GST.

1. State VAT

2. Central Sales tax

3. Luxury tax

4. Entry tax

5. Entertainment tax

6. Taxes on advertisement.

7. Purchase tax

8. Tax on lotteries.

9. State surcharge and Cess relating to supply of goods and services.

4

Taxes not subsumed under GST

1. Basic Customs duties.

2. Export duties.

3. Road & Passenger tax

4. Toll tax

5. Property tax

6. Stamp duty

7. Electricity duty

Non – applicability of GST

1. Alcoholic Liquor for human Consumption

2. Tobacco products

3. Petroleum Crude, high speed diesel, natural gas.

4. Newspaper.

Compensation Cess : GST is a destination based consumption tax. Since GST is a consumption based tax, the states producing goods will not get tax revenue out of supply of goods. This a big revenue loss is expected to producing states like Maharashtra, Gujarat, Tamil Nadu, Karnataka etc. due to abolition of GST, Consuming countries like Bihar, Uttarpradesh, Kerala, Madhya Pradesh, Orissa, West Bengal will be gainer in GST. To compensate these states, an additional tax Goods and Services Tax (Compensation to States) Act, 2017 has been enacted. Accordingly :

i) Eligible states will be paid compensation by the Central Government for 5 years from the year 2015-16

5

ii) The Cess is to be levied on supply of goods and services or both within India and on import of goods and services.

iii) The mode of calculating the compensation is provided in section 3 to 7 of the GST Cess Act.

iv) The followings goods will attract GST Cess ;Pan Masala, Tabacco, Coal, a erated waters, Motor Car not more than 13 persons.

Aggregate Turnover Sec 2(6) : Aggregate turnover means the aggregate value of a) all taxable supplies, b) exempt supplies, c) export of goods and services d) Inter- state supplies.

Aggregate Turnover for a person having the same PAN shall be computed on all India Basis. It includes stock transfer and branch transfer. However, it does not include the following :

a) Value of inward supplies on which tax is payable by the person on reverse charge basis.

b) Central tax, State Tax, Union Territory tax, integrated tax and Cess.

Business (Section 2(17) : Business includes :

a) Any trade, commerce, manufacturers, profession, vocation, adventure, wager or any other similar activity whether or not it is for pecuniary benefit.

b) Any activity or transition in connection with or incidental or ancillary to the above activities.

c) Supply or acquisition of goods including Capital Goods and services in connection with commencement or closure of business.

d) Provision by a Club, association, Society or any such body (for a subscription or any other considerations) of the facilities or benefits to its members.

6

e) admission for a consideration, of persons to any premises .

f) Any activity or transaction undertaken by the Central Government, a State Government or a local authority in which they are engaged as public authorities, The definition of business under the act are very broad.

Capital Goods (Section 2(19) : Capital Goods names

-- goods, the value of which is capitalized

-- on the book of account of the person claiming input tax credit.

-- which are used or intended to be used in the courses or furtherance of business.

Casual taxable person (Section 2(20) : It means a person who occasionally undertake transactions involving supply of goods or services or both in the course or furtherance of business. Such supply may be made—

i) as principal, agent or in any other capacity

ii) in a State or a Union territory

iii) Where he has no fixed place of business.

Goods (Section 2(52)) : Goods means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of land which are agreed to be service before supply or under a contract of supply.

Input (Section 2(59) : Input means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business.

Input tax Credit (Section 2(63) : Input tax credit means the credit of input tax. It is the credit of tax paid on inward on outward supply of goods or services or both subject to certain restrictions and conditions.

7

Output tax (Section 2(82) : Output tax in relation to a taxable person, means—

-- Tax chargeable under CGST Act.

-- On taxable supply of goods or services or both

-- made by him or by his agent

-- but excludes tax payable by him on reverse charges basis

Place business Section 2(85) : It includes

a) a place where the business is ordinarily carried on and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both or

b) a place where he maintenance his books of account

c) a place where a taxable person is engaged in business through an agent.

Services (Section 2 (102) : Service means the following :

a) It means anything other than goods, money or securities. However, facilities or arranging transactions in securities are services.

b) It includes activities relating to the use of money or its conversion by cash or by any other mode, from one form currency etc for which a separate consideration is charged.

Taxable person Sec 2(107) : Taxable person means a person

-- who is registered or

-- liable to be registered under Sec 22 or 24 of the CGST Act.

Turnover in State or in Union Territory (Section 2(112) :

It means the aggregate of

i) taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis)

8

ii) exempt supplies made within a state or Union territory by a taxable person.

iii) export of goods or services or both.

iv) inter-state supplies of goods or services or both, made from the state or Union territory by the said taxable person but excludes Central tax, State tax, Union territory tax, Cess .

Unit 4 : Taxable event, supply – concept time, value and place, charge of GST.

Taxable Event : It refers to the event on the happening of which the liability to pay tax is attracted. The principle of taxation under GST Act has been shifted to supply of goods or services or both.

Supply (Section 7) Supply includes------

1. All forms of supply of goods or services or both such as sale, transfer, barter, exchange license, rental, lease or disposal made or agreed to made for a consideration by a person in the course of furtherance of business.

2. Import of services for a consideration whether or not in the course of furtherance of business.

3. The activities specified in Schedule I, made or agreed to be made without a consideration.

Activities to be treated as supply even if made without consideration :

1. Permanent transfer or disposal of business assets where input tax credit has been availed.

2. Supply of goods or services between related persons.

3. Supply of goods by a principal to his agent where the agent undertakes to supply such goods on the behalf of the principal.

4. By an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

9

Inward supply Section 2(67) :

Inward supply in relation to a person, shall mean receipt of goods or services or both whether by to purchase, acquisition or any other means, with or without consideration.

Inward supply occupies an important position in the scheme of GST as any registered person can avail credit of tax paid on inward supply of goods or services or both

Non-taxable supply Section 2(78) :

Non-taxable supply means a supply of goods or services or both which is not leviable to tax under GST Act.

Taxable Supply Section 2(108) :

Taxable supply means a supply of goods or services or both which is leviable to tax under GST Act Section 15 of the GST / SGST Act provides the basis of valuation of taxable supply.

Exempt supply Section 2(47) :

Exempt supply means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under Section 11 and includes non-taxable supply.

Continuous supply of goods (Section 2(32) :

It means a supply of goods which is provided or agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of wise, cable, pipeline or other way and for which the supplier invoices the receipient on a regular or periodic basis and also includes supply of such goods as the Government may specify.

10

Composite supply Section 2(30) :

Composite supply means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.

Mixed supply Section 2(74) :

Mixed supply means two or more individual supplies of goods or servicesor any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

Zero rated supply Section 16 :

Zero rated supply means any of the following supplies of goods or services or both :-

a. export of goods or services or both.

b. Supply of goods or services or both to a SEZ developer or a SEZ Unit.

Inter-State and Intra-State supply of goods (Section 7, 8) :

a. Inter-State supply – a supply of goods / services or both shall be treated as

Inter-state supply where the location of the supplier and the place of supply are in :-

i) two different state, or

ii) two different Union territories, or

iii) a state and a Union territories.

b. Intra-state supply – where the location of the supplier and the place of supply of goods or services are in the same state or in the same Union territories, shall be treated a intra-state supply.

Forward Charge : When tax is payable by the supplier of goods or services or both.

11

Reverse Charge : Reverse charge means the liability to pay tax by the person receiving goods or services or both instead of the supplier of goods and services.

Time of supply of goods under Forward charge (Sec n 12):

The time of supply of goods shall be the earlier of the following date :-

a. The date of issue of invoice by the supplier or

b. The last date on which he is required to issue the invoice in respect of supply.

Time of supply when GST on goods payable on reverse charge basis (Sec 12) :

The time of supply of goods shall be the earliest of the following dates :-

a. the date of 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 date is earlier.

c. the date immediately following 30 days from the date of issue of invoice or any other document by whether name called.

Where it is not possible to determine the time of supply it shall be the date of entry in the books of account of the recipient of supply.

Value of Supply : The value of a supply of goods or service or both shall be the transaction value, that is the price actually paid or payable for the said supply of goods and services or both where the supplier and the recipient of the supply and not related and the price is the sole consideration for supply (Sec 15).

Inclusion : The value of supply shall include :-

1. any tax, cess, fees and charges under any law after that GST.

2. Amount paid by recipient on behalf of supplier.

3. Incidental expenses incurred before supply.

4. Interest or late fee or penalty.

12

5. Subsidies directly linked to the price excluding subsidies provided by Central or State Govt.

Place of Supply :

For goods.

1. Where the supply involves the movement of goods—Location of the goods at the time of delivery to the recipient.

2. Where the supply does not involve movement of goods – Location of goods at the time of delivery.

For services : Location where the services are actually provided / performed.

Central Goods & Services Tax (CGST)

State Goods & Services Tax (SGST)

Union Territory Goods & Services Tax (UT GST)

Levy of GST in case of Inter-State Supply : (Sec 5 and 6)

I GST shall be levied on inter-state supply of goods or services or both.

Levy of GST in Case of Intra-State Supply

i) Supply within the same State – a) CGST & b) SGST.

ii) Supply within the same Union Territory

a)CGST & b) UTGST

Unit 5

Input tax means the CGST, SGST, IGST, UTGST charged on supply of goods or services or both made to a registered person and includes taxes paid on input goods, services or both. It also includes the following :-

13

1. IGST paid on import of goods.

2. Tax payable on reverse charges basis.

But it does not include tax paid under composition levy.

Input tax credit in such that at the time of paying of output tax, one cess reduce the tax burden by deducting the tax already paid on his purchases. This helps to avoid cascading effect of tax.

Output tax means the tax on taxable supply of goods or services or both made by the taxable person or by his agent but excludes tax payable by him on reverse charge basis.

Computation procedure.

Step I : Find out the value of taxable supply

Step II : Find out the amount of output tax

Step III : Find out the eligible Input tax credit

Step IV : The difference between St II and St IV will be the final tax payable.

Tax Invoice and bill of Supply

Under GST a tax involve in an important document. It not only a proof of the supply of goods or services, but it is also an essential document for the recipient to avail Input Tax Credit (ITC).

A registered person cannot avail ITC unless he is in possession of a tax invoice or a debit note.

On the other hand, a registered person who a) Supplies exempted goods or services or both or b) pays tax composition levy, shall instead of a tax invoice, issue a bill of supply containing all information.

14

Tax invoice is used for all types of taxable sales within the state or inter-state sales

.But, Bill of supply is used for exempt sales or sale under composition scheme.

Eligibility and Conditions for taking input tax credit (Sec 16) :

A registered taxable person shall not be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless following conditions are satisfied.

1. he is in possession of a tax invoice or debit note issued by a supplier.

2. he has received the goods or services or both.

3. he has furnished the return as per Section 39.

4. As per Section 41 the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilization of input tax credit.

The end of financial year to which such invoice or

II. Invoice relating to such debit note pertains or furnishing of the annual return, whichever is earlier.

Time of Payment of tax

Payment of taxes by the normal tax payer in to be done on monthly basis by the 20th of the succeeding month cash payments will be first deposited in the cash ledger and the tax payer shall debit the ledger while making payment in the monthly returns and shall reflect the relevant debit entry number in his return. Payment can also be debited from the credit ledger. Payment of taxes for the month of March shall be paid by 20th of April. Composition tax payers will need to pay tax on quarterly basis.

Time Limit to avail input tax credit

As per Section 16(2) ITC is available as soon as the goods or services or both are received and the dealer is in possession of the documentary evidences.

15

However, a registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after :-

i) The due date of furnishing the return U/S 39 for the month of September following :

Composition Scheme under GST(Section10)

The provision of composition scheme is designed for the small tax payers to provide them relief from tedious formalities of GST mechanism and accord then the facility of paying tax at a lower rate. However, composition scheme is applicable to only eligible tax payees within a financial threshold limit.

Financial Criteria: - The benefits of the composition scheme are available to registered person, whose aggregate turnover in the preceding financial year did not exceed :-

1. For Special category stats - Rs. 75 Lakh

2. For other states - Rs. 1.50 Crore

3.For supply of service - Rs. 50 Lakh

Tax Rate CGST SGST

Taxable person is

Traders 0.5% 0.5%

Manufacturer 0.5% 0.5%

Restaurants 2.5% 2.5%

Services 3% 3%

Eligibility : The registered person shall be eligible to opt for the scheme, if

a) he is not engaged in the supply of goods which are not leviable to tax.

b) he is not engaged in making any inter-state supply

16

c) he is not engaged in making any supply through electronic commerce operator who is required to collect tax at source.

d) he is not a manufacturer of goods as may be notified (like Pan masala, Tobacco etc.)

e) The option for composition scheme shall lapse with effect from the day on which the aggregate turnover during a financial year exceeds the limits specified.

f) The scheme is optional.