

Reverse Charge Mechanism under GST

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Abstract

The present paper discuss about the introduction of Goods and Services Taxes in India. How Goods and Services Taxes Acts brings all the Indirect Taxes under one roof. This paper also discuss about one of the important mechanisms included under GST i.e. reverse charge mechanism, It also discuss the various provisions of reverse charge mechanism under various sections and sub sections of goods and Services Tax Act 2017.

Introduction

“One Nation One Tax”

India, the country of 1.342 billion, having working population around 39.7% out of which only 1% are tax payee i.e. 2.79 crore tax payee population on 1st April 2017. As far as indirect taxes are concerned data which are available is not sufficient to reveal the real picture of the country. There were many taxes prevailed in our country with many slabs and loopholes which had been encouraging the concealment of tax. This ultimately created burden on treasury and hampers the growth of nation. In order to boost the growth of Indian economy and paving the way from developing to developed country, government of India introduces a one tax structure for whole nation namely “goods and service tax” on July 1st 2017 by president of India popularly known as GST. GST is a consumption based tax levied on sale, manufacture and consumption on goods and services at a national level. GST is a substitute

for all indirect taxes levied by central government and state government. Keeping in view the federal structure of the government, GST is constituted on dual based system i.e. central and state government both will levy GST separately namely Central Goods and Services Tax and State Goods and Services Tax respectively. Goods and Services Tax in India is based on several principles. One of the important principle which we are going to explain here is reverse charge principle.

Reverse Charge Principle:

Goods and Services Tax in India is based on one of the most important principle termed as reverse charge principle. In normal course of business Goods and Services Tax is payable by suppliers of goods and services to the government. But there are certain cases where the recipient of goods and services becomes responsible for payment of GST. Provisions for such reverse charges can be done by Central and State Governments as per the recommendation of GST council. Thus under reverse charge mechanism, the Goods and Services Tax is paid and deposited by the recipient of goods and /or services to the government on behalf of suppliers of goods and/ or services. In normal course of business, forward charge mechanism of levy of tax is applicable and in certain specified circumstances (as per the notification of the government) reverse charge mechanism of levy of taxes is applicable. This can be understand with the help of following diagram:

Fig 1. Normal mechanism of levy of GST

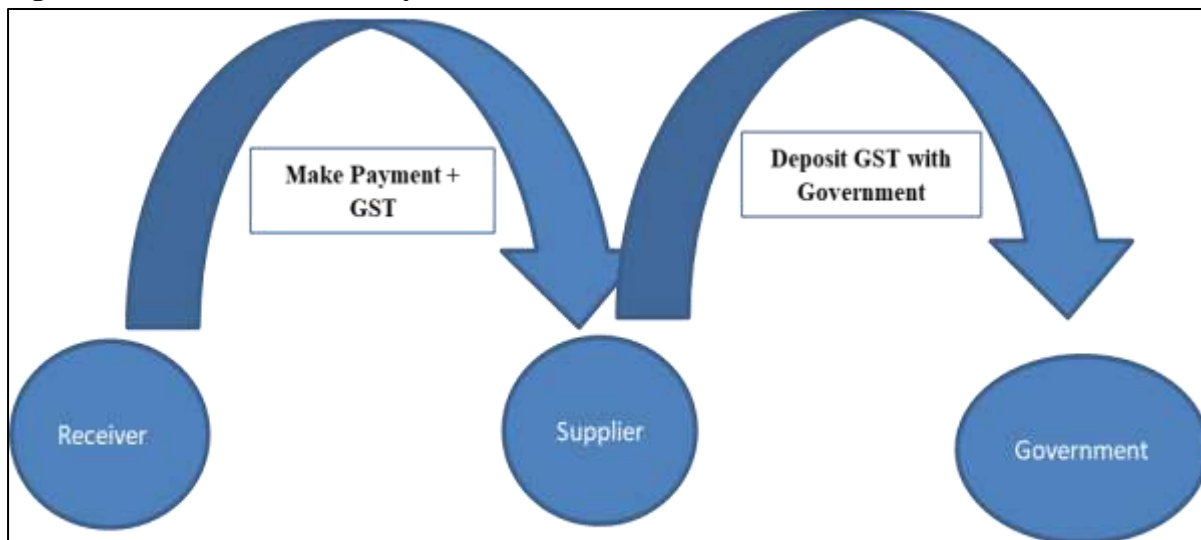
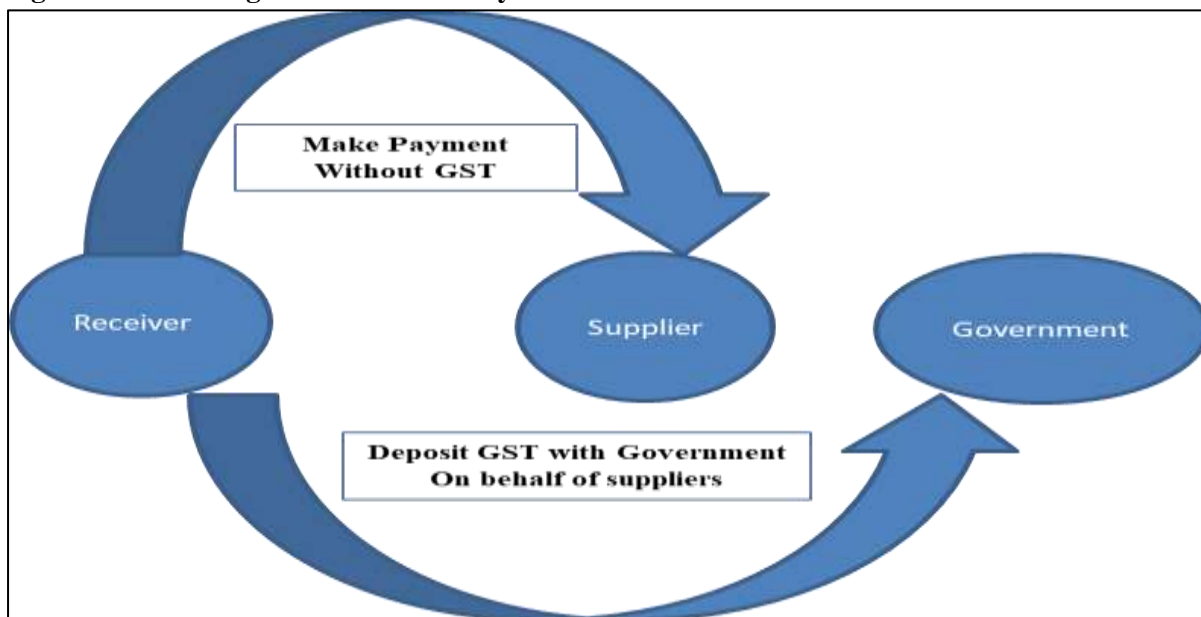


Fig 2. Reverse charge mechanism of levy of GST



Statutory Provisions relating to Reverse Charge:

Section 9 (3) and section 9 (4) of CGST ACT/IGST ACT, 2017, presents the payment of taxes on reverse charge basis.

Section 9 (3) shall be read as under-

“The government may on the recommendations of the council, by notification specify category of supply of goods and services or both, the taxes on which shall be paid on reverse charge basis by the recipient of such good and services or both and all the provisions of this act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.”

Section 9 (4) shall be read as under-

“The central tax in respect of supply of taxable goods or services or both by the suppliers, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.”

Similarly section 5 (3) and section 5 (4) of IGST Act 2017 also presents the payment of tax on reverse charge basis. **Section 5 (3) shall be read as under-**

“The government may on the recommendations of the council, by notification specify category of supply of goods and services or both, the taxes on which shall be paid on reverse charge basis by the recipient of such good and services or both and all the provisions of this act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.”

Section 5(4) shall be read as under-

“The integrated tax in respect of supply of taxable goods or services or both by the suppliers, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.”

Applicability of Reverse Charge Mechanism:

Reverse Charge Mechanism will be applicable under goods and services regime in the following circumstances:

Supply by Unregistered Dealer:

Provisions relating to supply of goods and/or services or both by an unregistered dealer to a registered person is given in sec. 9 (4) of Central Goods and Services Tax Act/ State Goods and Services Tax Act, 2017 and for Integrated Tax, section 5 (4) of Integrated Goods and Services Tax Act 2017.

If a vendor who is not registered under GST, supplies goods to a person who is registered under goods and services tax act 2017, then reverse charge would apply. This means that the goods and services tax will have to be paid directly by the receiver to the government instead of the supplier the registered dealer who has to pay goods and services tax under reverse charge has to do self-invoicing for the purchases made. For inter-state purchases the buyer has to pay integrated goods and services tax. For intra-state purchased central goods and services tax and state goods and services tax has to be paid under reverse charge mechanism by the purchaser.

1) Services Through an E-Commerce Operator

If an e-commerce operator supplies services then reverse charge will be applicable to the e-commerce operator. He will be liable to pay GST.

For example, urban clap company is providing services of plumbers, electricians, teachers, beautician's etc. urban clap is liable to pay GST and collect it from the customers instead of the registered service providers.

If the e-commerce operator does not have a physical presence in the taxable territory, then a person representing such electronic commerce operator for any purpose will be liable to pay tax. If there is no representative, the operator will appoint a representative who will be held liable to pay goods and services tax.

1) Goods and services notified by government for levy of Reverse Charge Mechanism:

Section 9 (3) of CGST/SGST Act 2017, and section 5 (2) of IGST act 2017, provides the applicability of Reverse Charge Mechanism on certain goods and services on which goods and services tax shall be levied. List of such goods and services are comes under the purview of amendments as per the requirements.

Liability of registration under Reverse Charge Mechanism:

A person who is required to pay tax under reverse charge has to compulsorily register under goods and services tax act and the compulsion of threshold limits is not applicable to them

Time of Supply:

a. Time of supply in case of goods

In case of reverse charge, the time of supply shall be the earliest of the following dates:

- the date of receipt of goods
- the date of payment
- the date immediately after 30 days from the date of issue of an invoice by the supplier

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

b. time of supply in case of services

In case of reverse charge, the time of supply shall be the earliest of the following dates:

- the date of payment
- the date immediately after 60 days from the date of issue of invoice by the supplier

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

Conclusion:

Before reaching towards any conclusion we must recall following important points relating to reverse charge mechanism:

- a) Goods and services notified under section 9(3) or section 9(4) must have person registered under GST.
- b) Under the reverse charge mechanism, the GST applicable must be submitted to the government on every 20th of next month.
- c) The input tax credit will be available for all the RCM goods and services used for the furtherance of business according to the GST paid. And the service acquiring individual, who is also paying reverse charge can take the benefits of an input tax credit.

- d) There will be no auto-population of details of the GST paid under the reverse charge mechanism in GSTR 2, but it will be subjected to the manual furnishing of details.
- e) Wherever the reverse charge mechanism is applicable the invoice must be arranged by the recipient on itself while the invoices along with the consolidated purchases should be issued on a daily basis on all the GST applicable who are under section 31(3).
- f) Payment voucher must be issued by the recipient at that at the time period of suppliers' payment.
- g) The ITC is not available for the reverse charge payment to the authority.
- h) The composition scheme registered individuals also come under the reverse charge, well there will be no credit of reverse charge mechanism be availed.
- i) The reverse charge mechanism is applicable to payments made in advance also.
- j) If in case, a dealer is unregistered under GST, then he is not allowed to deal in any interstate transactions. For any reverse charge mechanism to applicable, there must be only intra-state transactions.

On the basis of above discussion we are able to say that, though reverse charge mechanism is not a new concept yet its full fledge implementation in GST regime makes it novel. Up to certain extent reverse charge mechanism has both negative and positive effect on the country. Negative in the sense. It can be a burdensome on small supply receivers. On the other hand it will helpful in preventing tax evasion and promote transparency in payment of tax structure.

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