

Collection of tax at source

53.^[1] ^[2] Collection of tax at source

(1) Notwithstanding anything to the contrary contained in this Act, every electronic commerce operator (hereafter in this section referred to as the “operator”), not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.

Explanation.—For the purposes of this sub-section, the expression “net value of taxable supplies” shall mean the aggregate value of taxable supplies of goods or services or both, other than services notified under sub-section (5) of section 9, made during any month by all registered persons through the operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month.

(2) The power to collect the amount specified in sub-section (1) shall be without prejudice to any other mode of recovery from the operator.

(3) The amount collected under sub-section (1) shall be paid to the Government by the operator within ten days after the end of the month in which such collection is made, in such manner as may be prescribed^[3].

(4) Every operator who collects the amount specified in sub-section (1) shall furnish a statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under sub-section (1) during a month, in such form^[4] and manner as may be prescribed^[5], within ten days after the end of such month.

[Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the statement for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.]^[6]

^[7]Explanation: For the purpose of this sub-section, it is hereby declared that the due date for furnishing the said statement for the months of Oct, Nov & Dec, 2018 shall be the ^[8] ^[7th Feb, 2019].

(5) Every operator who collects the amount specified in sub-section (1) shall furnish an annual statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under the said sub-section during the financial year, in such form^[9] and manner as may be prescribed^[10], before the thirty first day of December following the end of such financial year.

[Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual statement for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.]^[11]

(6) If any operator after furnishing a statement under sub-section (4) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the statement to be furnished for the month during which such omission or

incorrect particulars are noticed, subject to payment of interest, as specified in sub-section (1) of section 50:

Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of statement for the month of September following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.

(7) The supplier who has supplied the goods or services or both through the operator shall claim credit, in his electronic cash ledger, of the amount collected and reflected in the statement of the operator furnished under sub-

section (4), in such manner as may be prescribed^[12].

(8) The details of supplies furnished by every operator under sub-section (4) shall be matched with the corresponding details of outward supplies furnished by the concerned supplier registered under this Act in such manner and within

such time as may be prescribed^[13].

(9) Where the details of outward supplies furnished by the operator under sub-section (4) do not match with the corresponding details furnished by the supplier under [section 37 or Section 39]^[14], the discrepancy shall be

communicated to both persons in such manner and within such time as may be prescribed^[15].

(10) The amount in respect of which any discrepancy is communicated under sub-section (9) and which is not rectified by the supplier in his valid return or the operator in his statement for the month in which discrepancy is communicated, shall be added to the output tax liability of the said supplier, where the value of outward supplies furnished by the operator is more than the value of outward supplies furnished by the supplier, in his return for the month succeeding

the month in which the discrepancy is communicated in such manner as may be prescribed^[16].

(11) The concerned supplier, in whose output tax liability any amount has been added under sub-section (10), shall pay the tax payable in respect of such supply along with interest, at the rate specified under sub-section (1) of section 50 on the amount so added from the date such tax was due till the date of its payment.

(12) Any authority not below the rank of Deputy Commissioner may serve a notice, either before or during the course of any proceedings under this Act, requiring the operator to furnish such details relating to—

- a. supplies of goods or services or both effected through such operator during any period; or
- b. stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, by whatever name called, managed by such operator and declared as additional places of business by such suppliers, as may be specified in the notice.

(13) Every operator on whom a notice has been served under sub-section (12) shall furnish the required information within fifteen working days of the date of service of such notice.

(14) Any person who fails to furnish the information required by the notice served under sub-section (12) shall, without prejudice to any action that may be taken under section 122, be liable to a penalty which may extend to twenty-five thousand rupees.

Explanation.—For the purposes of this section, the expression “concerned supplier” shall mean the supplier of goods or services or both making supplies through the operator.

[1] Enforced with effect from 1.10.2018- refer Not. No. 51/2018- CT, dt 13.9.2018 & Not. No. 52/2018-CT, dt. 5.11.2018.

[2] Refer Cir. No. 74/2018- GST, dt. 31.12.2018.

[3] Refer rule 85 of the CGST Rules, 2017.

[4] Refer Form GSTR-8 of the CGST Rules, 2017.

[5] Refer rule 67 of the CGST Rules, 2017.

[6] Inserted vide The Finance (No.2) Bill, 2019, with effect from a date yet to be notified.

[7]

Inserted by the CGST (Fourth removal of difficulties) order, 2018, w.e.f. 31-12-2018.

[8]

Substituted for 31st Jan, 2019 by the CGST (Second removal of difficulties) order, 2019, w.e.f. 1-2-2019.

[9]

See form GSTR-9B of the CGST Rules, 2017.

[10]

See rule 80 of the CGST Rules, 2017.

[11]

Inserted vide The Finance (No.2) Bill, 2019

[12]

See rule 87 of the CGST Rules, 2017.

[13]

See rule 78 of the CGST Rules, 2017.

[14]

Inserted vide CGST Amendment Act, 2018 with effect from 01.02.2019 vide CGST Not. No. 02/2019 dt. 29.01.2019.

[15]

Refer rule 79 of the CGST Rules, 2017.

[16]

Refer rule 67 of the CGST Rules, 2017.