Sellers selling through E-Commerce Operator – Part I

1. Background:

E-commerce has been an emerging business in India nowadays. More and more traders are expanding their businesses by trading through E-commerce operators. As GST law specifically provides for provisions for E-commerce operators, it would be pertinent to differentiate between E-commerce Operators and the sellers trading through E-commerce operator and whether these provisions of E-commerce operator would apply these sellers too.

(a) Meaning:

- E-commerce Operators:
  As Per Sec. 2(45) of the CGST Act, 2017,
  "E-commerce operator means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce.
  Any Person who is supplying Goods/Services on his account, however would not be considered as ***E-commerce operator****."*
  For e.g. Amazon, Flipkart, Myntra etc. are E-commerce Operators.

- The vendors are registered on the E-commerce operators' sites and sale goods to the customers through it;
- It can be understood that the sale of goods in taking place between the vendor and the customer directly and E-commerce operator only acts as person sharing platform for sale;
- Hence, the e-commerce operator does not act as an agent or reseller; instead only acts as aggregator for many vendors and many customers. Further, the E-commerce operator is only offering the platform to the sellers, which could be termed as "Supply of Service" against which the commission is charged;
- The E-commerce operator would charge commission and monthly subscription charges from the vendor. The E-commerce operator would also issue an invoice for the same with GST to the vendor;
- Once we understand the above trade structure, it can be construed that the E-commerce operators and the sellers of goods through E-Commerce, carry on completely different businesses and with different income sources. Hence, the tax implications are also different on each of them and the GST provisions as applicable to E-commerce operator would not apply to sellers of goods through E-commerce operators.

2. Rising concerns in the industry:

(a) GST Applicability on various transactions:

- As discussed earlier, the traders are mostly mistaken with applicability of GST on the above transaction i.e. applicability of GST on invoice issued by the E-commerce operator and issuance of invoice to the customer and on what basis the GST is to be applied?
- Further, other issues which they face relates to valuation i.e. tax is to be charged on gross sale value or net of commission (which they actually receive), tax to be charged for different type of customers?

(b) Reporting in GST Returns:

- The GST return has been enabled with functionality of reporting the sell through E-Commerce Operator separately. However, the industry has been facing various issues in reporting the transactions.

(c) Treatment of transaction between e-commerce operator and vendor:

- Generally, the E-commerce operators charge a fixed monthly subscription from the registered vendor and also, commission on each sale basis;
- The E-commerce operators raise an invoice for amounts charged like commission, fixed monthly subscription on the vendor.

3. GST Issues:

(a) GST applicability on various transactions:

- **Seller and Customer:**

When the seller sells to any customer through E-commerce operator, located anywhere, the location of supplier and the location of recipient (also considered as Place of Supply for current transaction) are the pillars to be considered for taxation purpose.

Sr. No.	Location of Supplier	Place of Supply (location of Recipient)	Location of E-commerce Operator	Nature of Supply	Taxation
1.	Maharashtra	Maharashtra	Maharashtra	Intra-State	CGST+SGST
2.	Maharashtra	Maharashtra	Karnataka	Intra-State	CGST+SGST
3.	Maharashtra	Karnataka	Maharashtra	Inter-State	IGST
4.	Maharashtra	Karnataka	Karnataka	Inter-State	IGST

Hence, it can be construed that the location of the E-commerce operator is not to be considered for charging the GST.

- **E-Commerce Operator and Seller**

The trade between E-commerce Operator and vendor is for sharing of platform for selling his products. Hence, the operator charges for the same on monthly basis as subscription. Further, the operator also charges for commission on each and every order which takes place through such e-commerce operator site.

Sr. No.	Location of Supplier (E-commerce Operator)	Place of Supply (location of Recipient)	Location of Seller	Nature of Supply	Taxation
1.	Maharashtra	Maharashtra	Maharashtra	Intra-State	CGST+SGST
2.	Maharashtra	Maharashtra	Karnataka	Inter-State	IGST
3.	Maharashtra	Karnataka	Maharashtra	Intra-State	CGST+SGST
4.	Maharashtra	Karnataka	Karnataka	Inter-State	IGST

Hence, it can be construed that the location of the customer/ sale is not to be considered for charging the GST on commission by the E-commerce operator.

(b) Valuation and GST treatment in case of Seller:

The rising concern in the industry is as to at what price the GST has to be discharged by the seller because the amount received by the seller is gross sale (-) commission of the E-commerce operator. Hence, it is important to understand the valuation provisions in this regard:

As per Section 15 of CGST Act, 2017,
"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."

- ❖ In current scenario, it can be construed that the seller is directly supplying the goods to the customer;
- ❖ Hence, the price actually paid or payable would be the gross price of the product;
- ❖ Further, the payment is received through the E-commerce operator which is only a payment settlement arrangement between E-commerce operator and the seller;
- ❖ Hence, the GST has to be discharged by the seller on total sale value of the product.
- ❖ For e.g. If the seller is selling a goods worth Rs.2,240 to the customer, then E-Commerce operator would raise an invoice on behalf of the vendor and send it to him for shipment he would ship the goods with Rs.2,000 + GST @ 12% as applicable. The seller will have to pay GST inclusive on Rs.2,240 to the Government treasury through the returns.
- ❖ However, the seller would actually only receive the Rs. 2,122.40 (i.e. Rs.2,000 + 12% GST – [5% commission on Rs.2,240 (i.e. MRP) + GST on commission @ 5%])
- ❖ The calculations are explained in details below:

	Amount (INR)	**Particulars**	**Remarks**
(a)	2,000		
(c) Add: 12% GST	240	GST	Output GST
(d) Gross Amount to be received by the seller	2,240		MRP of the Product
(e) Less: Commission of E-commerce Operator	112	Commission @ 5% of MRP	Expense for Seller
(f) GST on Commission	5.60	GST on Commission	Input GST
(g) Gross Amount Payable by Seller to the E-commerce Operator	117.60		
(h) Net amount Payable to Seller [(c) – (f)]	2,122.40	Amount received by the seller	Net amount received in bank account by seller

- ❖ What is the seller's Net impact on the books out of the above transaction? Is it Rs.2,122 which is received by him after netting off the expenses? No. Here, we need to understand that GST cannot be considered as a part of the net impact calculations. Hence, in current scenario also, the net impact of the transaction on the books of the seller will only be Rs.1,888 (i.e. Rs.2,000 – Rs.112);

- Hence, the transaction value for GST would be Rs.2,000 and not Rs.1,888;
- Further, as GST is not to be considered as part of my profit, where should it sit in my financials? The treatment of both GST has to be understood in detail:
  - First, GST of Rs.240 which is calculated on my selling price and forms part of my GST. This GST is my output GST i.e. This GST has been collected by the E-commerce operator on my behalf. Hence, ideally seller will have to pay Rs.240 to the Government as GST on sales;
  - Further, GST on commission of Rs.5.60. This GST is charged by the E-commerce operator on the commission. This is just like GST paid on any other purchases. Commission paid to the operator is an expense to the seller and GST charged on it is input GST. Hence, the GST of Rs.5.60 is seller's input GST;
  - The seller while filing the return can take credit of this GST paid of Rs.5.60. Hence, his net GST payable would be Rs.234.40.

(c) Reporting in GST Returns:

- Sellers selling through the E-commerce operator sale to the businesses holding GSTIN i.e. B2B as well as the end consumer i.e. B2C sales. While filing the GST returns, the reporting for such transactions has to be made separately which has been discussed below:

(1) GSTR 3B:

For B2B as well as B2C sales:

- Reporting for Sales: In Table 3.1., the aggregate taxable value and GST as applicable is to be shown under (a) Outward Taxable Supply (other than zero rated, nil rated and exempted);
- Reporting of B2C Sales: Table 3.2: As the seller is selling to unregistered dealers, the same is to be reported in Table 3.2 under sale to Unregistered customer;
- Reporting of Input GST charged on Commission: This GST is to be shown in Table 4 under (A)(5) All Other ITC entry. The GST input can be claimed through this entry.

(2) GSTR 1:

- Treatment for B2B Sales:
  (i) Table 4C – Supplies made through e-commerce operator attracting TCS- The details of all supplies made through e-commerce operator to a GSTIN holder would be reported under this head. Further, the GSTIN of the ecommerce operator in the respective State also has to be reported by the seller.
  Hence, GSTIN of each State of E-commerce operator has to be mentioned along with its rate wise taxable value and GST amounts.

- Treatment for B2C Sales:
  (i) Table 7A (1) an Table (B) (1) – All supplies to unregistered persons:
  Under this heading, all supplies made by the seller to unregistered persons are to be recorded. This would also include, the supplies through E-Commerce operators;
  (ii) Table 7A (2) (B2C Others) – Through E-commerce Operator:
  The Table also has separate section where the supplies through E-Commerce Operator attracting TCS have to be reported. Under this head, the GSTIN of E-

commerce operator of the respective State as to which the supply is being made is to be reported.

Hence, GSTIN of each State of E-commerce operator has to be mentioned along with its taxable value tax rates and GST amounts.

Practically, GSTIN of E-commerce operator for each such State is not readily available with the suppliers due to which reporting becomes difficult for the sellers.

These are major practical difficulties faced by the assesses selling through E-commerce operators while going through the GST compliances. There are also certain other issues faced by the industry and you can refer it to me on the below credentials. We would be happy to assist you in finding solution to the same.

Thanks and Regards,

CA Resham Aher

Director, CompEasy Consultancy Private Limited

Office No.1, Yashashree Apartment, Near Gaikwad Petrol Pump, Aundh, Pune- 411007.

Phone No. 094227 71979

077439 33964

Email ID- resham.a@compeasy.in