CA STUDENTS' CONFERENCE 2019

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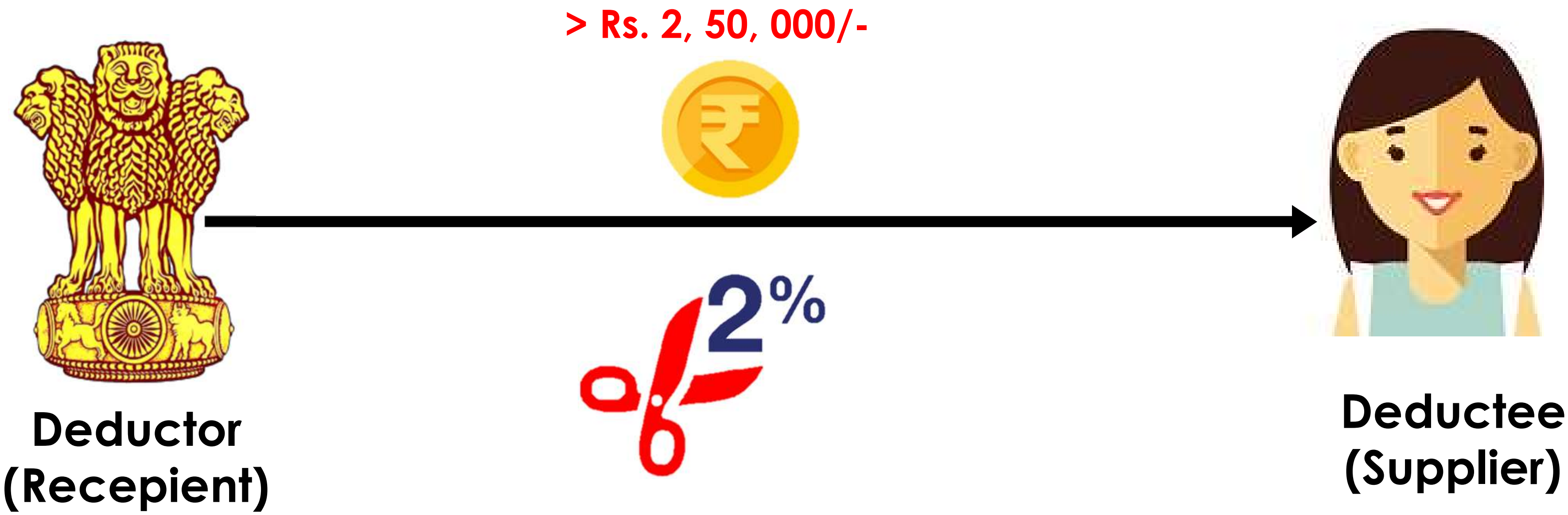
TDS and TCS provisions in GST

Why TDS?

SECTION 51 OF THE CGST ACT, 2017



Deductor?

Specified Category (u/s 51(1))

- **(a) A dept. or an establishment of the CG or SG*** ~~**Ministry of Defence**~~
- **(b) Local authority**
- **(C) Governmental agencies**

Notified Category (u/s 51(1)(d))

- (a) an authority or a board or any other body, -
  (i) set up by an Act of Parliament or a State Legislature; or
  (ii) established by any Government,
  with **fifty-one percent or more** participation by way of equity or control, to carry out any function
- (b) Society established by the CG or the SG or a LA
- (c) public sector undertakings*

Notif No. 50/2018 dated 13th of September, 2018

- Appointed 1st of October, 2018 for Sec 51
- Notified specified persons u/s 51(1)(d)

RATE – TIME – VALUE

Under 1% CGST + 1% SGST
(or)
2% under IGST Act

Transaction basis

Payment made
(or)
Credited

* Under a Contract
* Invoice Value excl
  - GST
  - Cess

Special Cases

- Exempted Goods or Services or both

- Goods on which GST is not leviable
  Eg: Petrol, Diesel, ATF, Alcohol for human consumption etc.,

- Advances for Goods or Services or both

Example

- Mr. X makes supply of Taxable Goods to Kochi Corporation under a contract value of 8 Lakhs and invoice has been issued as follows:
  - 21^{st} of Jan, 2019 50,000 + GST
  - 5^{th} of Feb, 2019 2,40,000 + GST
  - 10^{th} of June, 2019 3,50,000 + GST

TDS will be applicable?

Special Cases

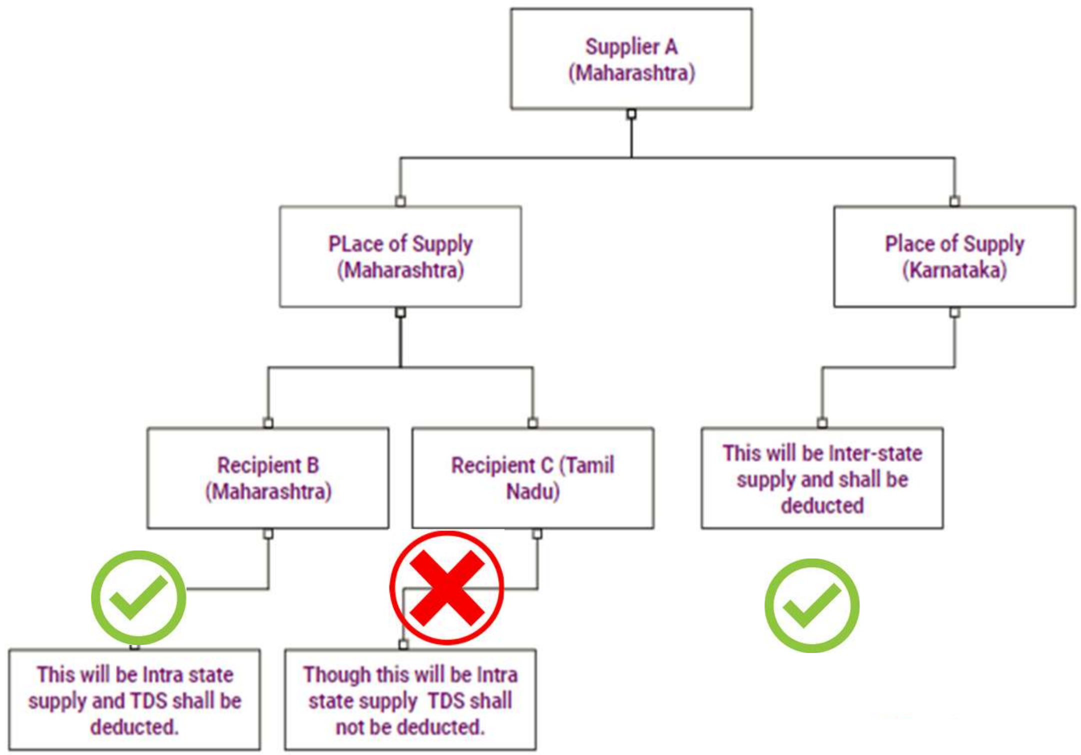
- **RCM Cases** U/S 9(3) & 9(4)
- **UR Supplier**
- **Composite Supplier**

Exception

No deduction of Tax is required when –

the location of supplier
and
place of supply

is different from the State of the registration of the recipient.



Compliances

51(2)

Deposit within **10 days** from the end of the month in which tax is deducted.

- E-Cash Ledger
- Set-off – Liab. Ledger

Rule 66

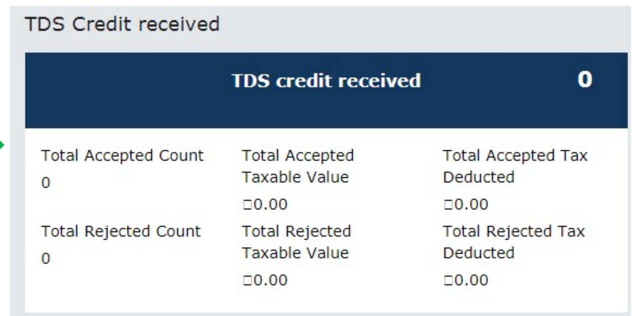
- File return in FORM **GSTR-07**
- by the **10th** of the succeeding month in which such tax deduction is made.

51(3)

- Issue TDS certif. in FORM **GSTR-7A**
- **within five days** of date of remittance of TDS to the Govt.

Matching Concept

Auto



TDS Credit received

TDS credit received		0
Total Accepted Count 0	Total Accepted Taxable Value □0.00	Total Accepted Tax Deducted □0.00
Total Rejected Count 0	Total Rejected Taxable Value □0.00	Total Rejected Tax Deducted □0.00

Accept

Deductor files
GSTR 7

Auto-Population in PART C of
GSTR 2A/4A
(Deductee)

Credit in
E- Cash Regsiter
51(5)

PENAL PROVISIONS

- **Failure to furnish the certificate in form GSTR-7A - Section 51(4)**

  Rs. 200 per day (CGST + SGST)
  from the day after the expiry of such five day period until the failure is rectified, subject to a maximum amount of five thousand rupees.

- **Late filing of TDS Returns – Sec 47**

  Rs. 200 per day (CGST + SGST)
  during such failure continues, subject to a maximum amount of five thousand rupees

PENAL PROVISIONS

Section 51(6)

Belated deposit

The deductor shall pay **interest** u/s 50(1) at a rate of **18%**

Section 51(7)

Defaulted in TDS Obligation

- Bonafide Case – Sec 73
- Mala-fide Case – Sec 74

Section 122(1)(v)

Penalty

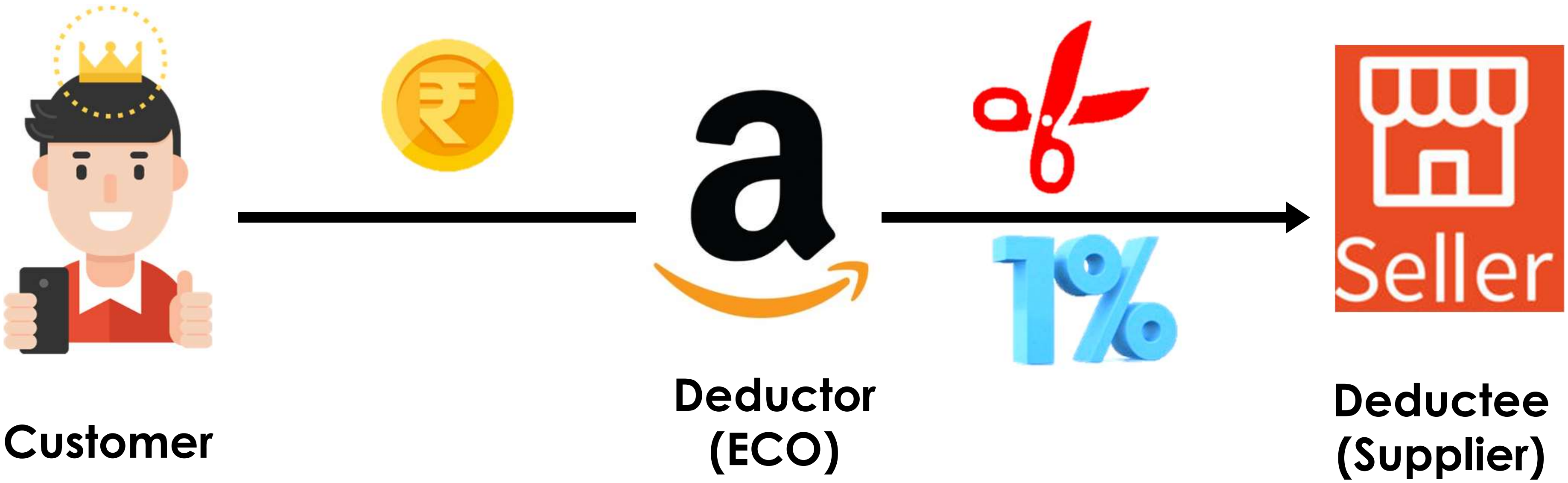
- Rs. 10,000 (or)
- Tax not deducted/ evaded / Short Deduction

Refund of the excess amount deducted u/s 51(8)

In case the amount is claimed by the taxable person in his electronic cash ledger	Refund to deductor is not possible in such case. However, deductee can claim a refund of tax subject to refund provisions of the act. Practically it is not possible to claim any erroneous deduction of TDS by the deductor.
In case the amount is not so claimed by the dealer	Refund of erroneous excess TDS deducted is possible to deductor, subject to refund provision and procedure of the act.

Why TCS?

SECTION 52 OF THE CGST ACT, 2017



Deductor?

- ✓ Electronic Commerce Operator
- ✗ Agent
- ✓ Consideration is to be collected by ECO on behalf of the Supplier

RATE – TIME – VALUE

0.5% CGST +
0.5 % SGST
(or)
1% under IGST Act

Is to be collected
on TRANSACTION basis

- COD?

On NET Value of Taxable Supplies

on MONTHYLY basis

Net Value?

- **Agrregate Turnover**
  Other than services u/s 9(5)
  (-) Returns (in case of goods)

  = Net Turnover

- **If Turnover is negative? C/F ?**

Special Case - Warehouse

Warehouse

Supplier declared as Addl POS	Supplier has not so declared
ECO ≠ Agent	ECO = Agent
✓	✗

Special Case – Deemed Supplier

Services notified u/s 9(5)

ECO = **Deemed Supplier** ✖ **TCS**

Compliances

51(3)

Deposit within 10 days from the end of the month in which tax is collected.

- **File return in FORM GSTR-08** (rule 67)
- **by the 10th of the succeeding month in which such tax deduction is made.**

Annual Statement 9B

- **31st Dec, following the FY**

Matching Concept

Deductor files
GSTR 8

Auto-Population in PART C of
GSTR 2A
(Deductee)

Credit in
E- Cash Regsiter

52 (7)

PENAL PROVISIONS

- **Failure to pay to the Government the amount deducted:**
  The deductor shall pay interest at a rate not exceeding **eighteen** percent in addition to the amount of tax deducted.

- **Failure to deduct the tax or deducts an amount which is less than the amount required to be deducted or failure to pay to the Government , the amount deducted as tax:**

  Liable to pay a penalty of ten thousand rupees or an amount equivalent to the tax evaded or the tax not deducted or deducted but not paid to the Government, whichever is **higher**.

----- **Section 122(1)**


Thank You!