CHAPTER -4

Composition Levy

Introduction

Compliances in the GST Law are very high which cannot be complied by the small dealer, small manufacturer and small service provider. For the purpose of above mentioned persons, composition scheme has been prepared. Generally in every law composition scheme is there such as VAT, Excise etc. Under this scheme you,

- Pay taxes only at a certain percentage of turnover
- File Less number of returns,
- Have to maintain less books and records as compared to general dealer.
- an option of not having to maintain detailed records or follow tax invoicing rules
- Are not allowed to take Input Tax Credit (ITC)
- Are not allowed to collect tax on sales

Statutory Provisions & Rules

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<tr>
<td>Turnover limit for Composition Levy [Section 10(1)]</td>
<td>As Section 10(1) of CGST Act, 2017, Registered person, whose aggregate turnover in the financial year did not exceed Rs. 1 crore (Rs. 75 Lakhs for north-eastern states), may opt to pay composition levy.
<table>
<tr><td>Note: North eastern states includes</td></tr>
<tr><td>1. Arunachal Pradesh;</td></tr>
<tr><td>2. Assam;</td></tr>
<tr><td>3. Manipur</td></tr>
<tr><td>4. Meghalaya</td></tr>
<tr><td>5. Mizoram;</td></tr>
<tr><td>6. Nagaland;</td></tr>
<tr><td>7. Sikkim;</td></tr>
<tr><td>8. Tripura;</td></tr>
<tr><td>9. Himachal Pradesh.</td></tr>
</table>
Note:- In case of Uttarakhand and Jammu and Kashmir, the turnover limit will be Rs. 1 Crore.

Explanation of Aggregate Turnover as per Section 2(6)
<table>
<tr><td>Aggregate Turnover Includes value of all outward supplies of persons having the same PAN be computed on all India basis.</td><td>Aggregate Turnover Excludes</td></tr>
<tr><td>(a) Taxable supplies;</td><td>(i) Inward supplies effected by a person which are liable to tax under reverse charge mechanism; and</td></tr>
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<tr><td>(b) Exempt Supplies:
□supplies that have a 'NIL' rate of tax;
□supplies that are wholly exempted from SGST, UTGST, CGST, IGST or CESS; and
□supplies that are not taxable under the Act (alcoholic liquor for human Consumption, Petrol Etc.);</td><td rowspan="3">(ii) Various taxes (CGST, SGST, UTGST, IGST) under the GST law, Compensation cess.</td></tr>
<tr><td>(c) Export of goods or services or both, including zero-rated supplies.</td></tr>
<tr><td>(d) Inter- State Supplies</td></tr>
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<td>Rate of Tax under Composition Scheme [Section 10(1) read with rule 7]</td>
<td>A registered person, whose aggregate turnover in the preceding FY does not exceed Rs. 75 lakh, may opt to pay an amount calculated at the prescribed rates [mentioned in table below] during the current FY, in lieu of the tax payable by him.
<table>
<tr><th>S.No.</th><th>Category of registered persons</th><th>Rate of tax (As per Rule 7 of Chapter II of CGST Rules, 2017)</th><th>Rate of tax (As per SGST Rules)</th><th>Effective rate of tax</th></tr>
<tr><td>1</td><td>Manufacturers, other than manufacturers of such goods as may be notified by the Government.</td><td>1%</td><td>1%</td><td>2%</td></tr>
<tr><td>2</td><td>Restaurant services and outdoor catering services</td><td>2.5%</td><td>2.5%</td><td>5%</td></tr>
<tr><td>3</td><td>Any other supplier eligible for composition levy under Section 10 and the provisions of this chapter</td><td>0.50%</td><td>0.50%</td><td>1%</td></tr>
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<td>Taxable persons not eligible for composition scheme [Section 10(2)]</td>
<td>A person shall not be eligible to opt for this scheme if-

a) Engaged in supply of services other than supplies of food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption) i.e. Restaurant services;

b) Engaged in making any supply of goods which are not leviable to tax under under the
CGST Act/SGST Act/ UTGST Act. (alcohol for Human Consumption, Petrol Etc.)

c) Engaged in making any inter-state outward supplies of goods;

Note:- There is no restriction on Composition Supplier to procure goods from inter-State suppliers.

d) Engaged in making any supply of goods through an electronic commerce</td>
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<tr><td></td><td>operator who is required to collect tax at source u/s 52; or

e) Manufacturer of notified goods u/s 10(2)(e) [CGST] i.e.-

♦ Ice Cream and other edible ice whether or not containing cocoa,

♦ Pan Masala, or

♦ Tobacco and manufactured tobacco substitutes.

Composition Scheme for person having same PAN :- Proviso to Section 10(2) of the CGST Act 2017, places a condition that when more than one registered persons is having the same PAN, the registered person shall not be eligible to opt for the composition scheme unless all such registered persons opt to pay tax under the scheme.
Eg: A Ltd has 4 units located in Punjab, Telangana, Madhya Pradesh and Gujarat. Each unit has to obtain separate registration in each State though all the units have same PAN. Condition is that all 4 units have to opt for composition levy or all have to pay under normal scheme.

Eg. An individual with different business verticals, like:

o Mobiles & Accessories
o Stationery
o Franchisee

In the above scenario, the composition scheme will be applicable for all three business verticals. The dealer cannot opt for any one business vertical to fall under the composition scheme. For example, if the business vertical's place of business is in Karnataka & Kerala for a single PAN, each of the business vertical in that particular state should have only 'Intra-State(within state)' supplies.</td></tr>
<tr><td>Switch to normal scheme exceeds the limits of turnover etc. [Section 10(3) read with rule 6]</td><td>➢ The option exercised by a registered person to pay amount under composition levy shall remain valid so long as he satisfies all the conditions mentioned in the said section and these rules.
➢ The option to pay tax under composition scheme lapses from the day on which his aggregate turnover during the FY exceeds the specified limit (Rs. 100 lakh/Rs. 75 lakh).
➢ Such person is required to pay normal tax under section 9(1) from the day he ceases to satisfy any of the conditions prescribed for composition levy. He shall issue tax invoice for every taxable supply made thereafter.
➢ Further, he is required to file an intimation for withdrawal from the scheme in FORM GST CMP-04 form within 7 days of the occurrence of such event.
➢ However, such person shall be allowed to avail the input tax credit in respect of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him and on capital goods held by him on the date of withdrawal and furnish a statement, within 30 days of withdrawal of the option, containing the details of such stock held in prescribed form on the common portal</td></tr>
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Restrictions on Collection of Tax or Availment of ITC [Section 10(4)]	The Supplier opting for Composition levy CANNOT collect tax from any person The supplier opting for Composition levy CANNOT AVAIL Input Tax Credit (ITC).
▪ **Bill of Supply to be issued**.	Supplier opting for Composition Levy SHALL issue BILL OF SUPPLY as per Section 31(3)(c) of the CGST Act, 2017
Panel Provision to Violation of the condition [Section 10(5) read with rule 6(4) and 6(5)]	➢ If a taxable person has paid tax under the composition scheme though he was not eligible for the scheme, the person would be liable to penalty and the provisions of section 73 or 74 of the CGST Act shall be applicable for determination of tax and penalty. ➢ Further, where the proper officer has reasons to believe that the registered person was not eligible to pay tax under composition levy or has contravened the provisions of the Act/provisions of this Chapter, he may issue a show cause notice to such person in prescribed form. ➢ Upon receipt of the reply to such show cause notice from the registered person in prescribed form, the proper officer shall issue an order in prescribed form within 30 days of the receipt of such reply, either accepting the reply, or denying the option to pay tax under composition levy from the date of the option or from the date of the event concerning such contravention, as the case may be.
Intimation of opting for composition levy [Rules 3 & 4]	**(1) Intimation by person applying for Fresh registration:-** New applicant has been given option in Part B of Form GST REG-01 to pay tax under composition levy and same will be considered as intimation to pay tax under composition levy. *Effective Date-* Such intimation shall be considered only after the grant of registration to the applicant and his option to pay tax under composition levy shall be effective from the date from which registration is effective. **(2) Registered under GST and person switches to Composition Scheme:-** must electronically file the following: (a) Intimation in FORM GST CMP – 02 prior to the commencement of the financial year for which the option to pay under composition levy is to be exercised and (b) Statement in FORM GST ITC - 3 for details of ITC reversal relating to inputs lying in stock, inputs contained in semi-finished or finished goods within 60 days of commencement of the relevant financial year *Effective Date-* The option to pay tax under composition levy shall be effective from the beginning of the FY.
Note:- 1. As per rule 3(5) of CGST Rules 2017 intimation sent by any place of business in any State shall be deemed to be intimation in respect of other place of business under same PAN. 2. Rule 5(2) of the CGST Rules, 2017: Intimation in every year is not required.	
Conditions and restrictions for composition levy [Rule 5]	- Person opting for composition levy has to comply with the following conditions: The person opting for the scheme must neither be a casual taxable person nor a non-resident taxable person. - The goods held in stock by him have not been purchased from an unregistered

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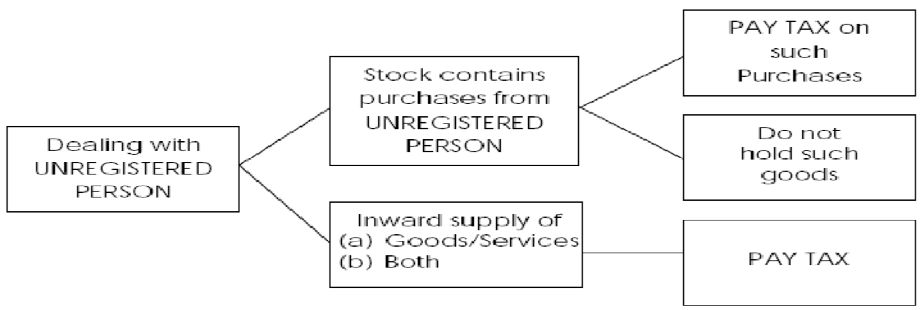
supplier and where purchased, he pays the tax as per normal rates under reverse charge under section 9(4).

- he shall pay tax as per normal rates under section 9(3)/9(4) (reverse charge) on inward supply of goods or services or both.

- he was not engaged in the manufacture of goods as notified under section 10(2)(e), during the preceding FY. The following goods have been hereby notified vide Notification No. 8/2017 CT dated 27.06.2017:
<table>
<tr><th>Tariff item, subheading, heading or Chapter*</th><th>Description</th></tr>
<tr><td>2105 00 00</td><td>Ice cream and other edible ice, whether or not containing cocoa</td></tr>
<tr><td>2106 90 20</td><td>Pan masala</td></tr>
<tr><td>24</td><td>All goods, i.e. Tobacco and manufactured tobacco substitutes</td></tr>
</table>

- he shall mention the words “composition taxable person, not eligible to collect tax on supplies” at the top of the bill of supply issued by him; and
- he shall mention the words “composition taxable person” on every notice or signboard displayed at a prominent place at his principal place of business and at every additional place or places of business.


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<tr>
<td>Other Provision related to composition levy</td>
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If taxable person switches over from composition scheme to normal scheme, he is entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the day immediately preceding the date from which he becomes liable to pay tax under section 9 of CGST Act.[Section 18(1)(c) of CGST Act]
A person paying GST under composition scheme should issue Bill of Supply and not tax invoice.[section 31(3)(c) of CGST Act]
The taxable person paying GST under composition scheme is required to file only one return per quarter, within 18 days after end of each quarter [section 39(2) of CGST Act]

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Practical Questions

Question 1

Mr. Ram is running a consulting firm and also a readymade garment show room, registered in same PAN. Turnover of the showroom is Rs. 60 lakh and Receipt of the consultancy firm is Rs. 12 Lakh in the preceding financial year.

You are required to answer the following:

a) Mr. Ram is eligible for Composition Scheme?

b) Whether it is possible for Mr. Ram to opt for composition only for Showroom?

c) Rework, if Mr. Ram is running a restaurant and well as readymade garment show room, whether he is eligible for composition?

d) If the turnover of garment showroom is 75 Lakh in the preceding financial year and there is no consulting firm whether he is eligible for Composition?

Answer:-

a) Mr. Ram is providing services in consulting firm hence he is not eligible for composition scheme.

b) If a business is ineligible to opt for composition then all other business registered under the same PAN shall automatically ineligible for the composition scheme. So Mr. Ram is not eligible for composition scheme only for showroom.

c) Restaurant services and readymade garments show room are eligible for the composition scheme. Hence Mr. Ram is eligible for Composition Scheme. Since, his aggregate turnover is Rs. 72 lakhs (i.e. less than Rs. One crore).

d) Yes, Mr. Ram is eligible for composition scheme as turnover of his firm does not exceed Rs. One crore in the preceding F.Y.

Question 2

Mr. Rahim is dealer who is selling taxable goods, exempted goods and non-taxable goods (i.e. Liquor). His turnover in the preceding financial year is Rs. 35 lakh, Rs. 10 lakh, Rs. 15 lakh goods which are leviable to GST, exempted and non-taxable respectively. Whether MR. Rahim is eligible for Composition Scheme?

Answer:

If a person is selling the goods, which are not leviable to tax under GST, then he is not eligible to opt for composition scheme.

In this case aggregate turnover not exceeds Rs. One crore even though, Mr. Rahim is not eligible for composition Scheme.

Question 3

Mr. H registered in Hyderabad, who is selling goods from Telangana to Tamil Nadu. Turnover of Mr. H is Rs. 73 Lakh in the preceding financial year. Whether Mr. H is eligible for Composition?

Whether your answer will change if Mr. H is making purchase from Tamil Nadu and selling goods in Telangana?

Answer:

Mr. H is not eligible for composition as he is making interstate outward supply.

If Mr. H is making purchase form Tamil Nadu then he is eligible for composition as there is restriction on outward interstate supply not on inward interstate supply.

Question 4

Turnover of Mr. X in the preceding financial year is Rs. 49 Lakh. Mr. A has opted for Composition Scheme. During the year on 18th February 2018, turnover of Mr. X exceeds Rs. 1 crore. What compliances are required to carry by Mr. X.

Answer:

Mr. X is required to do the following compliances:

File a FORM GST CMP-04 within 7 days i.e. before 25th February 2018.

Details of stock and capital goods, as on the 18th February, 2018, are required to file in FORM GST ITC-01 within

30 days i.e. before 20th March 2018 to take the credit of input on the same.

Question : 5

M/s X Pvt. Ltd., is a manufacturer having two units namely Unit –A in Andhra Pradesh and another Unit – B in Tamil Nadu. Total turnover of two units in last Financial Year was Rs. 95 lakh (Rs. 10 lakh of Unit – A + Rs. 85 lakh of Unit – B).

Total turnover of two units in the second quarter of this financial year was Rs. 15 lakh (Rs. 5 lakh of Unit – A + Rs. 10 lakh of Unit – B). Applicable rate of CGST 9% and SGST 9%. Find the Net liability of X Pvt. Ltd.

Note: M/s X Pvt. Ltd., is not availing input tax credit.

Answer:

Since, the company is not availing the benefit of input tax credit the said company can pay GST under
composition levy under sec. 10(1) of the CGST Act, 2017.

Applicable rate of CGST 1% and SGST 1%.

Unit	Location	Turnover in the previous	Turnover in 2nd Quarter of the	Total tax (@2%)

		F.Y.	F.Y.		
				1% CGST	1% SGST
A	AP	10 lakh	5 lakh	5,000	5,000
B	TN	85 lakh	10 lakh	10,000	10,000

Question 6

Hotel King Pvt., Ltd. provider of restaurant services in New Delhi. They also serve beer, whisky and so on. Turnover in the preceding previous year is Rs. 67 lakhs. Hotel King Pvt. Ltd. is eligible for composition scheme in the current year.

Answer:

Hotel King Pvt. Ltd., is not eligible for composition scheme. Since they are supplying the product, which is not levied to GST (namely beer, whisky).

Question 7

Peter England is a trader who sells his ready-made clothes online on Amazon India (an Electronic Commerce Operator). He received an order for Rs. 12, 00,000 in the previous year. Peter England also supplied goods from there out lets. Aggregate turnover of the company in the previous year was Rs. 21,00,000.

Peter England is eligible for composition scheme.

Answer:

No. Peter England engaged in making supply of goods through an electronic commerce operator who is required to collect tax at source under section 52 of CGST Act, 2017. Hence, Peter England is not eligible for composition scheme.

Question 8

Hot Breads Pvt. Ltd is the supplier of bakery products registered in the current financial year (2017-18) w.e.f. 1st Oct 2017. In the month of Oct 2017 total taxable supplies Rs. 88 lakhs.

Answer the following:

(a) Company is eligible for Composition Scheme?

(b) If so company wants to pay tax @ 1% being a trader. However, the Deputy Commissioner of Central Tax contended that the assessee is liable to pay tax @ 5% under the Food and Restaurant Services category? Advise.

Answer:

(a) Hot Breads Pvt. Ltd. is eligible for composition levy in the current year.

(b) The supply of food and restaurant services category is the only service included under the composition scheme. For a business to be categorised as food and restaurant services, there needs to be an element of service involved.

In the given case, supply of bakery products, there is only a supply of goods i.e. food items but there is no element of supply of service. Hence supply of bakery products is eligible to pay GST @1%, under the Traders category and not Food and Restaurant Services category.

Therefore, department contention is not correct.