

Understanding GST Model Law – Time of Supply of goods

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This is the fourth in the series of articles to understand the GST Model Law. The purpose is mainly to create an awareness and enable one to look at the unintended impact on his/her sector. It would aid in making representations to make this law tax payer friendly, simple and transparent.

The GST Model Law has been put in public domain to get the feedback for amendments. This law requires in the opinion of the paper writers large number of amendment to even make it workable.

Background

Under the GST regime, the taxable event that attracts the GST levy is supply of goods and / or services. The determination of “time of supply of goods and services” is very important as the liability to pay GST by a taxable person arises at such point of time. Separate provisions are prescribed for determination of time of supply of goods and time of supply of services. The liability to pay CGST / SGST on the goods shall arise at the time of supply as determined in terms of the provisions of section 12.

In this backdrop, the paper writers have examined the provisions relating to the time of supply of goods under the GST regime.

Time of supply of goods:

The time of supply of goods shall be earliest of the following dates:

(i) Where the goods are required to be removed: The date on which the goods are removed by the supplier for supply to the recipient. or

(ii) Where the goods are not required to be removed: The date on which the goods are made available to the buyer. The goods are said to be made available to buyer when goods are placed in disposal/control of recipient.

Goods are not required to be removed when physically not capable of being moved, supplied in assembled or installed form or supplied by supplier to agent or principal; or

1. **The date of issue of invoice by supplier:** The supply is deemed to be made to extent it is covered by supplier invoice or
2. **The date on which the supplier receives the payment-** The supply is deemed to be made to extent it is covered by payment. The date when supplier receives payment is earliest of date on which the payment is entered in his books of accounts or the date on which the payment is credited to his bank account; or
3. The date on which the recipient shows the receipt of the goods in his books of account.

Example: Where the goods are required to be removed

- When manufactured taxable goods are removed from factory for sale (supply) to customer on 15th June 2017
- Invoice issued on 30th June 2017

- Payment received on 15th July 2017
- Date when receiver shows receipt in books of account 20th June 2017
Time of supply is 15th June 2017

To continue with above example:

When goods are not required to be removed (assembly at site, moulds and dies) :

When paper making machine is coming into existence and installed at site, handed over to buyer on 5th June 2017 and all other dates of earlier example remain same.

5th June 2017 on which the goods are made available to the buyer is time of supply.

Time of supply of continuous supply of goods

1. **Where successive statements of accounts or successive payments are involved:** The time of supply shall be the date of expiry of the period to which such successive statements of accounts or successive payments relate.
2. **If there are no successive statements of account:** The earliest of date of issue of the invoice (or any other document) or the date of receipt of payment.
3. **“Continuous supply of goods”** means
 1. a supply of goods which is provided, or agreed to be provided,
 2. continuously or on recurrent basis,
 - under a contract,
 1. whether or not by means of a wire, cable, pipeline or other conduit,
 2. and for which the supplier invoices the recipient on a regular or periodic basis
 - 3. In addition the Central or a State Government may, on the recommendation of the GST Council, specify, by notification, the supply of goods that shall be treated as continuous supply of goods;

Example for continuous supply of goods: Contract for supply of concrete at site from April 2017 to September 2017.

Where successive statements of accounts are involved/payments successive: Statement of accounts are drawn up for supply of concrete on quarterly basis. For quarterly period of April to June 2017 statement is made on July 15th 2017. Time of supply is date of expiry of period covered in statement of account ie June 30th 2017.

If there are no successive statements of account:

Date of issue of the invoice July 15th 2017
The date of receipt of payment July 30th 2017
Time of supply is 15th July 2017.

Time of supply in case of supply of goods under reverse charge

In case of supplies in respect of which tax is paid on reverse charge basis, the time of supply shall be the **earliest** of the following dates, namely-

- the date of receipt of goods, or
- the date on which the payment is made, or

- the date of receipt of invoice, or
- the date of debit in the books of accounts.

Example could be as under:

Date of receipt of goods 15th May 2017

Date of payment 15th July 2017

Date of receipt of invoice 1st June 2017

Date of debit in books 10th June 2017.

Time of supply of goods 15th May 2017.

Time of supply in case of Goods sent for approval and sold thereafter

If the goods (being sent on approval or sale or return) are removed before it is known whether a supply will take place, the time of supply shall be at the time when it becomes known that the supply has taken place or six months from the date of removal, whichever is earlier.

Example:

Goods sent for approval of prospective customer 10th April 2017

Customer intimating approval on 10th December 2017.

Time of supply 10th Oct 2017. (6 months)

Residuary Rule

When the point of supply cannot be determined as per the above rules, the following rule shall be followed:

- Where a periodical return is to be filed, the date on which such return is filed, or
- In any other case, the date on which CGST / SGST is paid.

Comparison with the present law

Under Central Excise: The time when manufactured excisable goods are removed from factory or used for own consumption of manufacturer. The concept of goods being removed to receiver/customer continues under GST.

VAT: In state VAT laws, in Karnataka, there is legal fiction which provides that sale of goods is completed **when ownership of goods is transferred or possession of goods is given to the contractee.**

Under the GST regime, transfer of ownership or possession of goods is not treated as time of supply of goods.

Recommendations / Suggestions:

- The provision maybe amended to ensure that mere issuance of invoice[without corresponding supply of goods] is not treated as time of supply of goods. This practice is there in government supplies where inordinate delays for passing the bill are seen for errors in invoice.

- Specify in the law what is said to be date on which the recipient shows the receipt of the goods in his books of account. Is it date when the goods are brought into stores/GRN is issued or on date when entry is passed in books of account maintained such as in Tally.

Conclusion:

In the article paper-writers have examined the basic concept of time of supply of goods under GST law. The model law could be referred for further details.

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