



CA Vishal Bhattad

Section 51 :- TDS

Following recipients are liable to deduct TDS

- a) dept. Or establishment of govt. (except ministry of defence)
 - b) Local Authority
 - c) Govt. Agencies
 - d) Notified Person
- i) Authority, board or other body setup with 51% equity concern with govt.
 - ii) Society established by CG/SG/LA under the Society registration act
 - iii) PSU
- Any Act* (for a, b, c)
Established by Govt. (for i, ii, iii)

TDS provisions shall not apply to supply between one person to other person as specified above

- ⇒ TDS Rate :- (1% CGST + 1% SGST) or 2% IGST
- When = Total value of taxable supplies > ₹ 2,50,000 under a contract
- ⇒ Tds to be deducted from - the payment made or credited to supplier of taxable goods &/or services
- ⇒ Time Limit to deposit = within 10 days of end of month in which TDS is deducted
- ⇒ Deductor shall furnish return = GSTR 7
- ⇒ TDS certificate to be furnished to deductee - GSTR -7A
- ⇒ Deductee can claim credit of TDS in his electronic cash Ledger
- ⇒ Interest on delay deposit of TDS = 18% p.a.
- ⇒ Excess/Erroneous deduction of TDS = Refund in accordance with provision of section 54
- No refund if TDS is credited to the electronic cash ledger of deductee
- ⇒ Deductor has to be compulsorily registered without any threshold limit
- ⇒ Amount in default shall be determined as per sec 73 or 74
- ⇒ TDS not to be deducted in following case -
 - Supplier in state A, place of supply in State A & Recipient is in state B.
 - Total value of Taxable supply <= ₹ 2,50,000 under a contract
 - When recipient is Authorities under ministry of Defense
 - When tax is to be paid under RCM by recipient i.e. deductee
 - When payment is made to unregistered supplier
 - when payment relates to the Cess component.
 - receipt of exempted goods &/or services
 - Goods on which GST is not leviable
 - All activities specified in schedule III irrespective of value



Section 52:- TCS

Who is required to collect Tax at source ?

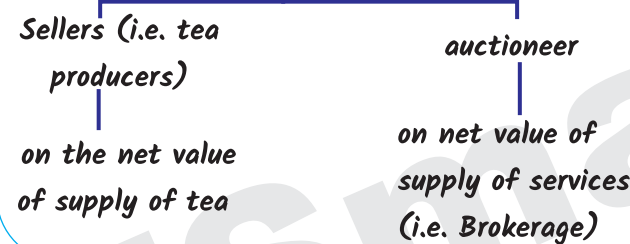
ECO not being agent

Where consideration is collected by ECO for supplies made through it

➔ Net value of taxable supplies = Aggregate value of Taxable supplies (other than services notified u/s 9(5)) made during month by all registered persons through ECO (-) aggregate value of taxable supplies returned to suppliers during month

➔ Net value of taxable supplies are calculated for each supplier separately on monthly basis. No TCS if net value is nil or negative

CBIC Clarification - collection of TCS by Tea Board respectively from the



Some cases where TCS provisions are not applicable:-

1. If supplier of services is not liable for registration, ECO is not required to collect tax at source on supplies made through it.
2. On Exempt supplies
3. On supplies made by composition taxpayer as he cannot make supplies through ECO u/s 10(2)(d)
4. On Import of goods or services or both as it is covered under RCM

At what Rate ?

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

On what Amount ?

Net value of taxable supplies made through it by other supplier

Time limit for deposit of tax

10th of next month

Monthly Statement

In GSTR-8 by 10th of next month but max within 3 years from its due date

Annual Statement

in GSTR-9B before 31st December following the end of F.Y.

Exceptions to services notified u/s 9(5) where TCS provisions are applicable to ECO :-

- a) Renting of accommodation by hotel who is liable to register U/s 22(1)
- b) Housekeeping services by supplier who is liable to register U/s 22(1)
- c) Restaurant services at specified premises where declared tariff is >= ₹7500 per unit per day

Some other provisions relating to TCS:-

1. Foreign ECO not having place of business in India would be liable to TCS where supplier & customers are in India & shall register in each State / UT.
2. ECO has to obtain separate registration for TCS though already registered under GST.
3. Cir. No. 194/06/2023:- If multiple ECOs are involved in a single transaction of supply, then who is liable for compliances u/s 52 including TCS collection in following cases:-
 - i) Supplier-side ECO himself is not the supplier:- Supplier-side ECO who finally releases the payment to supplier.
 - ii) Supplier-side ECO is himself the supplier:- Buyer-side ECO while making payment to supplier.
4. ECO is required to register for TCS in each State/ UT in which suppliers listed on their platform are located
5. TCS is not required to be collected when a supplier is selling through his own website
 - his own product
 - goods purchased from different vendors & then sold under own billing
6. Services notified u/s 9(5)

- 1) Commissioner may notify extended time limit by recording the reason in writing
- 2) Extension by Commissioner of State tax or UT tax shall be deemed to be notified by Commissioner

After filing of GSTR - 8 by ECO, supplier can claim TCS in their E-cash ledger

If ECO discovers any omission or incorrect particulars in monthly statement (other than in scrutiny, audit, inspection or enforcement activity by tax authorities)

Rectify it in the statement of the month in which it is noticed along with interest as per sec 50(1)

Maximum time limit to rectify is earlier of:- 30th Nov of next F.Y. or date of filing annual statement

Registration

