

GST on advances received for future supplies

Time of supply determines when the taxpayer is required to discharge tax on particular supply. Time of supply provisions are governed by Section 12 to 14 of the CGST Act, 2017. As per the said provisions, the time of supply is determined with reference to the time when the supplier receives payment with respect to the supply as well as a few other references like issue of invoice, receipt of goods etc. In general, the time of supply is earliest of issuance of invoice or receipt of payment. Therefore, in case of advance received for any supply, time of supply is fixed at the point when advance is received, irrespective of the fact whether the supply is made or not. Accordingly, GST needs to be paid with reference to the time at which advance is received, if any, and this requires compliances with a few procedures, documentation and reconciliation of taxes paid on the advances and supply made.

As per the explanation 1 to Section 12 of the CGST Act, 2017 a “supply” shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment. For instance, an advance of Rs. 10 lacs is received

for a supply worth Rs. 1 crore to be made in future. The time of supply to the extent of advance received i.e. Rs.10 lacs shall be at the time of receipt of advance and for the balance amount of Rs. 90 lacs, it shall be determined with reference to date of issue of invoice and other parameters.

It happens many a times that supply is cancelled after paying advances. In such cases, depending on agreements, the advances received may be refunded, forfeited, or adjusted for later supplies. All this may require different tax treatments.

Recognizing the fact that small businessmen may be burdened with compliance issues with regard to GST on advances, the Government has come out with Notification no. 66/2017 dated 15.11.2017, whereby all suppliers of goods who have not opted for composition scheme, have been exempted from the burden of paying GST on Advances received. For such categories of taxpayers, time of supply would arise only at the time of issue of invoice and they need to discharge GST liability accordingly. But the supplier of services are required to pay GST at the time of receipt of advances.

Many of the goods which were in the highest tax bracket of 28% have been brought down to the 5/12/18% bracket after the decision of the GST Council in its meeting held on 10.11.2017. Notification no. 41/2017-Central Tax (Rate) dated 14.11.2017 has also been issued giving effect to the revised rates. It may so happen that advances were given when the rate was 28% and the supplier has paid tax on it. Subsequently the rate has been reduced to say 18%. Now, assuming supply happened after the change in tax rate and

the invoice for the same was also issued after the change in tax rate, the time of supply, according to section 14 of the CGST Act, is the date of issue of invoice. Therefore, 10% additional tax paid can either be adjusted against the balance payment of tax against that particular supply or claimed back as refund.

For the categories of taxpayers who are required to discharge GST on Advances, the following would be relevant.

Compliances under GST:

As per Section 31 (3) (d) of the CGST Act, 2017, a registered person shall, on receipt of advance payment with respect to any supply of goods or services or both, issue *a receipt voucher* or any other document, containing such particulars as may be prescribed, evidencing receipt of such payment;

The receipt voucher shall contain the particulars as contained in Rule 50 of the CGST Rules, 2017 which are as follows:

- a) name, address and Goods and Services Tax Identification Number of the supplier;
- b) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters hyphen or dash and slash symbolized as “-” and “/” respectively, and any combination thereof, unique for a financial year;
- c) date of its issue;
- d) name, address and Goods and Services Tax Identifica-

- tion Number or Unique Identity Number, if registered, of the recipient;
- e) description of goods or services;
 - f) amount of advance taken;
 - g) rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
 - h) amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
 - i) place of supply along with the name of State and its code, in case of a supply in the course of inter-State trade or commerce;
 - j) whether the tax is payable on reverse charge basis; and
 - k) signature or digital signature of the supplier or his authorised representative.

What if the rate of tax or place of supply is not determinable at the time of receiving advance payment? The proviso to Rule 50 of the Rules *ibid* provides that where at the time of receipt of advance, if the rate of tax is not determinable, the tax shall be paid at the rate of 18% and if the nature of supply is not determinable, the same shall be treated as inter-State supply and GST should be paid accordingly.

Once an advance payment has been made and a receipt voucher has also been issued, there may be situations wherein the supply is subsequently not made and the amount of advance is to be refunded back. There could

be multiple situations. One is that no tax invoice is issued till then. In that case, the advance taken can be refunded and a refund voucher need to be issued in such cases. However, if tax invoice has already been issued, credit note will have to be issued in order to square off the transaction. Credit Note can be issued in terms of the provisions contained in Section 34 of the Act *ibid* read with Rule 54 of the Rules *ibid*.

As per Section 31 (3) (e) *ibid*, where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a *refund voucher* against such payment;

The refund voucher shall be as per Rule 51 of the Rules *ibid* and shall contain following particulars:

- a) name, address and Goods and Services Tax Identification Number of the supplier;
- b) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters' hyphen or dash and slash symbolized as "-" and "/" respectively, and any combination thereof, unique for a financial year;
- c) date of its issue;
- d) name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered,

- of the recipient;
- e) number and date of receipt voucher issued in accordance with the provisions of rule 50;
 - f) description of goods or services in respect of which refund is made; (g) amount of refund made;
 - g) rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
 - h) amount of tax paid in respect of such goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
 - i) whether the tax is payable on reverse charge basis; and
 - j) signature or digital signature of the supplier or his authorised representative.

As per Rule 56(3) of the Rules *ibid*, every registered person shall keep and maintain a separate account of advances received, paid and adjustments made thereto.

Table 11 of GSTR 1: Consolidated Statement of Advances Received/Advance adjusted in the current tax period/ Amendments of information furnished in earlier tax period: Rate wise and intra/interstate wise

Table 11A of FORM GSTR-1 captures information related to advances received, rate-wise, in the tax period and tax to be paid thereon along with the respective place of supply (POS). Table 11B captures adjustment of tax paid on advance received and reported in earlier tax

periods against invoices issued in the current tax period. The details of information relating to advances would be submitted in Table 11A only if the invoice has not been issued in the same tax period in which the advance was received. Whereas adjustments made in respect of advances received during the earlier tax period, but invoices issued in the current tax period would be reflected in Table 11B.

It may be noted that dates for FORM GSTR-2 and FORM GSTR-3 have not been notified so far.

GST on advance received by Composition dealer:

A Composition dealer is governed by Section 10 of the Act *ibid* which states as under:

10. (1) Notwithstanding anything to the contrary contained in this Act but subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, whose aggregate turnover in the preceding financial year did not exceed one crore rupees, may opt to pay, in lieu of the tax payable by him, an amount calculated at such rate as may be prescribed, but not exceeding,—

(a) one per cent of the turnover in State or turnover in Union territory in case of a manufacturer or trader,

(b) two and a half per cent of the turnover in State or turnover in Union territory in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II, and subject to such conditions and restrictions as may be prescribed.

The provisions of Section 10 are subject to Section 9(3) & (4) which would mean that the composition dealer will have to make necessary compliances on account of reverse charge supplies (apart from payment of tax u/s 10 at the prescribed rate on his outward supplies). It may, however, be noted that provisions of Section 9(4) of the Act *ibid* has been suspended till 31.03.2018 vide Notification no.38/2017-Central Tax (Rate) dated 13.10.2017. Section 10 of the Act *ibid* also suggests that a composition dealer has to pay, in lieu of tax payable by him, an amount calculated at the prescribed rate. The prescribed rate is applied on the turnover in the state of the composition dealer. Turnover in a state has been defined in Section 2(112) of the Act *ibid* as “turnover in State” or “turnover in Union territory” means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis) and exempt supplies made within a State or Union territory by a taxable person, exports of goods or services or both and inter-State supplies of goods or services or both made from the State or Union territory by the said taxable person but excludes central tax, State tax, Union territory.

In Table 6 of the GSTR-4, the return for composition taxpayer, the tax on outward supplies made shall be computed as net of advance and goods returned. Further, in Table 8, consolidated statement of Advances paid/Advance adjusted on account of receipt of supply need to be detailed.

A combined reading of the above provisions would

indicate that a composition dealer will not have to pay any tax on advances received, if such advances pertain to his outward supplies. The advances received and goods returned do not form part of taxable supplies and do not form part of the turnover in a state at the end of the quarter (tax period) for the purpose of computing turnover in a state.
