



Issues in the E-Commerce Industry under GST



Detailed Speaker Note with Statutory References, Notifications, Forms and Case Law

Organised by **AICAS** (Association of Chartered Accountants Society, **CFO World** and **FICAF**



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Agenda — Scope of Presentation



1. Scope of Discussion



2. Important Definitions



3. Taxability Models



4. Section 9(5) Notifications



5. Section 9(5) vs Section 52



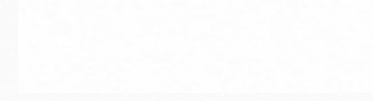
6. Role and Responsibilities of ECO



7. TCS Provisions and Compliances



8. Valuation Challenges



9. Place of Supply Challenges



10. Returns and Forms



11. Practical Issues for Suppliers



12. Departmental Views



13. Judicial Developments



14. Notifications and Circulars



15. Checklist and Closing



1. Broad Areas to be Covered

Broad Areas

-  Taxability of transactions in the e-commerce ecosystem
-  Role and responsibilities of e-commerce operators
-  TCS provisions and related compliances
-  Valuation and place of supply challenges
-  Returns and credit notes
-  Recent judicial developments and departmental views
-  Practical issues faced by suppliers selling through e-commerce platforms, including mismatch
-  Important circulars, notifications, High Court and Supreme Court rulings

Core Theme



E-commerce is not a separate levy.

GST applies to the underlying supply of goods or services or both.



supply happens through a digital/electronic network



consideration may be collected by the platform



tax may be payable either by the actual supplier or by the e-commerce operator



TCS may apply — transaction-level reporting and matching becomes critical

2. Important Definitions



**Electronic Commerce —
Section 2(44) CGST Act**



**Electronic Commerce
Operator —
Section 2(45) CGST Act**



**Supplier —
Section 2(105) CGST Act**



**Taxable Person /
Registered Person —
Section 2(107) / 2(94)
CGST Act**



2.1 Electronic Commerce – Section 2(44), CGST Act



Definition

Electronic commerce means:
supply of goods or services or both,
including digital products, over
digital or electronic network.

Coverage



Sale of goods through online marketplace



Online food delivery



App-based taxi booking



Online hotel booking



Home service booking through app



Digital products supplied online



Mere advertisement or display of goods online may not by itself be e-commerce unless the supply is taking place over the digital/electronic network.

Section 2(44), CGST Act

2.2 Electronic Commerce Operator — Section 2(45), CGST Act



Definition

Electronic commerce operator means any person who owns, operates, or manages digital or electronic facility or platform for electronic commerce.

Examples Include



Amazon, Flipkart-type marketplace



Swiggy/Zomato-type restaurant platform



Uber/Ola-type mobility platform



MakeMyTrip/Goibibo-type travel platform



Urban service/home repair platform



Online marketplace for goods/services

Important Distinction

1

Supplier on own website
— Not marketplace model

Goods/services sold directly by supplier on own website/app.

2

Marketplace Model
— Involves three persons: supplier, customer, platform/ECO

Operator facilitates supplies between suppliers and customers on its digital/electronic platform.



Section 52 TCS normally becomes relevant when there are supplies by other suppliers through the operator and the operator collects consideration.

2.3 Supplier & 2.4 Taxable/Registered Person

2.3 Supplier — Section 2(105), CGST Act

Supplier means the person supplying goods/services and includes an agent acting as such on behalf of the supplier.

Special proviso for specified actionable claims: person organising/arranging supply of specified actionable claims through digital/electronic platform may be deemed supplier.

Relevance to E-Commerce

1	Normal marketplace sale — seller is supplier of goods
2	Notified section 9(5) services — ECO is treated as person liable to pay tax as if supplier
3	Specified actionable claims/online money gaming — special deeming fiction may make platform itself supplier

2.4 Taxable Person / Registered Person



Section 2(107) CGST Act —

taxable person means a person registered or liable to be registered under sections 22 or 24.



Section 2(94) CGST Act —

registered person means person registered under section 25.

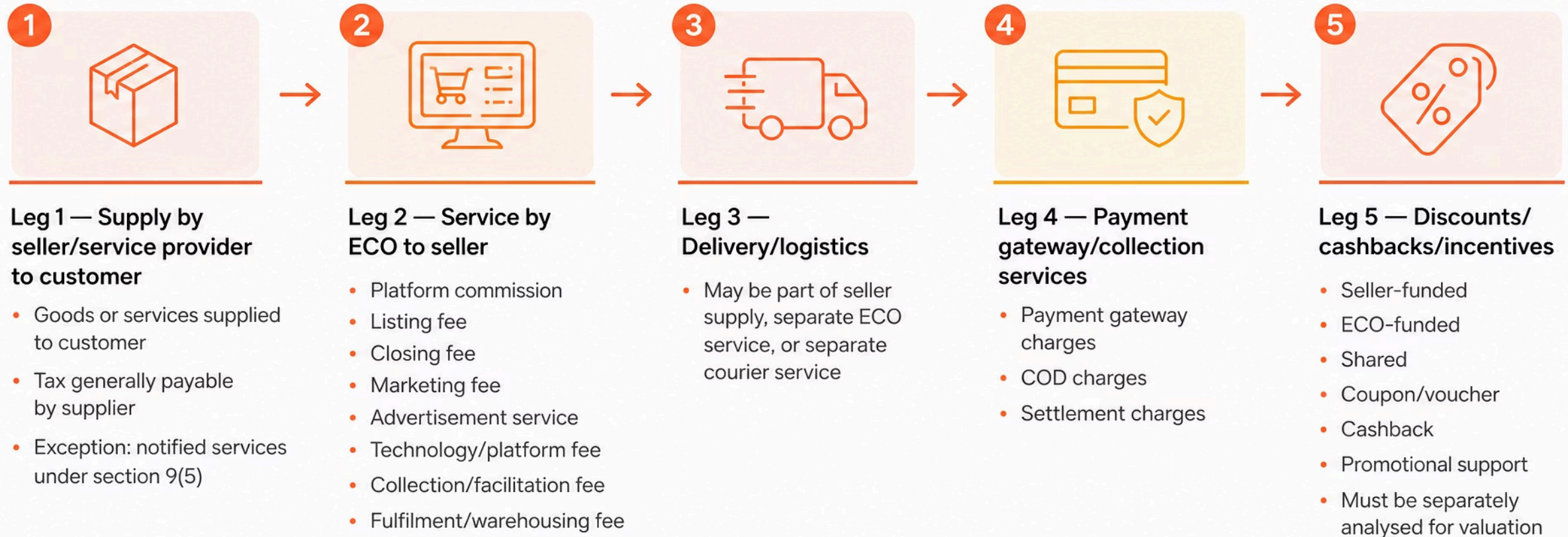


E-commerce suppliers often become liable due to section 24, even where turnover is below normal threshold, subject to later relaxations for small goods suppliers.

3. First Step — Identify Transaction Legs Separately

Part B — Taxability of Transactions in the E-Commerce Ecosystem

In e-commerce, one order may contain many supplies



5. Taxability Model 2 — Marketplace Sale of Services Not Covered by Section 9(5)



EXAMPLE SCENARIO

Consultant/service provider listed on online platform.
Customer books service through platform.
Platform collects consideration and remits to service provider.



IMPORTANT

TCS applies only on taxable supplies made through ECO where consideration is collected by ECO.

GST TREATMENT



SERVICE PROVIDER

- Supplier of service
- Liable to tax if registered or liable to register
- Reports service in GSTR-1/ GSTR-3B.



ECO

- Collects TCS under section 52 if conditions are satisfied
- Charges GST on platform fee/commission to service provider.



NOTE

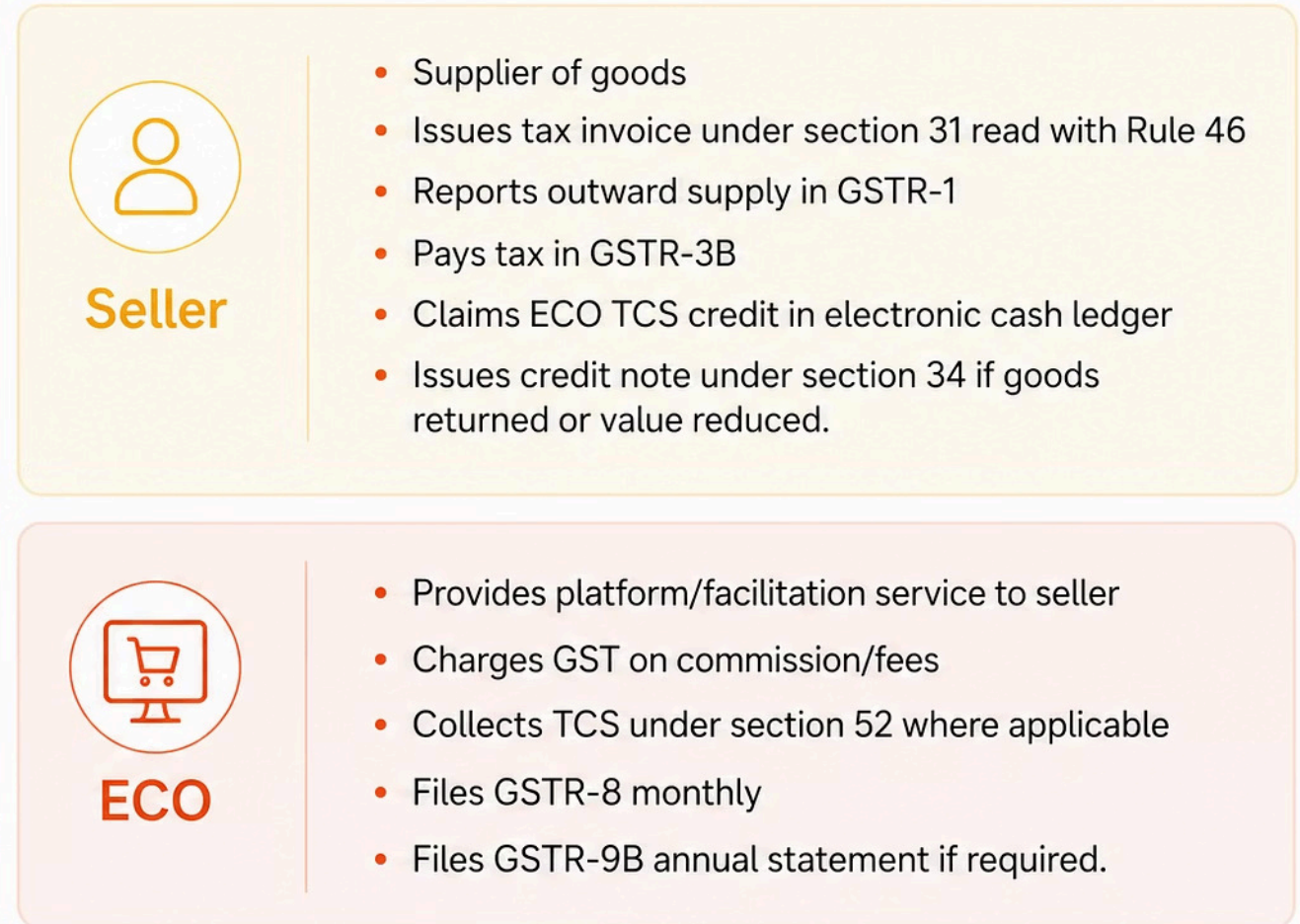
TCS does not apply to supplies notified under section 9(5).

4. Taxability Model 1 — Normal Marketplace Sale of Goods

Example flow



GST treatment



6. Taxability Model 3 — Notified Services under Section 9(5)

Legal provision

Section 9(5), CGST Act — for notified categories of services, tax on intra-State supplies shall be paid by ECO if such services are supplied through it.

Section 5(5), IGST Act — similar provision for inter-State supplies.

Legal Effect

- 1 ECO pays tax as if it is the supplier liable for paying tax
- 2 This is a statutory fiction only for tax payment
- 3 The underlying service is still provided by actual service provider to customer
- 4 ECO own commission/service remains separately taxable.



Proviso for Foreign ECO —

If ECO has no physical presence in taxable territory:

- representative in taxable territory is liable.

If no physical presence and no representative:

- ECO must appoint person in taxable territory for paying tax.



Uploaded IGST material reproduces section 5(5) and explains that for inter-State notified services supplied through ECO, tax shall be paid by ECO as if supplier liable for paying tax.

7. Important Section 9(5) Notifications

Notification Number	Date	Subject	Key Addition
No. 17/2017-Central Tax (Rate)	28.06.2017	Section 9(5) notified services	Passenger transport by radio taxi/motorcab/maxicab/motorcycle; Accommodation in hotels/inns/guest houses/clubs/campsites subject to conditions.
No. 23/2017-Central Tax (Rate)	22.08.2017	Section 9(5) expansion	Housekeeping services such as plumbing, carpentering etc. through ECO, subject to conditions.
No. 17/2021-Central Tax (Rate)	18.11.2021	Restaurant service	Restaurant service supplied through ECO into section 9(5) mechanism from 01.01.2022, subject to exclusions/conditions.
Parallel IGST Notifications	Corresponding dates	Inter-State supplies	For section 5(5), IGST Act.



Practical Point — Always check: whether service is covered by notification, effective date, exclusions, whether supplier is otherwise liable for registration, whether ECO or actual supplier reports the tax.

8. Section 9(5) versus Section 52 – Most Important Distinction



Section 9(5):

- ECO pays GST on notified services
- ECO treated as if supplier for paying tax
- No TCS on that notified supply
- Actual supplier may not be liable merely because service is supplied through ECO
- ECO reports tax liability in GSTR-3B.



Section 52:

- ECO only collects TCS on taxable supplies made by other suppliers through it
- Actual supplier remains liable to pay GST
- TCS is not tax payment by ECO on behalf of supplier; it is collection at source
- Supplier gets amount in electronic cash ledger
- ECO files GSTR-8.

Section 9(5) is a tax payment liability provision; section 52 is a tax collection and reporting provision.

9. Registration Responsibilities

Part C – Role and Responsibilities of E-Commerce Operators

Provision	Subject	Key Requirement	Practical Impact
Section 24(x), CGST Act	ECO liable to collect TCS	Every ECO required to collect tax at source under section 52 is compulsorily required to register	Mandatory registration regardless of turnover.
Section 24(iv), CGST Act	ECO liable under section 9(5)	Persons required to pay tax under section 9(5) are compulsorily required to register	Mandatory registration for notified service ECO.
Section 24(ix), CGST Act	Supplier selling through ECO	Persons supplying goods/services through ECO who is required to collect TCS under section 52 are generally compulsorily required to register, subject to exemptions/relaxations	Mandatory for most ECO suppliers.
Rule 12, CGST Rules — FORM GST REG-07	Registration form for TCS collector	Person required to collect TCS under section 52 applies in FORM GST REG-07	Specific registration form applicable.

10. Small Supplier Relaxation for Goods through ECO



**Notification No. 34/2023-Central Tax,
dated 31.07.2023 –**

Grants exemption from registration to persons supplying goods through ECO, subject to conditions.

Conditions for exemption:

- ✓ Aggregate turnover below threshold prescribed under section 22
- ✓ Person must not make inter-State supply
- ✓ Supply through ECO restricted to one State/UT
- ✓ PAN required
- ✓ Enrolment number required on common portal
- ✓ Such person cannot supply through ECO unless enrolment number is allotted.



**Notification No. 37/2023-Central Tax,
dated 04.08.2023 –**

Prescribes special procedure for ECO in respect of such unregistered small goods suppliers.

ECO obligations:

- ✓ Allow supply only after enrolment number is allotted
- ✓ Do not allow inter-State supply by such person
- ✓ Do not collect TCS under section 52 from such exempt unregistered person
- ✓ Furnish details of such supplies in GSTR-8
- ✓ Where multiple ECOs are involved, the ECO finally releasing payment is treated as the relevant ECO.

11. Operational Responsibilities of ECO – Part 2



D. Place of Supply Controls

- Customer location
- Delivery address
- Billing address
- Supplier location
- Warehouse/fulfilment centre
- POS rules under IGST Act.



E. Reporting Controls

- Correct GSTR-8 reporting
- Correct reduction of returns from net taxable supplies
- Correct TCS rate
- Correct vendor GSTIN
- Correct State-wise reporting.



F. Data Retention and Departmental Response

- Maintain: order data, invoice data, settlement reports, cancellation/return reports, stock data in ECO-managed godowns/warehouses, vendor ledgers, payment trail, customer refund trail.

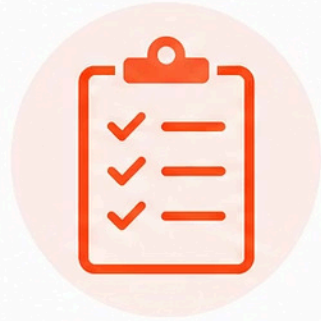


Section 52(12), CGST Act — Officer not below rank of Deputy Commissioner may require ECO to furnish details of: supplies effected through operator, stock of goods held by suppliers in godowns/warehouses managed by operator and declared as additional places of business.



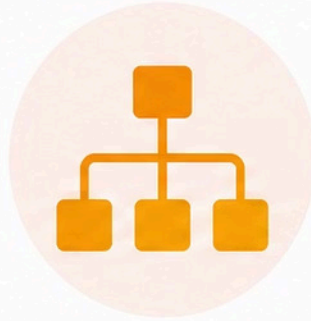
Failure may attract penalty up to **₹25,000** under **section 52(14)**.

11. Operational Responsibilities of ECO — Part 1



A. Onboarding Controls

Verify: GSTIN, PAN, registration status, composition status, enrolment number for exempt small goods supplier, State of supplier, additional place of business/warehouse details.



B. Classification Controls

Identify whether supply is: goods, service, composite supply, mixed supply, section 9(5) notified service, exempt/non-taxable supply, zero-rated supply.



C. Tax Rate Controls

- Correct HSN/SAC
- Correct rate
- Correct exemption entry
- Correct treatment of restaurant/accommodation/transport/home services.



Part D – TCS Provisions and Compliances



12. Statutory Provision — Section 52 CGST Act



13. TCS Rate



14. Payment and Statement — GSTR-8



15. Annual Statement — GSTR-9B



16. Credit of TCS to Supplier



17. Matching Mechanism and Mismatch

12. Statutory Provision – Section 52, CGST Act



Basic Requirement:

Every ECO, not being an agent, shall collect TCS on net value of taxable supplies made through it by other suppliers where consideration is collected by ECO.



Net value of taxable supplies means aggregate value of taxable supplies of goods/services/both: made during the month, by registered persons, through the operator, other than section 9(5) notified services, reduced by aggregate value of taxable supplies returned to suppliers during the month.



Gross
Taxable Supplies
through ECO

–



Section 9(5)
Supplies

–



Returns
during month

=



Net Value of
Taxable Supplies –
TCS Base

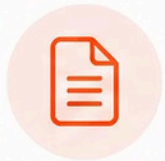


Note:

The official text states that net value of taxable supplies excludes services notified under section 9(5) and is reduced by taxable supplies returned during the month.

13. TCS Rate — Current and Earlier

Period	CGST Rate	SGST/UTGST Rate	IGST Rate	Total (Intra-State)	Total (Inter-State)
Earlier Rate (up to 09.07.2024)	0.5%	0.5%	1%	1%	1%
Current Rate (from 10.07.2024)	0.25%	0.25%	0.5%	0.5%	0.5%



Notification No. **15/2024-Central Tax**,
dated 10.07.2024 — CGST TCS
component reduced to 0.25%.

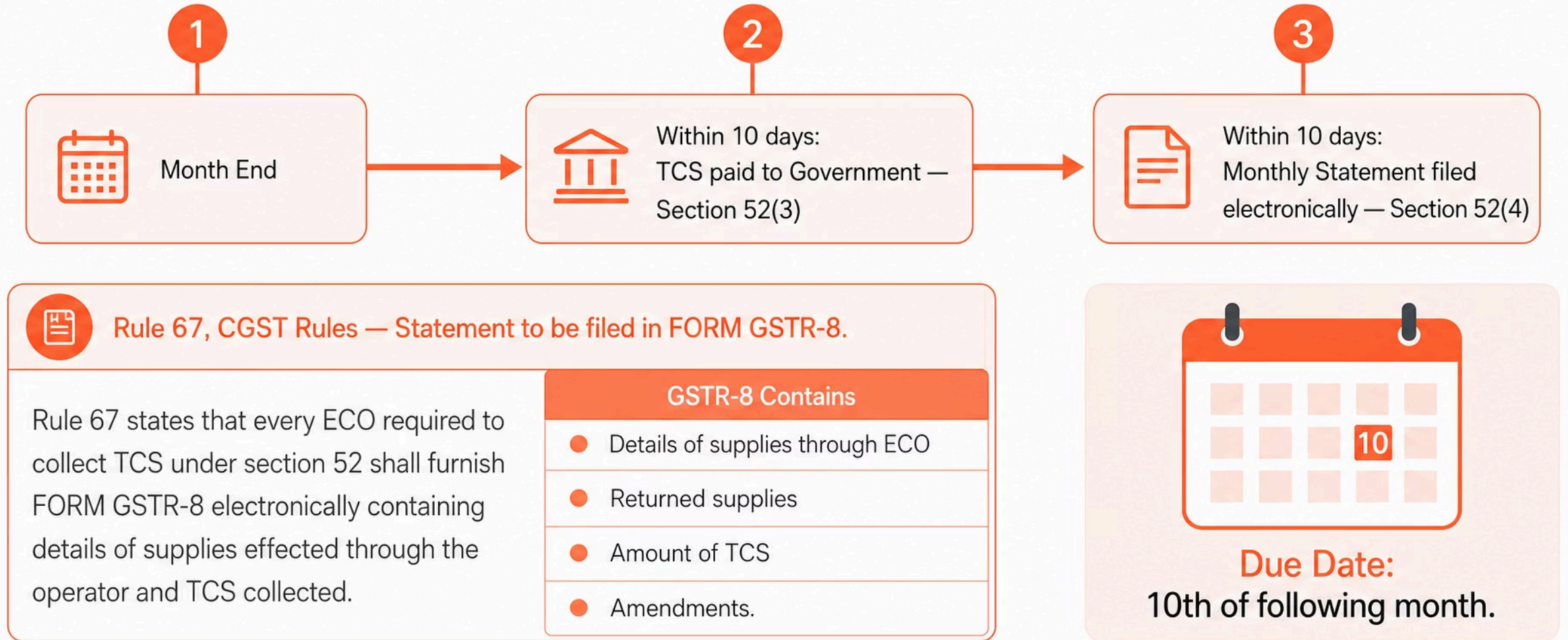


Notification No. **01/2024-Integrated Tax**,
dated 10.07.2024 — Corresponding
IGST TCS rate reduction.



Uploaded GST material also records that TCS is now **0.25% CGST** and **0.25% SGST/UTGST**,
and **0.5% IGST** after the 2024 amendment.

14. Payment and Statement — Section 52(3) and 52(4), CGST Act



15. Annual Statement — Section 52(5), CGST Act



Section 52(5), CGST Act —

ECO must furnish annual statement before 31 December following end of financial year.



Rule 80(2), CGST Rules —

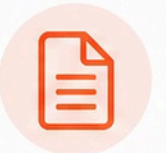
ECO required to collect TCS under section 52 shall furnish annual statement in FORM GSTR-9B. Official CGST Rules provide that every ECO required to collect TCS under section 52 shall furnish annual statement in FORM GSTR-9B. Uploaded material also confirms GSTR-9B for ECO annual statement.



Financial Year End
(31 March)



Annual Statement —
GSTR-9B due by 31 December.

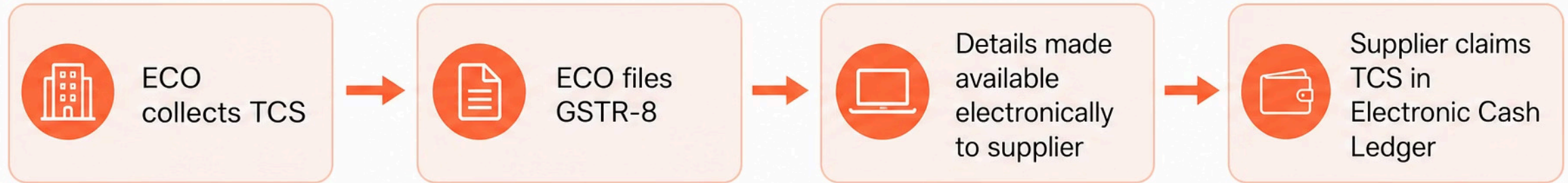


GSTR-9 —
For regular taxpayers



GSTR-9B —
For ECO collecting TCS (Rule 80(2)).

16. Credit of TCS to Supplier — Section 52(7), CGST Act



Section 52(7), CGST Act —
Supplier claims credit of amount collected in electronic cash ledger.



Rule 67(2), CGST Rules —
GSTR-8 details are made available electronically to suppliers for claiming TCS in electronic cash ledger after validation.



TCS is NOT ITC
TCS is Cash Ledger Credit.
It can be used for payment of output tax/interest/penalty/fees as permitted.

Type	Availability
ITC	Available in Electronic Credit Ledger
TCS Credit	Available in Electronic Cash Ledger.

17. Matching Mechanism and Mismatch — Section 52(8) to 52(11)



Section	Subject	Consequence
52(8)	Matching	ECO GSTR-8 matched with supplier GSTR-1
52(9)	Discrepancy communication	Both ECO and supplier notified
52(10)	Addition to liability	Added to supplier output tax if not rectified
52(11)	Interest	Payable by supplier on mismatch amount.

Note: Section 52 official text provides for matching of ECO statement with supplier outward supply details, communication of discrepancy, addition to supplier output tax liability, and interest.



Part E — Valuation Challenges



18.

Section 15 —
Valuation Provision



19.

Gross Sale Value
versus Net
Settlement



20.

Discounts —
Seller-funded,
Post-supply,
ECO-funded



21.

Credit Notes and
Financial Credit Notes



22.

Delivery Charges, Packing
Charges, Handling Charges.

18. Valuation Provision — Section 15, CGST Act



Value of supply is **transaction value**: price actually paid or payable, where supplier and recipient are not related, price is sole consideration.

Important Inclusions

- Taxes/duties/fees other than GST
- Amount supplier is liable to pay but incurred by recipient
- Incidental expenses, packing, commission
- Interest/late fee/penalty for delayed payment
- Subsidies directly linked to price, excluding Government subsidies.

Important Exclusions

- Discounts allowed before or at time of supply and recorded in invoice
- Post-supply discounts only if:
 - established by agreement before or at time of supply
 - specifically linked to relevant invoices
 - recipient reverses proportionate ITC.

19. Gross Sale Value versus Net Settlement — Major Valuation Issue



Problem

Seller receives net settlement after:

- ECO commission
- Shipping fee
- Warehouse fee
- Advertisement charges
- Penalty
- TCS
- TDS
- Customer refund
- Discount adjustments

A

Net Settlement Amount

(received by seller)

VS

B

Gross Taxable Value

(charged to customer)



GST applicable on Box B not Box A.



Correct Approach

- GST on seller supply is generally on gross taxable value charged to customer.
- Deductions in settlement do not automatically reduce taxable value.
- ECO commission/fees are separate inward supplies to seller.



Settlement statement is not the invoice value; it is a payment reconciliation.

20. Discounts in E-Commerce — Section 15(3)

20.1 Seller-funded Discount at Invoice Level

- If shown on invoice: value reduced under section 15(3)(a).
- GST payable on net invoice value.

20.2 Post-supply Discount — Section 15(3)(b) Conditions

- Agreement before/at time of supply
- Linked to invoice
- Recipient reverses ITC.

20.3 ECO-funded Discount — Issues

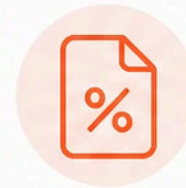
- Whether it reduces supplier value?
- Whether ECO is paying part consideration on behalf of customer?
- Whether it is marketing support to seller?
- Whether it is subsidy linked to price?
- Whether supplier must pay GST on full catalogue price or discounted customer price?



There is no single answer. Examine: agreement between ECO and seller, customer invoice, who funds discount, whether seller receives full value or discounted value, whether ECO compensation is consideration for promotional service.

21. Credit Notes and Financial Credit Notes – Section 34, CGST Act

Provision	Details
Section 34(1)	Statutory credit note issued by supplier where: • taxable value in tax invoice exceeds actual taxable value, • tax charged exceeds tax payable, • goods are returned, • goods/services are deficient.
Section 34(2)	Time limit for tax adjustment: 30 November following end of financial year in which supply was made, or date of annual return, whichever is earlier.
Rule 53, CGST Rules	Particulars of credit/debit notes.



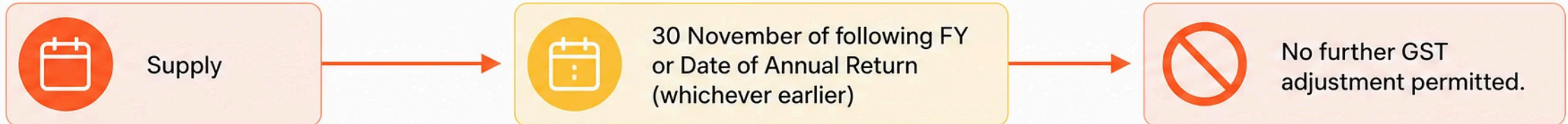
Statutory GST Credit Note –

Issued by supplier, linked to original invoice, within time limit, reduces GST liability, must satisfy section 34.



Financial/Commercial Credit Note –

May be issued for commercial/accounting adjustment, does NOT reduce GST liability if not covered by section 34 or not declared within time.



22. Delivery Charges, Packing Charges, Handling Charges — Valuation Issues

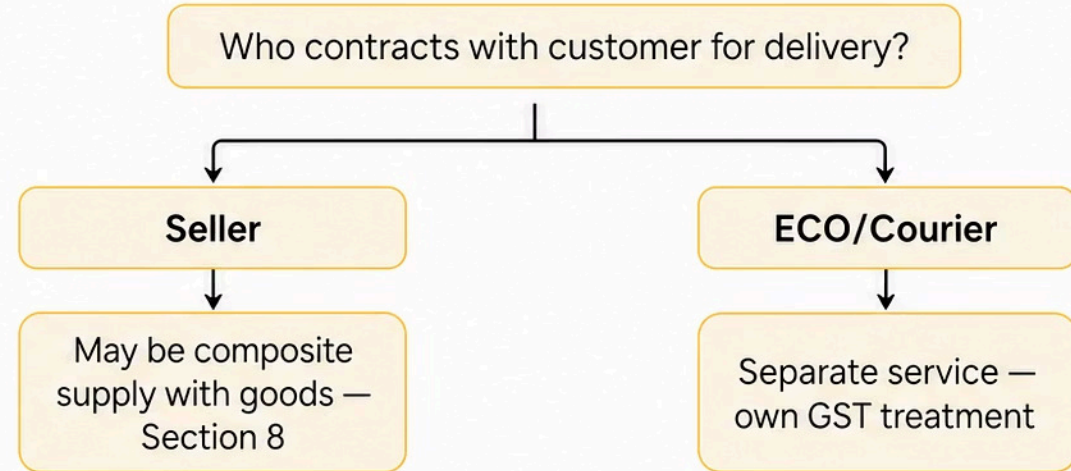
ISSUES

- Whether delivery is:
 - part of composite supply of goods,
 - separate service by ECO,
 - separate courier service,
 - reimbursement.

RELEVANT PROVISIONS

Section 2(30), CGST Act	composite supply
Section 2(90), CGST Act	principal supply
Section 8, CGST Act	tax liability on composite/mixed supply
Section 15, CGST Act	incidental expenses

DECISION TREE



PRACTICAL TEST

- ? Who raises invoice?
- ? Who bears risk of loss in transit?
- ? Is delivery optional?
- ? Is delivery charged separately?
- ? Is ECO merely recovering courier charge or providing logistics service?

23. Relevant Provisions

Category	IGST Act Provision
Goods — Other than import/export	Section 10, IGST Act
Goods — Imported/exported	Section 11, IGST Act
Services — Supplier and recipient both in India	Section 12, IGST Act
Services — Supplier or recipient outside India	Section 13, IGST Act
Nature — Inter-State supply	Section 7, IGST Act
Nature — Intra-State supply	Section 8, IGST Act



In e-commerce, POS cannot be decided only by billing address.
It must be decided by specific IGST POS rule applicable to the supply.

24. POS Issues for Goods Sold through ECO

24.1 Ship-to / Bill-to Model

- Customer may place order.
- Billing address may differ from delivery address.
- Platform may have gift orders.
- Supplier must determine POS based on movement and delivery.

24.2 Fulfilment Centre Model

- Goods stored in ECO-managed warehouse.
- Warehouse may be in another State.
- Supplier may need additional place of business.
- Movement to warehouse may not be supply if same GSTIN/stock transfer rules are satisfied, but distinct person movement across States can be supply.

24.3 Drop Shipment

- Supplier A sells through platform.
- Goods are dispatched by manufacturer/vendor directly to customer.
- Need to examine bill-to/ship-to provisions.

24.4 Returns and Replacements

- Return-to-origin.
- Customer exchange.
- Replacement without consideration.
- Need to determine whether: credit note, fresh supply, warranty replacement, stock movement.

25. POS Issues for Services through ECO

Common Issues

- Customer uses app in one State.
- Service provider located in another State.
- Customer billing address in third State.
- Platform located in another State.
- Payment made online from anywhere.



Service-specific POS

-  Restaurant service
-  Accommodation service
-  Passenger transportation
-  Event admission
-  Advertisement
-  OIDAR/digital services
-  Intermediary-type platform services



**In e-commerce, POS cannot be decided only by billing address.
It must be decided by specific IGST POS rule applicable to the supply.**

Part G — Returns, Reporting and Forms.

26. Returns/Forms for Supplier

Form	Provision	Purpose	Key Content
GSTR-1	Section 37	Details of outward supplies	Invoices, debit notes, credit notes, amendments.
GSTR-3B	Section 39	Monthly summary return	Tax payment, ITC availment/reversal. For section 9(5) reporting treatment must be carefully done by supplier and ECO as per portal tables/instructions.
GSTR-9	Section 44 read with Rule 80	Annual return	Not applicable to certain excluded persons. ECO collecting TCS files GSTR-9B, not GSTR-9 for TCS capacity.
GSTR-9C	Rule 80	Reconciliation statement where applicable.	
GST PMT-01/Electronic Liability Register		Liability tracking.	
GST PMT-05/Electronic Cash Ledger		TCS credit appears as cash ledger amount to supplier.	

27. Returns/Forms for ECO

Form	Rule/Provision	Purpose	Key Content
FORM GST REG-07	Rule 12	Registration for TCS collector	For person required to collect TCS under section 52.
FORM GSTR-8	Rule 67	Monthly TCS statement	Details of supplies through ECO, returned supplies, amount of TCS, amendments.
FORM GSTR-9B	Section 52(5) read with Rule 80(2)	Annual statement for ECO	Required for ECO collecting TCS under section 52. Rule 80(2) specifically provides GSTR-9B for ECO annual statement.
FORM GSTR-3B	Section 39	ECO own supplies and section 9(5) liability	Used by ECO for its own outward supplies and for liability under section 9(5), as applicable.

Rule 80(2) — Every ECO required to collect TCS under section 52 shall furnish annual statement in FORM GSTR-9B.

28. Registration-Related Issues

Part H — Practical Issues Faced by Suppliers Selling through ECO



Problems

- Small suppliers forced to register due to section 24
- Misunderstanding between section 9(5) and section 52
- Supplier assumes ECO pays GST on all e-commerce sales
- Supplier supplies goods inter-State despite small-supplier exemption not permitting it
- ECO onboarding allows unregistered person without valid enrolment/GSTIN.

Practical Control — Vendor Master Tagging

Registered regular supplier	Regular compliance
Composition supplier	Composition rules apply
Unregistered exempt small goods supplier	Notification 34/2023 conditions
Section 9(5) service provider	ECO pays tax
Exempt supplier	No TCS.

29. Turnover Mismatch – Common Sources and Reconciliation

COMMON SOURCES OF MISMATCH

- ! Seller books net settlement, not gross invoice value
- ! ECO reports gross value in GSTR-8
- ! Returns are booked in different month
- ! Discounts not mapped invoice-wise
- ! Wrong GSTIN used by ECO
- ! Wrong State/POS
- ! Taxable/exempt supplies mixed
- ! Section 9(5) supplies included in TCS
- ! Credit notes not uploaded by seller
- ! Cancelled order treated as sale by one party and non-sale by another.

RECONCILIATION CHAIN



30. TCS Mismatch — Statutory Consequence and Defence



Statutory Consequence

If ECO data exceeds supplier data and mismatch is not rectified: amount may be added to supplier output tax liability, interest applies.

This follows section 52(9), 52(10), 52(11).



Practical example

ECO reports ₹10 lakh taxable supplies. Supplier reports ₹8 lakh due to returns/discounts.

If not reconciled, ₹2 lakh may become mismatch exposure.

Suggested Defence Documents



Order-wise reconciliation



Invoice-wise GST register



Return/cancellation report



Credit note copies



Settlement statement



Communication with ECO



GSTR-8 download



Electronic cash ledger extract



GSTR-1/GSTR-3B workings

31. Credit-Note Issues for Suppliers

Practical Issues



Customer return after 30 November



Platform refunds customer but seller does not issue GST credit note



ECO issues commercial note, but supplier has GST invoice



Return of goods after statutory time limit



Replacement/exchange without proper GST document



Wrong mapping of credit note to original invoice.



Legal Position

- Credit note for GST adjustment must satisfy section 34.
- Rule 53 particulars must be present.
- Credit note must be supplier-issued.
- Commercial adjustment without section 34 compliance does not reduce GST liability.



Uploaded GST material specifically states that except permitted circumstances, credit/debit note is not valid merely because financial adjustment is required; credit note after time limit may be commercial but tax liability cannot be reduced.

32. ITC Issues for Suppliers



ITC on ECO charges

Seller receives tax invoice from ECO for: commission, advertisement, warehousing, logistics, tech services.



Conditions

- | | |
|---|--|
| 1 | Section 16 conditions |
| 2 | Invoice in GSTR-2B |
| 3 | Supplier tax payment by ECO/service provider |
| 4 | Business use |
| 5 | Not blocked under section 17(5). |



Mismatch Risk



ECO invoice not reflected in GSTR-2B



Wrong GSTIN of seller



Invoice issued to head office, service consumed by branch



Credit distributed incorrectly



ITC reversal for post-supply discount not tracked.



Practical Implication —

Maintain invoice-wise ITC register, match with GSTR-2B monthly, ensure ITC distribution mechanism in place for multi-branch sellers.

Part I — Departmental Views and Audit/Investigation Areas. 33. Departmental Focus Areas



A. For ECO

- Whether TCS correctly collected
- Whether TCS collected at correct rate
- Whether section 9(5) supplies excluded from TCS
- Whether all taxable supplies through platform reported
- Whether returns/cancellations correctly reduced
- Whether details in GSTR-8 match supplier returns
- Whether information under section 52(12) furnished
- Whether ECO has discharged tax on: commission, advertisement, delivery charges, convenience fee, cancellation charges, section 9(5) services.



B. For Suppliers

- Whether registered when required under section 24
- Whether gross turnover reported, not merely net receipts
- Whether TCS credit reconciled
- Whether returns/credit notes are valid
- Whether ITC on ECO invoices is eligible
- Whether POS and tax head are correct
- Whether warehouse/additional place compliance is done.

34. Departmental Notices — Likely Provisions

Provision	Subject
Section 61 — Scrutiny of returns	General scrutiny/audit/demand
Section 65 — Audit	General scrutiny/audit/demand
Section 66 — Special audit	General scrutiny/audit/demand
Section 70 — Summons	General scrutiny/audit/demand
Section 73/74 — Demand up to FY 2023-24	General scrutiny/audit/demand
Section 74A — Demand framework from FY 2024-25	General scrutiny/audit/demand
Section 122 — Penalties	General scrutiny/audit/demand
Section 125 — General penalty	General scrutiny/audit/demand
Section 132 — Prosecution in serious cases	General scrutiny/audit/demand
Section 52(12) — Officer may call information from ECO	Section 52-specific
Section 52(14) — Penalty up to ₹25,000 for failure to furnish information	Section 52-specific
Section 52(15) — Restriction on filing GSTR-8 after 3 years from due date, subject to Government relaxation.	Section 52-specific

Part J — Judicial Developments: HC/SC Judgments.

35. Uber India Systems Pvt. Ltd. v. Union of India & Anr.

● CASE DETAILS

Full Citation: Uber India Systems Private Limited v. Union of India and Anr. Delhi High Court.
W.P.(C) 14048/2021 and connected matters.
Decision dated 12.04.2023.
Neutral citation: 2023:DHC:2489.

● ISSUE

Validity of notifications withdrawing exemption/imposing GST burden in respect of passenger transportation through ECO. Challenge on grounds of Articles 14, 19(1)(g), 21. Question whether classification based on mode of booking through ECO is valid.

● HELD

- ECOs form a distinct statutory class under sections 9(5) and 52.
- Notifications were not violative of Articles 14, 19(1)(g), 21.
- Mode of booking through ECO can be a valid basis for classification.
- Government empowered to issue notifications under sections 9(5) and 11.
- Petitions dismissed.

● KEY PARAGRAPHS

- Court held that ECOs under sections 9(5) and 52 are recognised as a distinct class from individual suppliers.
- Court concluded that impugned notifications were not unconstitutional and did not create unreasonable classification merely on the basis of mode of booking.
- Court noted that even though actual transport service continues to be provided by individual supplier, supply through ECO is made taxable under section 9(1) read with section 9(5).



USE IN SPEECH: This is the most important GST judgment directly dealing with ECO classification and section 9(5). It supports departmental view that ECO-based taxation is a valid legislative classification.

36. MakeMyTrip / IBIBO Service-Tax Arrest Litigation — Departmental Conduct

CASE DETAILS

Full Citation:

MakeMyTrip (India) Pvt. Ltd. v. Union of India and Ors.
Delhi High Court. W.P.(C) 525/2016 and
W.P.(C) 1283/2016. Decision dated 01.09.2016.
Reported as 2016 (44) S.T.R. 481 (Del.)

WHY RELEVANT

- It involved online travel/e-commerce platforms.
- It was under service tax, not GST.
- Useful only for departmental investigation/arrest powers and conduct, not for GST levy under section 9(5)/52.

CAUTION

Do not cite it as direct GST e-commerce taxability authority. Use only as background for departmental approach in platform businesses and limits of coercive recovery/arrest under indirect tax regime.

SOURCE NOTE

The case involved MakeMyTrip and IBIBO Group writ petitions before Delhi High Court.

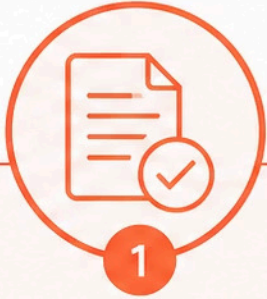
SUMMARY DISTINCTION

Uber India	MakeMyTrip
Direct GST/ECO taxability judgment — Can be cited for section 9(5) validity.	Service tax era — Background only for departmental conduct.

Part K — Important Notifications and Circulars. 37. Notifications

Notification Number	Date	Category	Subject
No. 17/2017-CT(R)	28.06.2017	Section 9(5)	Passenger transport by radio taxi/motorcab/maxicab/motorcycle; Accommodation through ECO subject to conditions.
No. 23/2017-CT(R)	22.08.2017	Section 9(5) expansion	Housekeeping services such as plumbing/carpentering through ECO, subject to conditions.
No. 17/2021-CT(R)	18.11.2021	Restaurant	Restaurant services through ECO from 01.01.2022, subject to exclusions.
Corresponding IGST Notifications	Various dates	Inter-State	For section 5(5), IGST Act.
No. 52/2018-Central Tax	20.09.2018	TCS rate	TCS rate notification.
No. 02/2018-Integrated Tax	20.09.2018	TCS IGST	IGST TCS rate.
No. 15/2024-Central Tax	10.07.2024	TCS rate reduction	CGST TCS component reduced to 0.25%.
No. 01/2024-Integrated Tax	10.07.2024	IGST TCS	IGST TCS rate reduction.
No. 34/2023-Central Tax	31.07.2023	Small supplier	Exemption from registration for eligible small suppliers of goods through ECO.
No. 37/2023-Central Tax	04.08.2023	ECO procedure	Procedure for ECO dealing with such exempt small suppliers.

38. Circulars



Circular No. 72/46/2018-GST, dated 26.10.2018 — Return of time-expired goods/credit-note treatment.

Useful for: goods returned, credit note within section 34 time limit, financial credit note where GST adjustment not allowed.



Circular No. 137/07/2020-GST, dated 13.04.2020 — Clarifies treatment where: advance received and invoice issued but contract cancelled, advance received and receipt voucher issued but no invoice, goods supplied under tax invoice are returned. Uploaded material reproduces that where goods supplied under tax invoice are returned, supplier should issue credit note under section 34 and adjust liability in return subject to conditions.



Circular No. 212/6/2024-GST, dated 26.06.2024 — Clarification on post-sale discounts and evidence of ITC reversal.

Later withdrawn by Circular No. 253/10/2025-GST.

Section 15(3)(b) conditions continue to remain important.

39. Transaction Analysis Checklist

Part L — Checklist for Speaking/Advising

- 1



Identify Supply — Goods or services? Composite or mixed supply? Exempt/taxable/zero-rated? Digital product/OIDAR/actionable claim?
- 2



Identify Supplier — Actual supplier? ECO as deemed supplier under section 9(5)? ECO as supplier of own service? Agent/principal relationship?
- 3



Identify Liability — Supplier pays GST? ECO pays under section 9(5)? Reverse charge? TCS under section 52?
- 4



Identify Registration — Section 22 threshold? Section 24 compulsory registration? Small goods supplier exemption under Notification 34/2023? ECO registration in REG-07?
- 5



Identify Value — Gross customer price? Discounts? Platform subsidy? Shipping/packing/convenience fee? Commission? Penalty/cancellation fee?
- 6

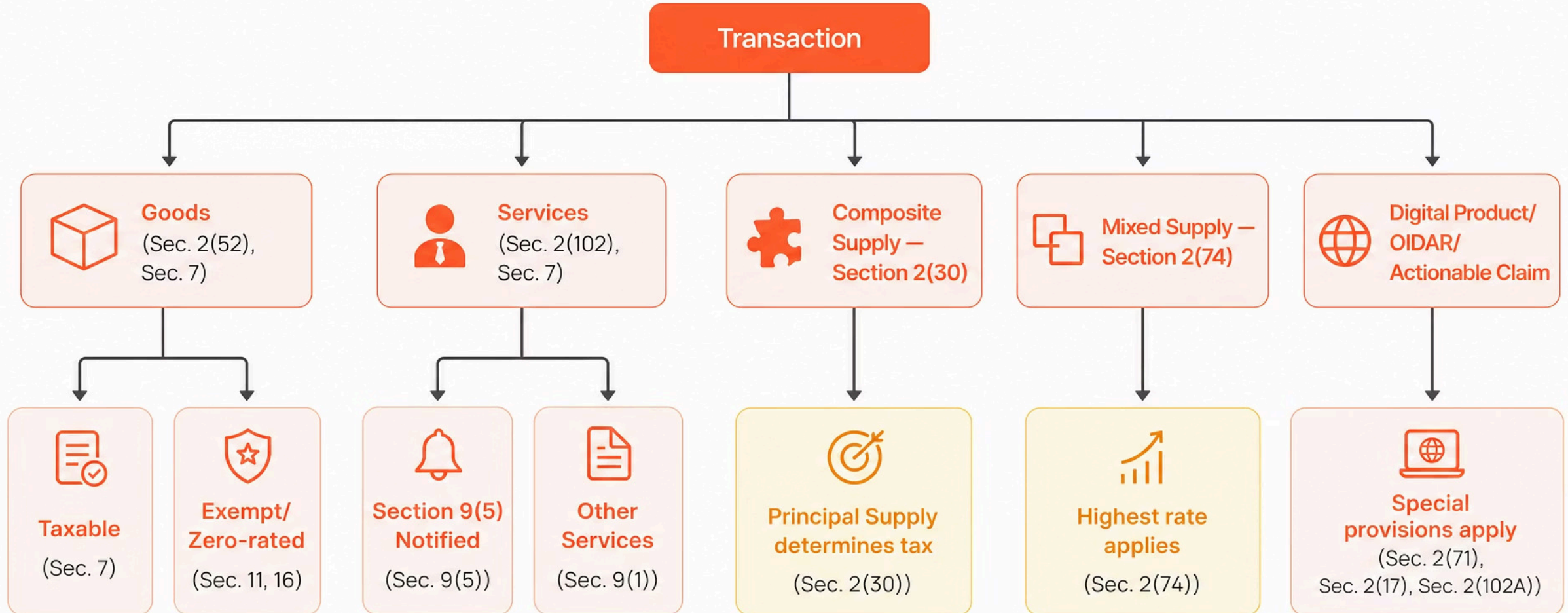


Identify POS — Goods or service POS rule? Supplier State? Customer/delivery State? Warehouse State? IGST or CGST/SGST?
- 7



Identify Return/Reporting — GSTR-1? GSTR-3B? GSTR-8? GSTR-9B? Credit note? Electronic cash ledger TCS credit?

Step 1 – Identify the Supply



Steps 2 and 3 – Identify Supplier and Liability

Step 2 — Identify Supplier



Step 3 — Identify Tax Liability

Scenario	Liability / Responsibility
Normal goods/services supply — Actual supplier	GST on outward supply
Section 9(5) notified service through ECO	ECO pays GST — As if supplier for tax payment
Reverse charge supply	Recipient — RCM applicable
TCS	ECO collects TCS — Section 52 — Amount credited to supplier cash ledger

Steps 4 to 7 — Registration, Value, POS, Reporting

4 Step 4 — Identify Registration

- Section 22 threshold?
- Section 24 compulsory registration?
- Small goods supplier exemption under Notification 34/2023?
- ECO registration in REG-07?

5 Step 5 — Identify Value

- Gross customer price?
- Discounts?
- Platform subsidy?
- Shipping/packing/convenience fee?
- Commission?
- Penalty/cancellation fee?

6 Step 6 — Identify POS

- Goods or service POS rule?
- Supplier State?
- Customer/delivery State?
- Warehouse State?
- IGST or CGST/SGST?

7 Step 7 — Identify Return/Reporting

- GSTR-1?
- GSTR-3B?
- GSTR-8?
- GSTR-9B?
- Credit note?
- Electronic cash ledger TCS credit?

40. Suggested Closing Statement — Key Takeaways

E-commerce under GST is a transaction mapping exercise.

Five Common Errors



Error 1

Treating settlement amount as turnover



Error 2

Treating platform report as GST return



Error 3

Treating TCS as ITC



Error 4

Treating commercial credit note as GST credit note



Error 5

Treating all ECO supplies as section 9(5) supplies.

Correct Approach



Map each supply



Identify the supplier



Identify who pays tax



Reconcile every order, invoice, return, settlement and GST return.



In e-commerce GST, the order report, GST invoice, GSTR-8, settlement statement and bank receipt are five different records; compliance is complete only when all five are reconciled.

E-Commerce GST — Complete Framework at a Glance

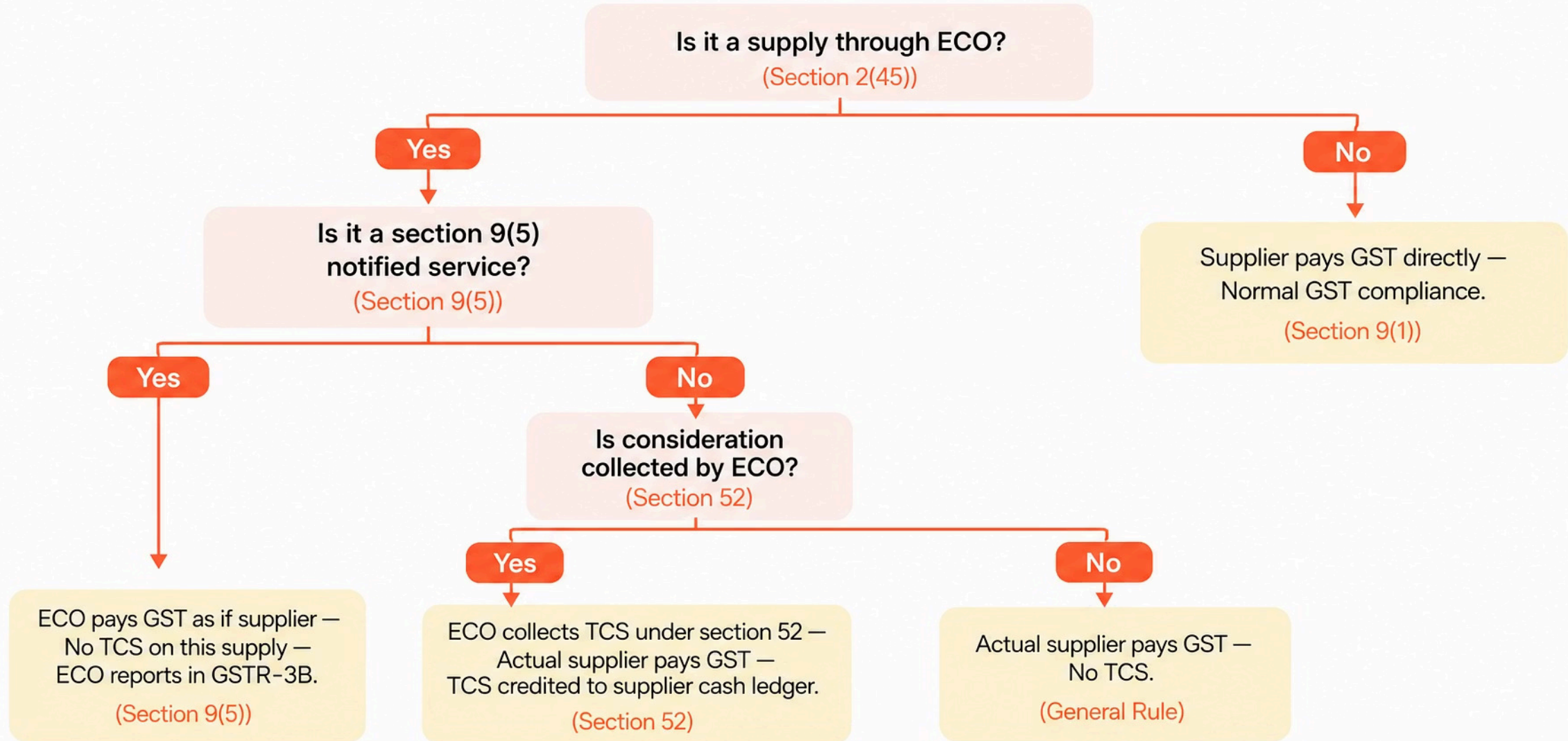


Act/Rule	Section	Subject
CGST Act	Sec 2(44)	Definition of Electronic Commerce Operator (ECO)
CGST Act	Sec 2(45)	Definition of Electronic Commerce Supply
CGST Act	Sec 9(5)	ECO liable to pay tax on notified services
CGST Act	Sec 52	ECO to collect TCS on other taxable supplies
CGST Act	Sec 15	Valuation — gross amount charged to customer
CGST Act	Sec 34	Credit of TCS to e-commerce operator
IGST Act	Sec 5(5)	Place of supply of e-commerce supplies
CGST Rules	Rule 12	Registration — e-commerce operator
CGST Rules	Rule 67	TCS provisions and compliance
CGST Rules	Rule 80(2)	Returns and reconciliation

Master Reference — Notifications, Forms and Sections

Key Sections	Key Notifications	Key Forms
CGST Act Sec 9(5) — Notified service — ECO pays tax	17/2017-CT(R) — Sec 9(5) services	GST REG-07 — ECO TCS registration
CGST Act Sec 52 — TCS collection	23/2017-CT(R) — Housekeeping	GSTR-8 — Monthly TCS statement
CGST Act Sec 24 — Compulsory registration	17/2021-CT(R) — Restaurant from 01.01.2022	GSTR-9B — ECO annual statement
CGST Act Sec 15 — Valuation	34/2023-CT — Small supplier exemption	GSTR-1 — Supplier outward supply details
CGST Act Sec 34 — Credit notes	37/2023-CT — ECO procedure for small suppliers	GSTR-3B — Summary return.
IGST Act Sec 5(5) — Inter-State ECO tax.	15/2024-CT — TCS rate 0.25% CGST.	

Decision Tree — Who Pays GST on E-Commerce Supply?



The Five Records — Compliance is Complete Only When All Five Are Reconciled

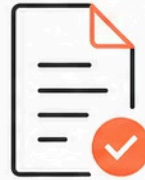


In e-commerce GST, the order report, GST invoice, GSTR-8, settlement statement and bank receipt are five different records; **compliance is complete only when all five are reconciled.**



Disclaimer

This presentation has been prepared solely for educational and professional discussion purposes. Every effort has been made to ensure legal accuracy based on the material provided. Participants are advised to refer to the relevant statutory provisions, notifications, circulars and judicial pronouncements before taking any professional decision. The views expressed are personal and intended only for academic discussion.



Top 10 Common GST Mistakes in E-Commerce

- | | | | | | |
|----|---|---|-----|---|---|
| 1. | Treating net settlement as taxable turnover instead of gross invoice value |  | 6. | Not reconciling GSTR-8 with own GSTR-1 monthly |  |
| 2. | Assuming ECO pays GST on all sales including non-section 9(5) supplies |  | 7. | Not registering under section 24 when required |  |
| 3. | Treating TCS as ITC instead of cash ledger credit |  | 8. | Mixing section 9(5) supplies with section 52 TCS base |  |
| 4. | Filing credit notes after 30 November time limit and expecting GST adjustment |  | 9. | Not maintaining order-wise/invoice-wise records for mismatch defence |  |
| 5. | Ignoring POS – using billing address instead of correct IGST rule |  | 10. | Ignoring ECO charges such as commission/warehousing as ITC opportunity. |  |

Issues in the E-Commerce Industry under GST

Presented by CA. Rajender Arora



Key Takeaway: E-commerce under GST is a transaction mapping exercise. Map each supply, identify the supplier, identify who pays tax, reconcile every order, invoice, return, settlement and GST return.



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YouTube:

<http://www.youtube.com/@GSTkiRahMeAapkaDost>



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