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GST and Online Marketplace: A Love-Hate Affair

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Abstract: Without any doubt, India is on course to become the second biggest online marketplace behind China. The obvious reason behind this is our population, especially the younger lot, is accepting and utilizing this digital and internet based transformation to the maximum, mostly through smart phones. People are enjoying the luxury of sitting and placing orders from anywhere on ecommerce & mcommerce websites through their smart phones. This online marketplace has seen an explosive rise in business and that is the reason, every offline business whether small or large wants an online presence, in any form; let it be a fully fledged self owned or by being just a seller on another website. As, online marketplaces open new opportunities for businesses to gain a share in this huge infectious market, no business wants to let go this opportunity and thus , are inclined to be associated with it in some form or the other.

However, with the introduction of Goods & Services Tax (GST) by the Indian Government, which is based on ‘one tax, one market’ concept, the pace at which our online marketplaces were running seems to be getting an impact. This is because of the fact that businesses operating in both offline and online mode would be migrating to new tax system and with issues like rising competition, shrinking profit margins, blocked working capital, confusion in registration for GST, complex tax issues, fewer concessions, compliance issues in case of refunds and returns etc, conducting and settling an online business becomes a challenge in itself. Through this paper, the author intends to highlight and bring to foreface, the various factors that may result in growth or downfall in online businesses, post GST implementation in India.

Keywords: *GST, goods, services, online, marketplace, ecommerce, smartphone, tax.*

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I. Introduction

Online marketplace has become the buzz word in past few years since the smart phones have become accessible and affordable and internet connection speeds have increased. It’s a digital platform where several vendors or sellers make their product available to buyers located anywhere geographically. The word ‘geographically’ becomes important here as it is due to this word the sellers are attracted to come on board online market places as it gives them a chance to attract customers globally from around the world. However, the concept of online marketplace includes a number of other parties without whom it cannot survive: *Operators*, the firms who own or manage the online platform; *Suppliers*, who make their products available for sale on operator’s platform. Thus, for instance, snapdeal, flipkart, amazon etc are individual operators as they provide marketplace to outside firms or sellers who sell their product through snapdeal becomes Suppliers.

Now with GST coming into effect from July 1, all businesses- offline or online are supposed to follow the tax rules and regulations as mentioned under GST guidelines. Following are the salient features of GST for ecommerce organizations [1] :

The government has specified a threshold revenue limit for various businesses, after which they will be liable to register under GST. However, no such threshold has been specified for e-commerce businesses, which means they are required to register under GST irrespective of their turnover.

To sell online through the e-commerce portals, a firm has to register as normal tax payer under GST and file all returns. This has to be done even if a firm is exempted from registration on account of low turnover.

Besides, e-commerce businesses have also been excluded from the composition scheme of the GST, which aims to reduce the burden of compliance for small and medium businesses. For example, SMBs are normally required to file quarterly returns instead of monthly and pay taxes at nominal rates. This concession is not available to a small e-commerce set up.

The government has made it compulsory for e-commerce business to get them registered in all the states where they are supplying goods.

- Under GST, online market places are required to deduct one per cent tax collected at source (TCS) per transaction while paying to the sellers listed on their portals.

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The TCS will have to be deposited with the government as collection towards GST. This will lock around 20 per cent of the capital of the e-commerce companies for 20-50 days, thereby increasing their requirement of working capital.

- The Operator is supposed to collect (i.e. deduct) an amount calculated at the rate of 1 per cent of the net value of taxable supplies out of the consideration paid or payable to the actual supplier of goods or services in respect of supplies of goods and/or services made through such operator.
- The amount so deducted/collected is called Tax Collection at Source (TCS). The 1-per cent TCS seems to be introduced for control purposes, for identifying suppliers who would pay the balance GST. The supplier can take credit of the TCS paid by the e-commerce operator.
- An electronic commerce operator can sell goods and/or services on his own behalf. However, it would be treated as any other form of supply of goods and/or services and chargeable to tax accordingly. Since the goods and/or services are supplied on his own behalf, provisions of TCS do not apply to such transactions.
- The actual suppliers can claim the credit of the TCS by e-commerce operators. TCS deposited by the operator into the government account will be reflected in the cash ledger of the registered supplier. This can be used by the suppliers at the time of discharge of tax liability.
- The supplier who has supplied the goods or services through the operator shall claim credit, in his electronic cash ledger, of the amount collected and reflected in the statement of the operator.
- The GST Network would match the details of supplies and the amount collected as furnished by e-commerce operator with the corresponding details of outward supplies furnished by the concerned supplier.
- Where the details of outward supplies furnished by the operator do not match with the corresponding details furnished by the supplier, the discrepancy shall be communicated to both persons.

Even composition traders are not allowed to sell goods through the e-commerce portals. This provision will keep the small firms not registered with the GSTN out of the e-commerce business,

The TCS mechanism will increase the compliance burden of e-com operators as they will have to maintain tax collection records, furnish them to the Government every month and undertake reconciliation.

Now, with all the details of GST for online businesses are available, the question that arises now is whether the guidelines lay out by the government related to GST for ecommerce will result in an ecommerce boost or it will shrink the expanding businesses? Whether the ecommerce boom will continue to flourish or there will be a bubble burst? Whether ecommerce giants as well as Small & Medium Businesses (SMB) will be able to cope up with this changing environment or they will take a backseat? All these questions are quite relevant at this point of time where the nation is witnessing a historic change in the tax rules & regulations. The motive of the government cannot be questioned it is very clear: to get rid of multiple taxes. But, when we speak of online businesses, one cannot deny that there are issues with GST the authorities must look into so that the operators, sellers and buyers have no confusion what so ever in doing their business and transactions and interests of all parties are kept into consideration. The paper is further organized as follows: Section 2 brings out the objectives formulated for the study; section 3 presents the Formal Research Methodology; section 4 to 6 covers the process of how objectives are achieved and Section 7 presents the outcome and results and finally section 8 discusses the conclusion.

Objectives & Research Methodology

- To understand the prevailing tax structure and how online marketplaces are affected by it.
- To understand the issues of Operators & Suppliers regarding GST.
- To analyze the impact of GST in online marketplace.

Methodology

To achieve the above mentioned objectives, the authors intend to use descriptive research methodology. This is due to the fact that the topic under consideration is a relatively new one and the best way to understand it and analyze it would be to do an exhaustive literature review from various news articles, published reports in print and electronic media and so on. Then, the authors will do a careful analysis of the studies made and bring out their observations and analysis of the reports studied.

The Prevailing Tax Structure for Online Marketplaces

Although, we are on the way to become second largest ecommerce market of the world, it is very saddening that there is least clarity on the tax structure for online marketplaces and ecommerce transactions in our country. Before GST, the tax structure that was followed in our country was referred as Indirect tax structure which comprised of several taxes like VAT, CST and Entry tax, Service tax, excise issues etc. This was a very complex tax structure because of the following issues:

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Identification of Tax payer: In offline business, it is the seller who is supposed to pay VAT on the sale of a product to the government. However, in case of online transactions, so many parties are involved in a transaction which creates confusion as to who from Operator or Seller is supposed to pay this tax. Lack of consistent guidelines, establishing liability to deposit VAT/CST creates a confusing scenario.

Issue with Inward-outward movement of goods: There is no consensus among states regarding the manner in which inward-outward goods movement is to be carried out. Some allow manual, others allow online waybill. As it is practically impossible to track such huge movement of goods from a state to another, considering the fact that most of the transactions are of low value, proper documentation and clarity in inward-outward goods movement for ecommerce transactions is missing.

Confusion over Entry Tax: Under indirect tax structure, states levy Entry tax when goods enter into their respective state which has to be paid by the importer or dealer. However in case of an online marketplace, some states consider Operator as the tax payer, some consider Supplier as tax payer , some even consider the Dispatching Agencies i.e. Courier companies like etracker, trackon etc to pay the entry tax. Thus, again a confusion situation exists over who needs to pay the entry tax.

Tax over Discounted Items: People tend to buy online because they think they will get more discounts there than offline stores. When an Ecommerce giant offers an item at a discounted price, say at INR 450 where the actual sale price of the item was INR 500 (discount of Rs 50) The rule under VAT legislation says that the vat needs to be paid on the actual sale price of the item i.e. on INR 450. But now, tax authorities are also asking for tax on the discount given to the customers as they consider this discounted price is being paid by the ecommerce vendor on behalf of the actual buyer as they are getting a reduced tax amount in case of discounted items.

Problems related with returned products: In ecommerce scenario, a lot of transaction exists where the customer may return the product as they didn't liked it or they will pay as CoD mode when they will receive the product. The number of such type of transactions can be very high and it's not feasible or easy to keep documentation of each such transaction. When products are returned, the seller will want to reimburse the VAT already paid to the tax authority and when cash is finally received from customers, the VAT is supposed to be deposited. All such scenario require very robust systems which can keep track of such transactions to ensure cancellations, returns, refunds, tax deposits are handled in an efficient manner.

VAT on intangible goods: Intangible Goods such as ebooks, software, songs, etc comes under digital goods and VAT is payable on any kind of goods sold. But, when sale of such type of goods take place, it becomes difficult to establish the place where transaction took place and where the tax will be submitted. Thus, compliance regarding the same needs to be made.

Excise Duty Issues: Excise duty becomes payable if goods are manufactured in India and activities like labeling, packing and repacking falls under manufacturing. This in case of ecommerce, the goods are packed, labeled in special boxes procured by Operators and thus, excise duty becomes payable by them too, as argued by tax officials. But the ecommerce giants claim that this packing and labeling is a service given to the customers and thus, it shouldn't be levied an excise duty. Thus, clarity on excise duty payable or not is required.

From the above, it can be concluded that the existing tax structure related to online marketplaces and ecommerce is not implemented well as there is so much confusion over the tax payers, where it needs to be paid, who will pay it and what items are covered under it and many others. Therefore, stringent reforms and regulations are needed if this tax system is to prevail in future which gives clarity to every party involved in ecommerce transactions so that the interests of everyone is taken care off well.

GST- The Solution to Multiple Tax Problems

To solve the problems associated with prevailing Tax Structure, much awaited tax GST has been introduced which is the biggest tax reform in India. It aims to simplify the complex tax structure and provide a simple interface to compute and pay taxes and therefore, it will create a conducive environment for national economic growth.

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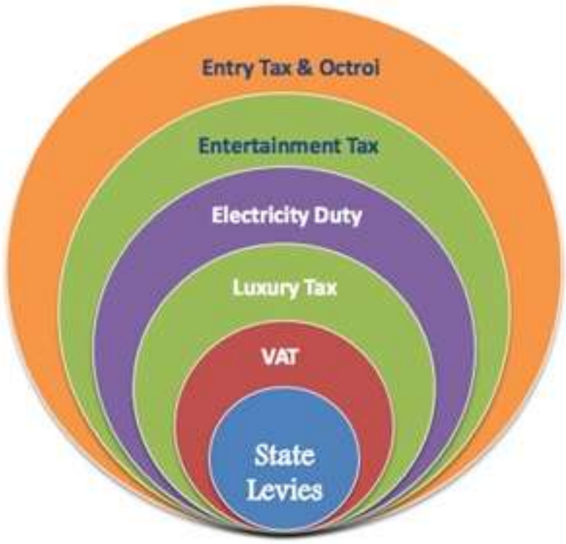

The following taxes are chargeable on the supply of goods and services [2]:

• Central GST (CGST): To be collected by the central government
• State GST (SGST): To be collected by state governments
• Integrated GST (IGST): To be collected by the central government.
The figure above lists the various types of taxes that are levied by Central and State Government respectively.

Benefits of GST

GST has been envisaged as a more efficient tax system, neutral in its application and attractive in distribution. The advantages of GST are:

- Wider tax base, necessary for lowering the tax rates and eliminating classification disputes
- Elimination of multiplicity of taxes and their cascading effects
- Rationalization of tax structure and simplification of compliance procedures
- Harmonization of center and State tax administrations, which would reduce duplication and compliance costs
- Automation of compliance procedures to reduce errors and increase efficiency

Benefits To Trade	Benefits To Consumers
Reduction in multiplicity of taxes	Simpler Tax system
Mitigation of cascading/ double taxation	Reduction in prices of goods & services due to elimination of cascading
More efficient neutralization of taxes especially for exports	Uniform prices throughout the country
Development of common national market	Transparency in taxation system θ Increase in

Simpler tax regime (1.Fewer rates and exemptions, 2. Distinction between Goods & Services no longer required	Increase in employment opportunities

Reduces transaction costs and unnecessary wastages: A single registration and a single compliance will suffice for both SGST and CGST provided government produces effective IT infrastructure and integration of states level with the union.

Eliminates the multiplicity of taxation: The reduction in the number of taxation applicable in a chain of transaction will help to reduce the paper work and clean up the current mess that is brought by existing indirect taxation laws.

One point single tax: There would be focus on business rather than worrying about their taxation that may crop at later stages. This will help the business community to decide their supply chain, pricing modalities and in the long run helps the consumers being goods competitive as price will no

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longer be the function of tax components but function of sheer business intelligence and innovation.

Reduces average tax burdens: The cost of tax that consumers have to bear will be certain and it is expected that GST would reduce the average tax burdens on the consumers.

Reduces the corruption: As the number of taxes reduces so does the number of visits to multiple departments reduces and hence, the reduction in corruption.

Issues related to GST for Online Marketplaces

There has always been a situation of confusion regarding taxation on Ecommerce. This is because of the following reasons :

Existence of Multiple Parties To Transactions. For e.g. For Snapdeal, there are almost around 10-12 major categories divided into much more subcategories. This will yield so many dealers trading through Snapdeal platform with numerous customers. This really creates a huge burden to identify and implicate the tax liability for service providers or sellers.

- **Digital platform makes it difficult to trace boundaries with respect to taxation territory**, where the transaction involves parties from various countries. For .e.g. Amazon.com, which prevails in various countries, involving sellers and customers from such regions
- **Multiple phases during a transaction will make it difficult to determine the taxing event**. For e.g. when an Indian customer buys a product from American seller, there could be online payment, after which there would be delivery and after such delivery, the transaction will close. It is difficult as to determine whether this transaction will be taxed on initiating or payment or on delivery.

However, the following rules will apply to clear the confusion over GST in Ecommerce [3].

Services Provided by E-commerce Operator to supplier
- Place of Supply of Service – Gen Rule will apply – Always location of Service receiver – since compulsory registration.

Services Provided by E-commerce Operator to supplier of transportation of goods
- Place of Supply of Service – Sec 12(9) of IGST Act
- location of Service receiver(if registered) or
- location at which such goods are handed over for their transportation

Supply of goods/Provision of Service by supplier to customer
- For Goods: Place of Supply – Where movement of goods terminates for delivery.
- For Services: to registered person**(B2B)** : Registered address of recipient : to unregistered person**(B2C)**: Address on record of person

Situation of E-Commerce platforms under GST law and their impact

The Government has announced and proposed a levy under GST framework for E- Commerce transactions. According to the Draft GST law, the Digital platform which perform E-Commerce services will be liable to collect TCS (Tax Collected at Source) from the suppliers. The E – Commerce platforms will also responsible for filing the period returns [4].

Supplier and E-commerce platform – The return filed by the E-Commerce platform with respect to supplies will be matched with individual supplier returns. In case of any discrepancy, the tax liability under GST will be redetermined. This will raise the cost of compliance of the E-Commerce platform.

Small scale business liability – The TCS collection by digital platform from supplier is regardless the threshold for the small scale business. This would require even small businesses (below tax threshold) to pay the tax and later apply for refund. This will hamper thin margins on which the suppliers are transacting, because it will bring down the profit margin by increased cost of compliance.

Cancellation or return policy – TCS in advance will result in taxation event before materialization of sale transaction. In case of cancellation or return policy, TCS already collected will need to be applied for as refund or will be considered for netting off the tax liability. This will result in paying interest on own capital by the digital platform. This would hamper the working capital cycle for both E-Commerce operator and suppliers.

Where E-Commerce sells at discount – In case of sale at discount, the E-Commerce platform will collect tax on full value. This would add to tax burden on the E-Commerce platform as it will pay tax on full value but will be selling at lower prices (after discount).

Impact of GST in Online Marketplaces

Party	Current regime	GST regime	Impact under GST
Seller	Charges VAT/CST to customer depending on movement of goods. The service tax charged by online marketplace (listing fee, facilitation fee, etc.) becomes a cost as the same cannot be utilized.	Seller would charge CGST + SGST or IGST + additional tax, depending on the nature of transaction. All input taxes (including GST charged by online marketplace) would now be available as credit, leading to efficiency in costs.	Possible higher tax rate on output side • Seller can claim credit of all taxes on input side except additional tax (currently, excise duty, CST and service tax on procurements become a cost). • Impact on pricing to be analyzed keeping in mind interplay between tax rate and credits
Online Marketplace	The online marketplace charges service tax to the vendor for providing facilitation services. The online marketplace can avail of service tax credit of input services. However, any VAT credit on purchase of goods becomes a cost.	The online marketplace would charge CGST + SGST or IGST depending on the nature of transaction. Such taxes would be now available as credit to the vendor. Further, the marketplace can now Also avail of full credit of all inputs and input services.	Possible higher tax rate on output • All output taxes to be creditable on provision of services to seller • The online marketplace can also claim credit of all taxes on input side (currently taxes on procurements becomes cost). • No concept of centralized registration: multiple registrations may be required • Impact on pricing to be analyzed keeping in mind the interplay between tax rate and credits

Impact on Operators [5] Standard taxes will lead to standard pricing:
Under the present tax structure, different states impose different VAT rates on the same goods. For example, Karnataka has a tax rate of 5% on mobile phones, whereas Maharashtra has 13.5%. Online marketplaces list sellers who need to charge lower taxes thus making the product cheaper than local retail prices. The e-tailers often enter exclusive tie-ups to take advantage from tax arbitrage. Post GST, there will be standard tax rates for each product and tax arbitrage will not be possible, bringing e-tailers and offline sellers to the same level in terms of costing and pricing.

Online marketplaces will face the issue of blocked working capital: Under GST, online marketplaces will have to deduct 2% tax per transaction while making payments to sellers listed on their portal. This Tax Collected at Source(TCS) will be handed over as collection towards GST to the government. This rule however does not apply to offline retailers. With TCS, capital will be locked away for periods between 20-50 days depending on the transaction date. The significant impact on the cash flow will force smaller firms to seek additional working capital or ignore the e-commerce marketplace altogether, as it may not offer envisaged convenience and benefits.

Unregistered merchants will be weeded out of e-commerce space: While GST registration in normal case is mandatory where turnover is Rs. 20 lakh or more, if a trader wishes to sell through online portals he needs to get registered irrespective of turnover. Merchants without proper registration will be forced to move out of the online system. Now, all sellers will be required to be registered and charge taxes at standard rates creating a level playing ground for all online sellers in terms of product pricing.

Compliance issue in case of returns and refunds: Majority of the products sold online carry a return date of 30 days which translates to about 15 - 20 million transactions per month and the returns and refunds for these have to be done with utmost care. The returns are required to be filed monthly now by both parties and refund adjustment will need special attention affecting tax liability.

Impact on Sellers [6]
No threshold for GST registration: Government has specified a threshold limit for all the businesses. A business

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is liable to register under Goods and Services Tax once such threshold limit is breached. However such limit is not applicable in case of E Commerce sellers. All the businesses carrying out e-commerce activity are required to get registered under GST irrespective of their turnover.

No Benefit under Composition Scheme: Most of these sellers registered with marketplace operators are small and medium businesses. Government has introduced composition scheme under GST law. This scheme is primarily aimed to reduce the burden of compliance for small and medium businesses. Under this scheme, businesses are required to file returns quarterly instead of monthly and pay taxes at nominal rates up to 2%.

However GST law has explicitly excluded e-commerce businesses from this scheme.

Tax Collection at Source by Marketplace Operator: Under the new tax regime, marketplace operators are mandatorily required to deduct a percentage amount as the GST liability of seller and deposit it with government. This mechanism is being termed as "Tax Collection at Source (TCS)" under the GST law. Eventually the marketplace seller will have to file monthly return under GST to claim the credit of TCS collected by the marketplace operator. This will also impact the liquidity and cash flow of these sellers.

While in the entire marketplace operator has already completed the first level analysis of impact of GST on their operations, marketplace sellers are still unaware of these rules.

Findings and Conclusion

Following are the findings of the study:

- The prevailing tax structure has several grey areas related to online marketplaces and it creates a confusing situation for ecommerce players and the ultimate loss of revenue in the form of tax is to be borne by the government. Moreover, the ecommerce players also need to maintain so much documentation and knowingly or unknowingly, there are mistakes in tax compliances.
- With GST coming into picture for online marketplaces and since these are early days of its implementation, the ecommerce players including operators, sellers as well as customers are still yet to come to terms with what is in store for them. Presently, they are facing a lot of issues but it is expected that with time, things will run smoothly and the purpose with which GST has been brought will be fulfilled successfully and at the earliest.

To conclude, it can be said that we are at a very initial stage for GST implementation. But marketplace sellers may not have much luxury of time and it is advised to be proactive in their business decisions for GST transition. The government has used GST as a tool to regulate the online marketplace by applying it extensively to the e-commerce segment. There has been an exponential increase in third party sellers in recent times and such sellers are now skeptical about the compliance requirements under the new tax regime.

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