

## **Continuous supply of goods – Reduction in other compliance**

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GST law has introduced lot of new concepts in Indian indirect tax system such as levy of tax on inter-State stock transfers to branches, cross charge mechanism, taxation of gifts distributed to employees etc. One of such new concepts is continuous supply of goods and its taxation. Most of us agree that introduction of GST has resulted in increased (rather than reducing) compliance for the registered persons (SME) and the professionals (SMP). Few of the reasons are complicated forms, less awareness of compliance requirement among tax payers and portal issues. In addition to GST, the tax payer need to ensure compliance under various other provisions of Companies Act, Income tax Act etc., in addition to running his business. In this, article, we analyse how the concept of 'continuous supply of goods' can be used to tax payer's advantage to reduce the compliance burden.

### ***Continuous supply of goods***

In terms of Section 2(32) of the CGST Act 2017, "continuous supply of goods" means a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of a wire, cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or periodic basis and includes supply of such goods as the Government may, subject to such conditions, as it may, by notification, specify.

Important points to be considered from the definition are as follows:

1. **Continuity** - As the name suggests, there should be continuous or recurrent supply of goods. The word "recurrent" can be understood as occurring often or repeatedly or regularly.
2. **Supply under a Contract** – Supply has to be under a contract. Contract means agreement made between the two parties which is enforceable under law. Such contracts can be oral as well. Many oral contracts have been held valid by Indian courts including Indian Contract Act 1872.
3. **Means of supply** – Means of supply can be anything such as through wire, cable, pipeline or other conduit or any other mode.
4. **Issue of invoice** - Supplier need to issue the invoices on regular or periodic basis.

### ***Time of supply and issue of invoice***

Time of supply in case of supply of goods would be earlier of the date of issue of invoice by the supplier or the last date on invoice to be issued under section 31 OR the date on which the supplier receives the payment with respect to the supply.

In terms of Section 31, in case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the invoice needs to be issued before or at the time each such statement is issued or, as the case may be, each such payment is received.

From these provisions, it can be understood that in case of regular supply of goods wherein the statement of account or payment is issued on periodical basis, such date can be the date for issue of invoice which becomes the time of supply.

In case of *HP India Sales Private Limited [2018 (18) GSTL 658 (AAR.-GST)]*, the advance ruling authority has held that supply of printing ink and other consumables such as oil, bib for press machines for which running invoice was being issued once in 15 days can be held as continuous supply of goods. This has been affirmed by the appellate authority for advance ruling in 2019 (27) GSTL 464 (App. AAR.-GST).

It is very common in most of the industries such as automobile and engineering to follow just in time concept where goods are produced and procured just when needed. This concept helps in elimination of unnecessary manufacturing cost, inventory cost and saves time. Due to this concept, the number of supply transactions are more with equal number of supply invoices. The suppliers could in order to reduce the number of invoices, concept of continuous supply could be followed. Following are few advantages of reducing the number of invoices:

1. Reduction in the effort and time required to be spent for accounting of such transactions both by supplier and customers
2. Reduction in reconciliation of transactions between their books of account
3. Reduction of effort involved in payment processing, follow ups for payment, bank reconciliations and more
4. Reduction in number of transactions for filing returns, claim of credits
5. Better compliance of new Rule 36(4) of CGST Rules 2017 which restricts 80% credit on undisclosed entries in GSTR-2A upto 31.12.2019 and 90% thereafter w.e.f. 01.01.2020
6. Reduction in time spent for reviews / audit of transactions in different audits

#### ***Pre-requisites for adopting the concept***

Before adopting the continuous supply concept, the tax payer needs to take care of few aspects so that there is no dispute from the department in future regarding such arrangement. Impact of

non-GST laws, if any along with implication of such decision on business should also be considered. The concept would work well when same types of goods are supplied. Few other prerequisites could be as under:

- a. Enter into a contract (ideally written) for continuous / regular supply with periodical statement / payment system. Period can be weekly, fortnightly, monthly etc.
- b. Purchase order terms also should be in line with agreed terms of contract for continuous supply.
- c. Documentation for movement of goods such as delivery challan, invoice, e-way bill should be in line with law. Delivery challan should be issued for each movement. While generating e-way bill, suppliers can select sub type of outward supply as 'others' specifying the sub-supply as continuous supply of goods. A tax invoice can be issued with reference of all such removals made in a period according to time of supply schedule.
- d. Intimation to the department before adopting this concept seeking confirmation. Such confirmation letter could accompany goods so that there is no dispute during the movement of goods.

### **Conclusion**

Industries where there are regular supplies of goods of similar goods to specified customers, this concept can be explored to save substantial time in compliance. Such saved time can be used in better productive jobs. As many are not following this concept though there is no restriction, department could object to such concept. On conservative basis, the proposed procedure needs to be disclosed on acknowledgement before starting. If objected then only an advance ruling can be sought to confirm that there are no legal implications in such practice. Professionals could guide the clients wherever such concept can be followed which can save their professional time as well.

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