

“Time of supply where there is a change in the rate of tax in respect of supply of goods or services”



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From Principal Directors' desk

*As a part of our pursuit towards excellence in training, we attempt to bring out interesting cases. In preparing the case study, an effort has been made to recreate the genesis of an audit observation by simulating the audit process which would result in such observations. A Case Study on **'Time of supply where there is a change in the rate of tax in respect of supply of goods or services'** has been prepared based on material available on the site of Central Board of Excise and Customs and GST Act etc.*

I hope that the readers would be benefitted from this issue. Suggestions, if any, are welcome and would help us in future designing of case studies.

*Principal Director
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CASE STUDY

Goods and Services Tax (GST)

GST is the most logical steps towards the comprehensive indirect tax reform in our country since independence. GST is leviable on all supply of goods and provision of services as well combination thereof. All sectors of economy whether the industry, business including Govt. departments and service sector shall have to bear impact of GST. All section of economy viz., big, medium, small scale units, intermediaries, importers, exporters, traders, professionals and consumers shall be directly affected by GST. One of the biggest taxation reforms in India, the Goods and Service Tax (GST), is operational to integrate State economies and boost overall growth.

You are the Officer in-charge of the Audit team comprised for Audit of indirect taxes and you are responsible for audit of indirect taxes. Since you are aware of the changed scenario, you have started reading GST rules. During the course of study you found that since this is destination based tax and rates are going to be changed from 1st July 2017 and you have visualized that there will be frequent change to rates in time to come. Your study took an angle that in case of change of rates what would be the rate of Tax in respect of supply of goods or services before and after date of change of rates. You started collecting material in this connection and you noticed that there are three main determining factors for Time of supply where there is a change in the rate of tax i.e. Supply of goods and service, Issue of invoice and Receipt of payment. You discussed this to your Group Officer. Your Group Officer asked you to explore the possibility of factual error in rate of Tax in respect of supply of goods or services before and after date of change of rates. To know more about these factors you visited official site of Central Board of Excise and Customs and GST Act etc (A brief of the main determining factors for Time of supply and rate of Tax in respect of supply of goods or services before and after date of change of rates are given in ***Annexure I***).

In this context:

Analyse and discuss that what is the time of supply, where supply is completed on 30/06/2017 and the rate of tax was 18 per cent and the rate of tax have been changed on 01/07/2017 @ five per cent and

- (i) *the invoice for the same has been issued on 01/07/2018 and the payment is also received on 01/07/2017,*

- (ii) *the invoice has been issued on 30/06/2017 but the payment is received on 01/07/2017*
- (iii) *where the payment is received on 30/06/2017, but the invoice for the same has been issued on 01/07/2017*

Analyse and discuss that what is the time of supply, where the rate of tax have been changed on 01/07/2017 @ five per cent and supply is also completed on 01/07/2017, on 30/06/2017 the rate of tax was 18 percent, and

- (i) *the payment is received on 01/07/2017 but the invoice has been issued on 30/06/2017*
- (ii) *the invoice has been issued and the payment is also received on 30/06/2017*
- (iii) *where the invoice has been issued on 01/07/2017 after the change in rate of tax but the payment is received on 30/06/2017*

ANNEXURE- I

Time of Supply

In order to calculate and discharge tax liability, it is important to know the date when the tax liability arises i.e. the date on which the charging event has occurred. In GST law, it is known as **Time of Supply**. The GST law has provided separate provisions to determine the time of supply of goods and time of supply of services. Section 12, 13 & 14 of the Central GST Act, 2017 (CGST Act) deals with the provisions related to time of supply and by virtue of Section 20 of the Integrated GST Act, 2017 (IGST Act) these provisions are also applicable for the IGST Act. Point of time when supplier receives the payment or **date of receipt of payment**¹. The phrase “the date on which supplier receives the payment” or “the date of receipt of payment” means the date on which payment is entered in his books of accounts or the date on which the payment is credited to his bank account, whichever is earlier.

Time of issue of invoice for supply

As per section 31 of the CGST Act, an invoice for supply of goods needs to be issued before or at the time of removal of goods for supply to the recipient, where the supply involves movement of goods. However, in other cases, an invoice needs to be issued before or at the time of delivery of goods or while making goods available to the recipient. Similarly an invoice for supply of services needs to be issued before or after the provision of service but not later than thirty days (forty five days² and before or at the time such supplier records in his books of account or before the expiry of the quarter during which supply was made³) from the date of provision of service.

Time of supply of goods (Default Rule)

Earliest of the following dates:

- Date of issue of invoice by the supplier. If the invoice is not issued, then the last date on which the supplier is legally bound to issue the invoice with respect to the supply
- Date on which the supplier receives the payment

¹ **Date of receipt of payment in case of change in rate of tax**

Normally the date of receipt of payment is the date of credit in the bank account of the recipient of payment or the date on which the payment is entered into his books of account, whichever is earlier. However, in cases of change in rate of tax, the date of receipt of payment is the date of credit in the bank account if such credit is after four working days from the date of change in rate of tax.

² In the case of supplier of services is an insurer or a banking company or a financial institution including a non-banking financial company.

³ If supply between distinct persons in the case of an insurer or a banking company or a financial institutions including a non banking financial company or a telecom operator or notified supplier.

Time of supply of services (Default Rule)

Earliest of the following dates:

- Date of issue of invoice by the supplier (If the invoice is issued within the legally prescribed period under section 31(2) of the CGST Act) or the date of receipt of payment, whichever is earlier
- Date of provision of service (If the invoice is not issued within the legally prescribed period under section 31(2) of the CGST Act) or the date of receipt of payment, whichever is earlier
- Date on which the recipient shows the receipt of service in his books of account, in case the aforesaid two provisions do not apply

Time of supply of goods where tax to be paid on Reverse Charge basis

Earlier the following dates:

- date of receipt of goods
- date of payment as entered in the books of accounts of the recipient or date on which the payment is debited in his bank account
- date immediately following thirty days from the date of issue of invoice by the supplier
- date of entry in the books of account of recipient if any of the above is not possible to determine.

Time of supply of services where tax to be paid on Reverse Charge basis

Earlier the following dates:

- date of payment as entered in the books of accounts of the recipient or date on which the payment is debited in his bank account, whichever is earlier
- date immediately following sixty days of issue of invoice by the supplier
- in any other cases, date of entry in the books of account of the recipient
- the date of entry in the books of account of recipient or the date of payment whichever is earlier, in case of supply by associated enterprises, where the supplier is located outside India.

Time of supply of goods or services – in case of supply of vouchers

- date of issue of voucher, if supply is identifiable at that point, or
- date of redemption of voucher, in all other cases.

Time of supply of goods or services where time of supply could not be determined by above means:

- in a case where a periodical return has to be files, be the date on which such return is to be files, or
- in other case, be the date on which the tax is paid

Time of supply-Addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration

- the date on which the supplier receives such addition in value.

Change in Rate of Tax in respect of supply of goods or services

The normal time of supply rules changes if there is a change in the rate of tax of supply of goods or services. In this scenario, time of supply has to be determined in the following manner:

Supply is completed before the change in rate of tax

Invoice issued before the date of change in tax rate	Payment received before the date of change in tax rate	Time of supply	Applicable rate of tax
No	No	Earliest of the date of invoice or payment	New rate of tax
Yes	No	Date of issue of invoice	Old tax rate
No	Yes	Date of receipt of payment	Old tax rate

Supply is completed after the change in rate of tax

Invoice issued before the date of change in tax rate	Payment received before the date of change in tax rate	Time of supply	Applicable rate of tax
Yes	Yes	Earliest of the date of invoice or payment	Old tax rate
Yes	No	Date of receipt of payment	New rate of tax
No	Yes	Date of issue of invoice	New rate of tax

Teaching Note

Synopsis

GST will create a single, unified Indian market to make the economy stronger. It is seen and experts say that GST is likely to improve tax collections to boost India's economic development by breaking tax barriers between States and integrating India through a uniform tax rate. Under GST, the taxation burden will be divided equitably between manufacturing and services, through a lower tax rate by increasing the tax base and minimizing exemptions. It is a dual tax, levied on a common base, comprising **Central GST**: where tax is levied by the Central Government, **State GST**: where the tax is levied by the State Governments and **UTGST**: Will be levied by UTs without legislature. CGST and SGST would be applicable on Intra-State supplies. CGST and SGST rate and amount would be separately displayed in the invoice of the dealer. **Integrated GST (IGST)** would be levied on inter-state supply (including stock transfers) of goods and services. IGST is to be collected by the Centre and shared with destination State. Imports of goods and services will be deemed as supply in course of inter-state trade or commerce.

The GST is a destination based consumption tax, which is applicable on the supply of goods or services as against the previous regime of tax on manufacture or sale of goods and provision of services.

There are three main determining factors for Time of supply where there is a change in the rate of tax i.e. Supply of goods and service, Issue of invoice and Receipt of payment.

Teaching and learning objectives

- Understanding about GST.
- Understanding Time of supply where there is a change in the rate of tax
- Understanding payment of tax under reverse charge

Target Audience

This case study is meant for Group B officers of the Department for trainings in topics relating to GST.

Position in course

The case study could ideally be used at the beginning of the class lectures on Time of supply where there is a change in the rate of tax.

Relevant readings

Most relevant materials are given as annexure to the case study. However, participants are also expected to have sound understanding of GST. Reading of relevant Act and visit of official site of Central Board of Excise and Customs (www.cbec.gov.in) may be helpful.

Assignment questions

Some suggested questions for discussion of the case study in the class could be:

- *What is the time of supply, where supply is completed prior to change in rate of tax?*
- *What is the time of supply, where supply is completed after to change in rate of tax?*

Teaching plan

Time plan for the session – 75 minutes

15 minutes for reading of the case,

60 minutes for discussion on the situation brought out,

15 minutes for summarization

General Guidelines

1. Ensure that each participant reads the case study before initiating discussion on the case-let
2. Initiate discussion on the case-let by summarizing the situation and leaving it open to the participants to share their thoughts
3. Encourage the participants to discuss freely. Always be open to spontaneous outcomes
4. There might be some participants who tend to dominate the discussion. There might be others who do not participate. Gently nudge the quiet ones to talk, so that the views of most of the participants could be shared in the class
5. If the discussion deviates too far from the planned objective, gently bring it back to the topic by asking some leading questions
6. Note down the key outcomes of the discussion

Suggested solution

Where supply is completed prior to change in rate of tax in such cases time of supply will be

- (i) *where the invoice for the same has been issued and the payment is also received after the change in rate of tax, the time of supply shall be the date of receipt of payment or the date of issue of invoice, whichever is earlier; or*
- (ii) *where the invoice has been issued prior to change in rate of tax but the payment is received after the change in rate of tax, the time of supply shall be the date of issue of invoice; or*
- (iii) *where the payment is received before the change in rate of tax, but the invoice for the same has been issued after the change in rate of tax, the time of supply shall be the date of receipt of payment;*

Where supply is completed after to change in rate of tax in such cases time of supply will be

- (i) where the payment is received after the change in rate of tax but the invoice has been issued prior to the change in rate of tax, the time of supply shall be the date of receipt of payment; or
- (ii) where the invoice has been issued and the payment is received before the change in rate of tax, the time of supply shall be the date of receipt of payment or date of issue of invoice, whichever is earlier; or
- (iii) where the invoice has been issued after the change in rate of tax but the payment is received before the change in rate of tax, the time of supply shall be the date of issue of invoice

Case1	Before change in rate of tax	After change in rate of tax	Remarks
Goods supplied or service provided	yes		New rate will apply
Invoice issued		yes	
Payment received		yes	

Case2	Before change in rate of tax	After change in rate of tax	Remarks
Goods supplied or service provided	yes		Old rate will apply
Invoice issued	Yes		
Payment received		yes	

Case3	Before change in rate of tax	After change in rate of tax	Remarks
Goods supplied or service provided	yes		Old rate will apply
Invoice issued		Yes	
Payment received	yes		

Case4	Before change in rate of tax	After change in rate of tax	Remarks
Goods supplied or service provided		yes	New rate will apply
Invoice issued	Yes		
Payment received		Yes	

Case5	Before change in rate of tax	After change in rate of tax	Remarks
Goods supplied or service provided		yes	Old rate will apply
Invoice issued	Yes		
Payment received	Yes		

Case6	Before change in rate of tax	After change in rate of tax	Remarks
Goods supplied or service provided		yes	New rate will apply
Invoice issued		Yes	
Payment received	Yes		

“What Happened”

The GST came into effect from July 1, 2017 through the implementation of one hundred and first amendments by the Government of India. The tax replaced existing multiple cascading taxes levied by the central and state governments. The tax rates, rules and regulations are governed by the Goods and Services Tax Council which comprises finance ministers of centre and all the states. GST simplified a slew of indirect taxes with a unified tax and is therefore expected to dramatically reshape the country's economy.