



## Five years of GST – Back to Basis Theme - Time of Supply



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### Introduction:

It has been 5 years since GST was introduced with much fanfare on 01/07/2017. In the past 5 years, a lot of provisions have changed, there are more notifications/circulars/removal of difficult orders, etc. issued than the total of sections and rules combined. Coping up with them is challenging.

At times, we are all geared up for advanced discussions but miss out on basics. In today's article, we would be revising the provisions related to "TIME OF SUPPLY" (hereinafter referred to as "TOS" at many places in this article) under GST.

TOS is that part of GST when the taxpayers finally decide their "GROSS" liability. The same will appear in the "Electronic Liability Ledger" of the taxpayer. The liability shall be paid to the Government either by using the balance in the electronic credit ledger or by cash using the electronic cash ledger.

The basis for the determination of TOS is discussed in the article.

### Section-wise discussion:

Goods - Section 12	Services - Section 13
<p>Section 12(1):</p> <p>The liability to pay tax on goods shall arise at the time of supply, as determined in accordance with the provisions of this section.</p>	<p>Section 13(1):</p> <p>The liability to pay tax on services shall arise at the time of supply, as determined in accordance with the provisions of this section.</p>
<p>Section 12(2):</p> <p>The provision in case of Forward Charge Mechanism (FCM) (For registered persons not paying tax under section 10 i.e. composition levy)</p> <p>EARLIER OF:</p> <ol style="list-style-type: none"> <li>The date of issue of the invoice</li> <li>Last date on which he is required to issue invoice u/s 31</li> </ol>	<p>Section 13(2):</p> <p>The provision in case of Forward Charge Mechanism (FCM)</p> <p>Before discussing the provisions of TOS in the case of services, we need to understand what is the time limit to issue Tax Invoices in the case of service providers.</p> <p>Rule 47 of the CGST Rules:</p>
<p>The above position is an application of Notification No. 66/2017 - Central Tax dated 15th November 2017 (Covered at the end of this section) which states that supplier of goods who did not opt for the composition levy under section 10 shall pay tax at the TOS specified in Sec 12(2)(a), which is reproduced above.</p> <p>Proviso to Sec 12(2) - Application of this proviso is optional, the supplier may choose not to follow it. Where the supplier of taxable goods receives an amount up to ₹. 1,000/- in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess shall, at the option of the said supplier, be the date of issue of the invoice.</p>	<p>In the case of the taxable supply of services, the tax invoice shall be issued within a period of 30 days from the date of the supply of service:</p> <p>Proviso to Rule 47</p> <p>Provided that where the supplier of services is an insurer or a banking company or a financial institution, including a non-banking financial company, the period within which the invoice or any document in lieu thereof is to be issued shall be 45 days from the date of the supply of service:</p>

### Sections Covered:

As all of us understand and appreciate, the characteristic of goods is quite different from that of services. The lawmakers in their wisdom have discussed the TOS in "TWO" separate sections.

Further, keeping them separate not only makes the law clearer and more specific to the reader but also make it concise for a person to know what to refer it on a limited scale.

For example, a goods dealer would be interested in knowing about the determination of time of supply of goods. They may/may not be interested in knowing about TOS relating to services.

**Chapter IV of the CGST Act, 2017 deals with the provisions relating to "Time and Value of Supply". In this article, we would be discussing provisions related to "Time of Supply" only.**

The headings of the sections which deal with the time of supply are as follows: Section 12 of the CGST Act, 2017 - Time of supply of goods

Section 13 of the CGST Act, 2017 - Time of supply of services

Section 14 of the CGST Act, 2017 - Change in rate of tax in respect of supply of goods or services



Example of Proviso when a supplier chooses to opt for it.  
 Original Invoice dated 05/06/2019 - ₹. 1,500/- Payment made on 28/06/2019 - ₹. 2,000/- Excess payment - ₹. 500/-  
 Next Invoice made on 05/07/2019 - This is the date of the invoice of excess ₹. 500/- received on 28/06/2019  
 Explanation (1) to Section 12(2)  
 For the purposes above, the supply shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.  
 Applying the explanation to the example of the proviso, the value of supply - ₹. 1,500/-  
 The provision in case of Forward Charge Mechanism  
 (For registered persons paying tax under section 10 i.e. composition levy)  
**EARLIER OF:**  
 1. The date of issue of the invoice  
 2. Last date on which he is required to issue invoice u/s 31  
 3. The date of payment  
 Explanation (2) to Section 12(2) specifies the meaning of the term "Date of payment"  
 "The date on which the supplier receives the payment" shall be earlier of  
 1. The date on which the payment is entered in his books of accounts or  
 2. The date on which the payment is credited to his bank account.  
 So to sum it up, TOS for a person paying tax under section 10 is the  
**EARLIEST OF:**  
 1. The date of issue of the invoice  
 2. Last date on which he is required to issue invoice u/s 31  
**(Regarding Issue of Invoice)**  
 3. The date on which the payment is entered in his books  
 4. The date on which the payment is credited to his bank account  
**(Regarding Payment)**

**Notification 66/2017 reads as:**  
 The Central Government, on the recommendations of the Council, hereby notifies the registered person who did not opt for the composition levy under section 10 of the said Act as the class of persons who shall pay the central tax on the outward supply of goods at the time of supply as specified in clause (a) of sub-section (2) of section 12 of the said Act including in the situations attracting the provisions of section 14 of the said Act, and shall accordingly furnish the details and returns as mentioned in Chapter IX of the said Act and the Rules made thereunder and the period prescribed for the payment of tax by such class of registered persons shall be such as specified in the said Act.

Invoice issued timely	Otherwise
<b>EARLIEST OF:</b>	<b>EARLIEST OF:</b>
1. The date of issue of the invoice	1. The date of provision of service
2. The date on which the payment is entered in the books of account of the supplier	2. The date on which the payment is entered in the books of account of the supplier
3. The date on which the payment is credited to his bank account	3. The date on which the payment is credited to his bank account

An example of the determination of TOS is when Invoice is issued timely.

The date of the Invoice	31/01/2022	TOS = 10/01/2022
The date of supply of service	07/01/2022	
Payment received by way of cheque and the entry for receipt is recorded in the books of accounts	10/01/2022	
The amount credited to the bank account of the supplier	12/01/2022	

An example of the determination of TOS is when Invoice is not issued timely.

The date of the Invoice	31/07/2022	TOS = 05/06/2022
The date of supply of service	05/06/2022	
Payment received by way of cheque and the entry for receipt is recorded in the books of accounts	21/07/2022	
The amount credited to the bank account of the supplier	23/07/2022	

**Section 13(2)(c)**  
 In cases where the time of supply cannot be determined as per above, the time of supply is the date on which the recipient shows the receipt of services in his books of account.

Example of the above - Under a departmental audit, records about invoicing or payment related to a particular supply could not be retrieved from the supplier. In such cases, TOS would be the date when the recipient has accounted for the supplies in his books.

**Explanation (i) to Section 13(2)**  
 For the purposes above, the supply shall be deemed to have been made to the extent it is covered by the invoice or payment.

**Explanation (ii) to Section 13(2)**  
 "The date on which the supplier receives the payment" shall be earlier of

1. The date on which the payment is entered in his books of accounts or
2. The date on which the payment is credited to his bank account.



**Section 12(3):**

**The provision in case of Reverse Charge Mechanism EARLIEST OF:**

1. The date of receipt of goods
2. The Date of payment as entered in the books of account of the recipient
3. The date on which payment is debited in the bank account
4. 31st day from the date of issue of invoice

**Proviso to Section 12(3)**

Where it is not possible to determine the time of supply as above, the time of supply shall be the date of entry in the books of account of the recipient of the supply.

An example of how to determine TOS when supplies are made under RCM.

The date of the Invoice	31/07/2022	TOS = 05/06/2022
The date of supply of service	05/06/2022	
Payment received by way of cheque and the entry for receipt is recorded in the books of accounts	21/07/2022	
The amount credited to the bank account of the supplier	23/07/2022	

**Section 13(3):**

**The provision in case of Reverse Charge Mechanism EARLIEST OF:**

1. The date of payment as entered in the books of account of the recipient
2. The date on which the payment is debited in his bank account.
3. 61st day from the date of issue of invoice

**First Proviso to Section 13(3)**

Where it is not possible to determine the time of supply as above, the time of supply shall be the date of entry in the books of account of the recipient of the supply.

**Second Proviso to Section 13(3):**

In case of supply by associated enterprises EARLIER OF:

1. The date of entry in the books of account of the recipient of the supply
2. The date of payment

**Meaning of Associated enterprises**

As per Section 2(12), the “associated enterprises” shall have the meaning assigned to it in Section 92A of the Income Tax Act, 1961.

A comparative example showing RCM in the case of Associated Enterprises and other than associated Enterprises

Particulars	Non-associated enterprises	Associated enterprises
The date of payment is entered in books of accounts	14/09/2022	14/09/2022
The date of payment is debited in books of accounts	17/09/2022	17/09/2022
Date of issuance of an invoice	10/09/2022	10/09/2022
61st day from invoice date	11/11/2022	11/11/2022
Date of entry in the books of accounts of the recipient	10/09/2022	10/09/2022
Time of supply	14/09/2022	10/09/2022

**The provision in case of Supply of Vouchers**

**Section 12(4): Voucher for Goods/ Section 13(4): Voucher for Services**

**Definition of Voucher -**

As per section 2(118) of the CGST Act, “voucher” means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument.

**Example of what can be Voucher - ₹. 1,000/- shoppers stop gift cards which will enable the cardholder to buy items available at any shoppers stop outlet.**

TOS - Date of issue of Voucher - If supply is identifiable

TOS - Date of Redemption of Voucher - If supply is not identifiable



**Application of Section 12(4)/13(4):**

**Supply is identifiable:**

You receive a Domino's pizza voucher worth ₹. 1,000. In this case, since using the voucher can be used only for Pizza, the supply is identifiable and TOS would be the date of issue of the Voucher.

**Supply is not identifiable:**

You receive a Flipkart gift voucher worth ₹. 1,000, at the time of issue of that voucher, Flipkart does not know the nature of the supply the voucher holder will order from Flipkart. Hence TOS is the date of redemption.

**The provision in case your supplies are not covered as per the above provisions [Section 12(1) to Section 12(4)]**

**Section 12(5): Residual for Goods/ Section 13(5): Residual for Services**

Not covered u/s 12(1) to 12(4)/13(2) to 13(4)

TOS - Due Date of Return - If a return is required to be filed TOS - Date of Payment of Tax - All other cases

**The provision for Items which deserve a special mention**

**Section 12(6): Special Items for Goods/ Section 13(6): Special Items for Services**

Items Covered - Addition in the value of supply by way of Interest/Late Fee/Penalty for delayed payment of consideration

TOS - Date of Receipt by the supplier

**Application of Section 12(6)/13(6):**

Mr A and Mr B enter into a contract that Mr A will make supplies to Mr B worth ₹. 1,000. Mr B will pay the value of supplies and tax thereon within 30 days from the date of receipt of goods. If Mr B fails to make payment within 30 days, Mr B will be liable to pay simple interest @ 20% from the 31st day till the date of actual payment.

Scenario 1: Mr B makes the payment along with the tax on the 29th day

Scenario 2: Mr B makes the payment along with tax and the interest on the 62nd day. Scenario 3: Mr B makes the payment along with the tax on the 62nd day.

Applying section 12(6)/13(6),

**Scenario 1:**

Since Mr B has made payment within the allowed timeframe, no interest would be charged on Mr B and hence this sub-section is not attracted.

**Scenario 2:**

Since Mr B has breached the time limit for payment as per the contract, he will be charged simple interest @ 20% from the 31st day to the 62nd day i.e., till the date of actual payment. In this case, Mr A receives something more in form of interest due to delayed payment of consideration. The time of supply concerning this extra receipt is the date on which the supplier receives such interest. Hence it is taxable on an actual receipt basis.

In our scenario, it would be taxable on the 62nd day.

**Scenario 3:**

In this case, though Mr B has made a delayed payment, this sub-section is not attracted because no interest is paid by him to Mr A

**Conclusion:**

We will all appreciate that an incorrect determination of "TOS" will have both monetary as well as non-monetary impacts on the taxpayer. Thus, while filing GST returns, we need to be cautious enough to evaluate whether any interest becomes payable or not. Towards the conclusion, I am leaving the readers with some of the impacts on the taxpayers with a caution that there may be more impacts than what are mentioned below.

**Some impacts of incorrect determination of time of supply:**

**Monetary impact -**

An incorrect derivation of timing will result in excess cash outflow in form of interest, penalty, late fees, etc. if discharged late. If discharged early, it will impact the working capital of the firm. Thus, it becomes an extremely crucial decision for the taxpayer to make. It may even result in reduced cash flow as customers may hold the tax amount due to an error.

**Non-monetary impact -**

A qualitative impact of wrong determination of timing can have an impact on customer relations as well. While some of the customers may resort to withholding the amount of tax, this may lead to continuous chains of follow-up from the vendors and the accounts department may have to handle this part additionally.