

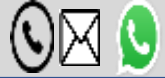


Lawgics

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Section 52 read with Rule 67

Section 52(1)	<p><u>Collection of tax at source</u></p> <p>Notwithstanding anything to the contrary contained in this Act, every electronic commerce operator (hereafter in this section referred to as the “operator”), not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.</p> <p>Explanation. —For the purposes of this sub-section, the expression “net value of taxable supplies” shall mean the aggregate value of taxable supplies of goods or services or both, other than services notified under sub-section (5) of section 9, made during any month by all registered persons through the operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month.</p>
Section 52(1) Interpretation	<p><u>TCS</u></p> <p>TCS (Tax collected at source) refers to the tax amount collected by every Electronic Commerce Operator like Amazon, Flipkart, etc. E-Commerce operators who own, operate and manage the E-commerce platforms are liable to collect TCS. TCS applies only if the operators collect the consideration from the customers on behalf of vendors or suppliers. Therefore, when E-commerce operators pay the consideration collected to the vendors, they have to deduct an amount as TCS and pay the net amount. Supplies made by the E-commerce operator on its own account are not subject to TCS requirements.</p> <p><u>For example</u> – M/s. Westend stores (a proprietorship) is selling garments through Flipkart. Flipkart, being an e-commerce operator, before it makes the payment of consideration collected on behalf of M/s. Westend stores, will be liable to deduct TCS.</p> <p>Services notified under Section 9(5) are <u>exception</u> to the TCS provisions:</p> <ul style="list-style-type: none">• Hotel accommodation/clubs (unregistered suppliers)• Transportation of passengers – radio taxi, motor cab or motorcycle• Housekeeping services like plumbing, carpentry etc. (unregistered suppliers)• Restaurant Services (Cloud Kitchen such as Zomato and Swiggy)- notified under Section 9(5) w.e.f. 01.01.2022 <p>As per Notification No. 51/2018-CT dated 13.09.2018, the effective date of TCS provision is 01.10.2018.</p> <p>As per Notification No. 52/2018-CT dated 20.09.2018, Only E-commerce operator can collect TCS, no other person has the power to collect TCS under GST. The dealers or traders supplying goods and/or services through E-commerce operators will receive payment after deduction of TCS @ 1%.</p> <p><u>TCS Rate</u></p> <p>The operator is liable to collect TCS on net value of supplies made through it by the supplier at the rate of 0.5% each CGST and SGST {IGST @1%}.</p> <p><u>Net Value of taxable supplies</u> means Total value of taxable supplies made through operator (-) Total value of taxable supplies returned to the suppliers in a relevant period.</p>

	<p>For example– M/s. Westend stores, a registered supplier is supplying goods through an e-commerce operator. It has made supplies of Rs.55,00,000 in the month of Feb 2023. The goods returned were worth Rs.5,00,000 to M/s. Westend stores during the month of Feb 2023. Here, the net value of taxable supplies for TCS collection will be Rs.50,00,000 and TCS @ 1%, i.e Rs.50,000 will be deducted by the e-commerce operator. Hence, the final payment to be made to the supplier is Rs.49,50,000.</p> <p>TCS is collectable from an amount of total sales consideration, inclusive of GST. It means if selling price is Rs. 100/- + GST Rs. 18/-, then TCS is to be collected @1% on 118/-. This is clearly understood vide Circular No. 76/50/2018-GST Dated 31.12.2018</p>
Section 52(2)	The power to collect the amount specified in sub-section (1) shall be without prejudice to any other mode of recovery from the operator.
Section 52(2) Interpretation	The powers of E-Commerce Operator are restricted only to the extent of TCS.
Section 52(3)	The amount collected under sub-section (1) shall be paid to the Government by the operator within ten days after the end of the month in which such collection is made, in such manner as may be prescribed.
Section 52(3) Interpretation	<p>Payment of TCS</p> <p>TCS shall be deposited to the Government by the operator within 10 days from the end of the month in which such tax is collected.</p>
Section 52(4)	<p>Every operator who collects the amount specified in sub-section (1) shall furnish a statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under sub-section (1) during a month, in such form and manner as may be prescribed, within ten days after the end of such month.</p> <p>Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the statement for such class of registered persons as may be specified therein:</p> <p>Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.</p> <p>Explanation: - For the purposes of this sub-section, it is hereby declared that the due date for furnishing the said statement for the months of October, November and December, 2018 shall be the 07th February, 2019.</p>
Rule 67(1)	<p>Form and manner of submission of statement of supplies through an ecommerce operator.</p> <p>Every electronic commerce operator required to collect tax at source under section 52 shall furnish a statement in FORM GSTR-8 electronically on the common portal, either directly or from a Facilitation Centre notified by the Commissioner, containing details of supplies effected through such operator and the amount of tax collected as required under sub-section (1) of section 52.</p>
Rule 67(2)	The details furnished by the operator under sub-rule (1) shall be made available electronically to each of the suppliers on the common portal after filing of FORM GSTR-8 for claiming the amount of tax collected in his electronic cash ledger after validation.
Section 52(4) read with Rule 67(1) & 67(2) Interpretation	<p>GSTR-8</p> <ul style="list-style-type: none"> An E- commerce operator shall furnish a return in GSTR-8 containing details of supplies effected through such operator and the amount of TCS, latest by the 10th day of succeeding month and deposit the tax in the return. It will be deposited within 10 days from the end of the month of supply to the credit of the government. E-Commerce operators have to file GSTR-8 by 10th of the next month in which the tax was collected. Numerous notifications for extending the time limit for furnishing the GSTR-8 has been issued from time to time. Any extension of time limit notified by the Commissioner of State tax/ Union territory tax shall be deemed to be notified by Commissioner under CGST Act. The details furnished by the operator in GSTR-8 shall be made available electronically to each of the suppliers on the GST portal after filing of GSTR-8 for claiming the amount of TCS in the electronic cash ledger of suppliers. Due date for furnishing GSTR-8 for the months of Oct, Nov and Dec, 2018 shall be 7th February, 2019.

Section 52(5)	<p>Every operator who collects the amount specified in sub-section (1) shall furnish an annual statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under the said sub-section during the financial year, in such form and manner as may be prescribed, before the thirty first day of December following the end of such financial year.</p> <p>Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual statement for such class of registered persons as may be specified therein:</p> <p>Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.</p>
Section 52(5) Interpretation	<p><u>Annual Return</u></p> <p>An E-commerce operator is also liable to furnish an annual return i.e., GSTR-9B as per the provisions of the Act. Annual return needs to be filed by 31st December following the end of every financial year. GSTR-9B shall contain the details of outward supplies effected through such E-commerce operator, including the supplies returned through it, and the amount of TCS.</p> <p>Since the provision of section 52 is applicable from 01st October 2018 only, GSTR-9B for the year 2017-18 is not required.</p> <p>Notification for extending the time limit for furnishing the GSTR-9B may be issued and any extension of time limit notified by the Commissioner of State tax/ Union territory tax shall be deemed to be notified by Commissioner under CGST Act.</p>
Section 52(6)	<p>If any operator after furnishing a statement under sub-section (4) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the statement to be furnished for the month during which such omission or incorrect particulars are noticed, subject to payment of interest, as specified in sub-section (1) of section 50:</p> <p>Provided that no such rectification of any omission or incorrect particulars shall be allowed after the thirtieth day of November following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.</p>
Section 52(6) Interpretation	<p><u>Correction in return GSTR-8</u></p> <p>Any correction, other than as a result of proceeding initiated by tax department, can be rectified in the monthly return to be furnished for the month during which such omission or incorrect particulars are noticed. Such rectification of any omission or incorrect particulars shall be allowed latest by earlier of the following:</p> <ul style="list-style-type: none"> • 30th November following the end of the financial year • Actual date of furnishing of the relevant GSTR-9B
Section 52(7)	<p>The supplier who has supplied the goods or services or both through the operator shall claim credit, in his electronic cash ledger, of the amount collected and reflected in the statement of the operator furnished under sub-section (4), in such manner as may be prescribed.</p>
Section 52(7) Interpretation	<p><u>Claim of TCS by the Supplier</u></p> <p>The Supplier shall claim TCS in Electronic his Cash Ledger of the amount collected and reflected in GSTR-8 by the operator. A separate window is provided on the portal to claim TCS on the GST portal by the supplier. The details submitted by the operators in GSTR-8 will be available to all the suppliers in GSTR-2A. The supplies will be available GSTR-2A after the due date of filing GSTR-8. Note that these credit details shall not be available in GSTR-2B return.</p>
Section 52(8)	<p>The details of supplies furnished by every operator under sub-section (4) shall be matched with the corresponding details of outward supplies furnished by the concerned supplier registered under this Act in such manner and within such time as may be prescribed.</p>
Section 52(9)	<p>Where the details of outward supplies furnished by the operator under sub-section (4) do not match with the corresponding details furnished by the supplier under section 37 or section 39, the discrepancy shall be communicated to both persons in such manner and within such time as may be prescribed.</p>

Section 52(10)	The amount in respect of which any discrepancy is communicated under sub-section (9) and which is not rectified by the supplier in his valid return or the operator in his statement for the month in which discrepancy is communicated, shall be added to the output tax liability of the said supplier, where the value of outward supplies furnished by the operator is more than the value of outward supplies furnished by the supplier, in his return for the month succeeding the month in which the discrepancy is communicated in such manner as may be prescribed.
Section 52(11)	The concerned supplier, in whose output tax liability any amount has been added under sub-section (10), shall pay the tax payable in respect of such supply along with interest, at the rate specified under sub-section (1) of section 50 on the amount so added from the date such tax was due till the date of its payment.
Section 52(8), 52(9), 59(10) & 59(11) Interpretation	<p><u>Matching & reversal of TCS entries</u></p> <p>The details of supplies submitted by the operators in GSTR-8 shall be matched with the corresponding details of outward supplies furnished by the concerned supplier i.e., the supplier making supplies through such operator.</p> <p>Where details of outward supplies furnished by operator in GSTR-8 do not match with corresponding details furnished by supplier in GSTR-1/GSTR-3B, the discrepancy shall be communicated to both the persons.</p> <p>If discrepancy is not rectified by the supplier in his GSTR-1/GSTR-3B or the operator in his GSTR-8 for the month in which discrepancy is communicated, it shall be added to the output tax liability of the said supplier, where the value of outward supplies furnished by the operator is more than the value of outward supplies furnished by the supplier, in his return for the month succeeding the month in which the discrepancy is communicated and such tax is payable along with interest, at the rate of 18% on the amount so added from the date such tax was due till the date of its payment.</p> <p>In nutshell, GSTR-8 cannot be revised once it is filed. Any discrepancy found while matching and reconciling shall be communicated to the operator and the supplier. If the discrepancy is not rectified within the given time period, then the tax amount will be added to the liability of the supplier. The supplier will have to pay the difference along with the interest at 18%.</p>
Section 52(12)	<p>Any authority not below the rank of Deputy Commissioner may serve a notice, either before or during the course of any proceedings under this Act, requiring the operator to furnish such details relating to—</p> <p>(a) supplies of goods or services or both effected through such operator during any period; or</p> <p>(b) stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, by whatever name called, managed by such operator and declared as additional places of business by such suppliers, as may be specified in the notice.</p>
Section 52(13)	Every operator on whom a notice has been served under sub-section (12) shall furnish the required information within fifteen working days of the date of service of such notice.
Section 52(14)	<p>Any person who fails to furnish the information required by the notice served under sub-section (12) shall, without prejudice to any action that may be taken under section 122, be liable to a penalty which may extend to twenty-five thousand rupees.</p> <p>Explanation. —For the purposes of this section, the expression “concerned supplier” shall mean the supplier of goods or services or both making supplies through the operator.</p>
Section 52(12) 52(13) & 53(14) Interpretation	<p><u>Notice to operator</u></p> <p>The department may serve a notice on requiring the operator to furnish details relating to supplies made through such operator during any period or stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, managed by such operator and declared as additional places of business by such suppliers.</p> <p>The Operator shall furnish the details so required by the commissioner within 15 working days of the date of service of such notice. Otherwise, he shall be liable to a maximum penalty of Rs. 25,000/- under this Act.</p>

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