

Reverse Charge Mechanism under GST

- ▶ Generally, the supplier of goods or services is liable to pay GST. This is also known as forward charge mechanism. It is a default charge mechanism. *
- ▶ However, in specified cases like imports and other notified supplies, the liability to pay tax may be put on the recipient. Reverse Charge mechanism means the liability to pay tax is on the recipient of supply of goods or services instead of the supplier of such goods or services in respect of notified categories of supply.

*Note to students: If nothing is mentioned in the question in respect of charge mechanism, then it would be taken as forward charge mechanism.

Key points to remember

A) Registration:

1. Persons who are required to pay tax under reverse charge mechanism are required to get compulsory registration under section 24, CGST act,2017.
2. For the purpose of determining registration requirement, aggregate turnover does not include inward supplies covered under RCM i.e. do not include these supplies in the turnover of recipient. However, these supplies must be included in the aggregate turnover of supplier.

B) For Composition dealers:

Tax on any inward supplies under RCM received by a composition taxable person is payable at normal rates. (not concessional composition rates)

C) GST under RCM can not be paid by utilising ITC i.e., the amount lying in electronic credit ledger. It is paid through electronic cash ledger.

D) Recipient who is liable to pay tax under RCM must issue tax invoice in his/her own name. Payment voucher must be issued by recipient at the time of making payment to supplier.

Reverse charge mechanism rules are covered under two main sections-

1. Section 9 (3), CGST Act, 2017

It states that government can notify categories of goods or services to be covered under RCM.

2. Section 9 (4), CGST Act

Notified taxable supplies by unregistered persons to notified registered persons

Section 9(3), CGST Act, 2017

Notified goods under RCM (Learn any 5 goods for theory question)

Source: V.K. Singhania, GST and Customs Laws text book

Supply of goods		
Description of supply of goods	Supplier of goods	Recipient of supply
1. Cashew nuts, not shelled or peeled	Agriculturist	Any registered person
2. Bidi wrapper leaves (tendu)	Agriculturist	Any registered person
3. Tobacco leaves	Agriculturist	Any registered person
4. Silk yarn	Any person who manufactures silk yarn from raw silk or silk worm cocoons for supply of silk yarn	Any registered person
4A. Raw cotton	Agriculturist	Any registered person
5. Supply of lottery	State Government, Union Territory or any local authority	Lottery distributor or selling agent.
6. Used vehicles, seized and confiscated goods, old and used goods, waste and scrap	Central Government, State Government, Union Territory or a local authority	Any registered person†
7. Priority Sector Lending Certificate (PSLC)	Any registered person	Any registered person‡

† If recipient of supply is an unregistered person, it is chargeable to tax under normal provisions (i.e., GST is payable by the supplier under forward charge). In such a case, the supplier (i.e., the respective Government department) shall be liable to get registered and pay GST - Circular No. 76/50/2018-GST, dated December 31, 2018.

‡ Nature of supply of PSLC between banks may be treated as a supply of goods in the course of inter-State trade or commerce - Circular No. 93/12/2019-GST, dated March 8, 2019.

Notified services under RCM*

- ▶ Special emphasis must be given on legal services, arbitral tribunal, sponsorship, insurance agent, services by photographer, artist, music composer, etc. and services by author and services by GTA.

* Read all notified services but learn the seven services as mentioned above for examination purposes.

*GTA Service (Goods transport agency service) under RCM

*Very Important topic

RCM is applicable in case of GTA services and provisions for the same are as follows –

Supply of GTA services by goods transport agency (who has not paid GST at 12%) in respect of transport of goods by road to following persons –

- Any registered factory under Factories Act
- Any society/ cooperative society
- Any registered person under GST
- Body corporate
- Firm/AOP
- Any casual taxable person in taxable territory

However, RCM is not applicable in case a recipient is registered just for TDS provisions under Section 51.

Taxability of GTA service:

- ▶ The GTA services are taxable at two tax rates (RCM is applicable in both cases if these services are provided to notified persons as mentioned in previous slide)–
 1. 5% tax rate but there is a restriction on availing ITC on inputs used in providing GTA services.
 2. 12% tax rate and there is no restriction in availing ITC.

Please note: Person who pays freight or is liable to pay freight for transportation of goods by road in a carriage, located in taxable territory is treated as recipient for the purpose of this provision

Section 9(4), CGST Act, 2017

- ▶ It covers cases where notified registered persons are liable to pay tax under RCM in respect of notified supplies received from unregistered suppliers. In simple words, if notified registered persons purchases/ acquires notified supplies from unregistered persons then RCM is applicable.
- ▶ Such registered persons and supplies may be notified by the government from time to time on the recommendation of GST council.
- ▶ With effect from April 1, 2019, if a promoter of a real estate project procures inputs, input services and capital goods from unregistered suppliers, then promoter is required to pay GST under RCM.

TDS under Income tax Act on GST component

- ▶ Under TDS provisions, the person while making specified payments is required to deduct tax at a specified percentage before making payments.
- ▶ It is clarified by CBIC that TDS is not deducted on the tax component. For instance, If a payment of Rs. 1000 (plus GST) (applicable GST rate is 18%) is to be made and TDS rate is 10%, then TDS would be deducted at 10% of Rs. 1000, not 10% of 1180.
- ▶ Hence, the rule is TDS is not deductible on GST component.

Practical Problem*:

1. Mr. X, a farmer cultivated tendu leaves in the state of Punjab. These leaves are sold to a Rajshree enterprises, a registered dealer for Rs. 20,00,000. Gst rate:18%. The ITC available is as follows–

ITC available	CGST	SGST	IGST	Total
Mr. X	2,00,000	2,00,000	-	4,00,000
Rajshree enterprises	3,00,000	3,00,000	-	6,00,000

* All practical questions given in CA K.M. bansal book must be practiced.

Example 13.5 (Applicability of RCM in case of Lottery)

M/s Dream Converter Limited (DCL) is a distributor of lottery tickets, authorized by the state of Sikkim. During April, 2018 the Sikkim Government has issued the following lottery tickets to M/s Dream Converter Limited (DCL).

Name of Lottery	No. of Tickets	Face Value per Ticket	Price notified in Official Gazette	Sale of lottery is allowed	Applicable GST
Bumper Dhamaka	3,080	₹ 1,000	₹ 940	in state of Sikkim	12%
Maha-Laxmi	57,600	₹ 100	₹ 90	Anywhere even outside Sikkim	28%

You are required to:

- To find the value of supply in case of sale of "Bumper Dhamaka" and "Maha-Laxmi".
- To calculate the GST payable at the time of supply of lottery by Sikkim Government.
- Whether RCM is applicable.
- The liability of GST on subsequent sale of Lottery Tickets by M/s DCL to any person.

References:

Books:

- ▶ CA K.M. Bansal, GST & Customs Laws, Taxmann
- ▶ Dr. V.K. Singhania, GST and Customs Laws, Taxmann

▶ E-resources:

http://www.cbic.gov.in/resources//htdocs-cbec/gst/51_GST_Flyer_Chapter12.pdf;jsessionid=3049671370AEF7C3137FE1FA45ACD4C