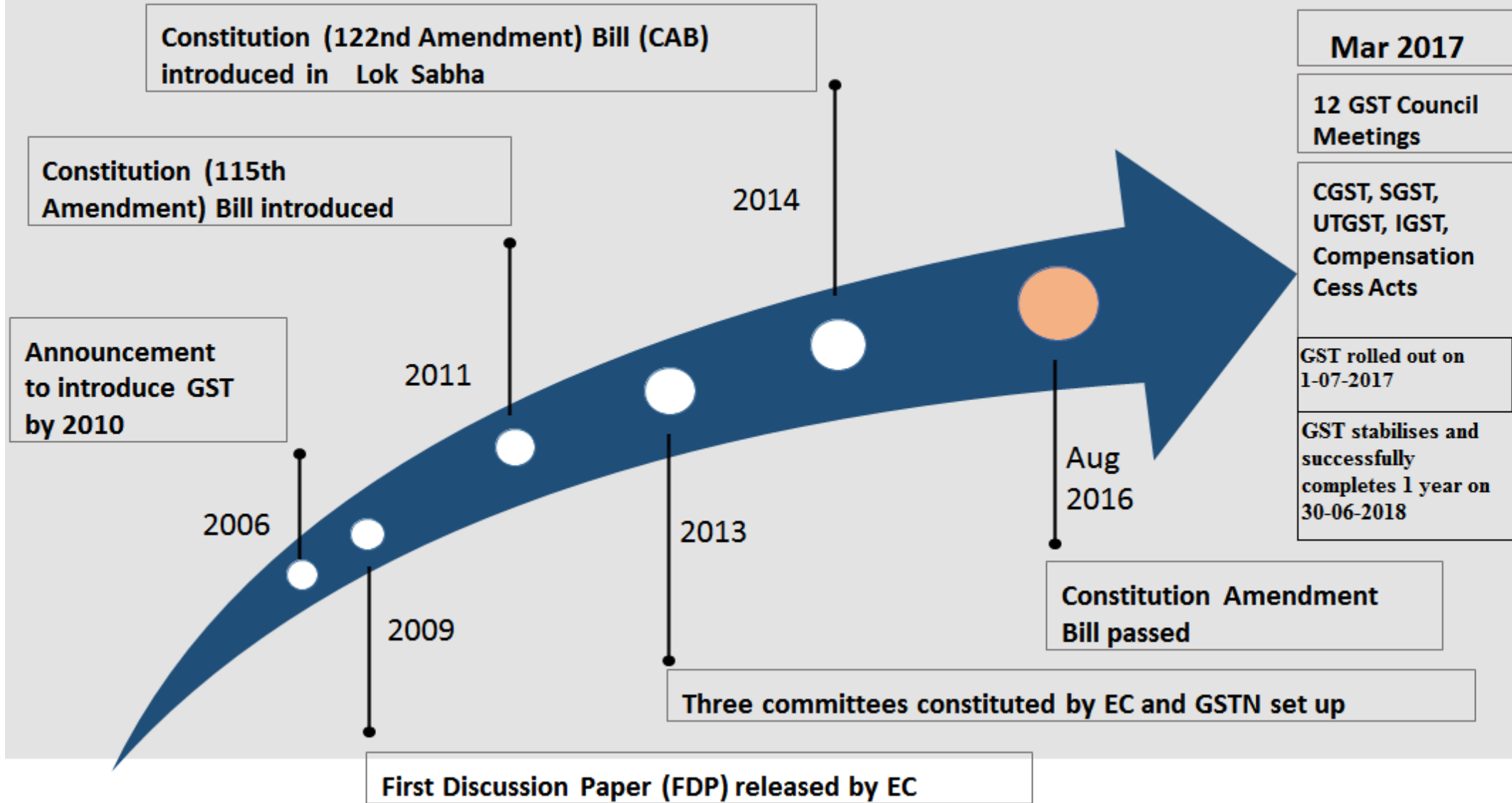


A Presentation
on
TDS under GST Law

By
Subraya M Hegde
JCCT (Retd), Consultant, FPI

The Evolution of GST



Indirect Taxes before GST

□ Central Govt. :

- Customs
- Central Excise
- Service Tax and Cesses

□ State Govt. :

- VAT
- CST
- Sales Tax
- Entry Tax
- Luxury Tax
- Entertainment Tax
- Betting Tax and Cesses
- PT

Taxes subsumed in GST

Central Taxes

- **Central Excise duty (CENVAT)**
- **Additional duties of Excise**
- **Excise duty levied under medicinal & Toiletries Preparation Act**
- **Additional duties of customs (CVD & SAD)**
- **Service Tax**
- **Surcharges & Cesses**

State Taxes

- **State VAT / Sales Tax**
- **Central Sales Tax**
- **Purchase Tax**
- **Entertainment Tax (not levied by local bodies)**
- **Luxury Tax**
- **Entry Tax (All forms)**
- **Taxes on lottery, betting & gambling**
- **Surcharges & Cesses**

GST Laws

- **CGST Act**
- **SGST Act**
- **IGST Act**
- **UTGST Act**
- **GST(Compensation to States) Act**

WHY TDS?

- “Earn when you pay”.
- It ensures regular inflow of cash resources to the Govt.
- It is an effective tool of compliance monitoring system as it generates audit trail.

Evolution of TDS Mechanism (IDT)

- Under KST Act – On works contract - 4%.
- Under KVAT Act - Only on works contract irrespective of value of contract – 4%. – Industrial canteens.
- The tax deducted got remitted to the govt. Account.
- Provisions to authorise the buyers of oil seeds / Iron and Steel did not stand the test of law. - Suman Enterprises Shivamogga v/s State of Karnataka 2010(69) KLJ. HC
- TDS of Entry Tax by sugar factories met with the same fate.

TDS- Who are Deductors ?

51. (1) Notwithstanding anything to the contrary contained in this Act, the Government may **mandate**,—

- (a) a department or establishment of the Central Government or State Government; or
- (b) local authority; or
- (c) Governmental agencies; or
- (d) such persons or category of persons as may be notified by the Government on the recommendations of the Council, (hereafter in this section referred to as “the deductor”),

to deduct tax at the rate of one per cent. from the payment made or credited to the supplier (hereafter in this section referred to as “the deductee”) of taxable goods or services or both, where the total value of such supply, **under a contract**, exceeds two lakh and fifty thousand rupees:

Registration

- S. 24(1).... the following categories of persons shall be required to be registered under this Act, -
- (vi) persons who are required to deduct tax under section 51, whether or not separately registered under this Act;

FINANCE SECRETARIAT

NOTIFICATION (NO. 7/2017)

No. FD 47 CSL 2017, Bengaluru, dated: 15-09-2017

In exercise of the powers conferred by sub-section (3) of section 1 of the KGST Act, 2017 the Government hereby appoints the 18th day of September, 2017 as the date on which the provisions of sub-section (1) of section 51 of the said Act shall come into force with respect to persons specified under clauses (a) and (b) of sub-section (1) of section 51 of the said Act and the persons specified below under clause (d) of sub-section (1) of section 51 of the said Act, namely:-

(a) an authority or a board or any other body, -

- i. set up by an Act of Parliament or a State Legislature; or
- ii. established by any Government,

with fifty-one percent or more participation by way of equity or control, to carry out any function;

(b) society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860 (Central Act 21 of 1860);

(c) public sector undertakings:

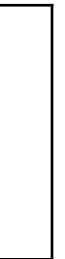
Provided that the said persons shall be liable to deduct tax from the payment made or credited to the supplier of taxable goods or services or both with effect from a date to be notified subsequently, on the recommendations of the Council, by the Government.

Who are Deductors ?.....

- Provided that no deduction shall be made if the location of the supplier and the place of supply is in a State or Union territory which is different from the State or as the case may be, Union territory of registration of the recipient.
- Explanation.—For the purpose of deduction of tax specified above, the value of supply shall be taken as the amount excluding the central tax, State tax, Union territory tax, integrated tax and cess indicated in the invoice.

Deductor's Duties

- **S.39 (3)**: Every registered person required to deduct tax at source under the provisions of section 51 shall furnish, a return, electronically, for the month in which such deductions have been made within ten days after the end of such month. -**Rule 66**
- **S. 51(2)**- The amount deducted as tax under this section shall be paid to the Government by the deductor within ten days after the end of the month in which such deduction is made, in the prescribed manner. – **Rule 85**
- **S. 51(3)**- The deductor shall furnish to the deductee a certificate mentioning therein the contract value, rate of deduction, amount deducted, amount paid to the Government and such other particulars in the prescribed manner.- **Rule 66**



Offences

- **S.51(4)**- If any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amount so deducted to the Government, the deductor shall pay, by way of a late fee, a sum of one hundred rupees per day from the day after the expiry of such five days period until the failure is rectified, subject to a maximum amount of five thousand rupees.
- **S.51(6)**- If any deductor fails to pay to the Government the amount deducted as tax under sub-section (1), he shall pay interest in accordance with the provisions of sub-section (1) of section 50, in addition to the amount of tax deducted.

Offences..

- **S.122(1)(V)**- Fails to deduct the tax in accordance with the provisions of sub- section (1) of S. 51, or deducts an amount which is less than the amount required to be deducted under the said sub-section, or where he fails to pay the Government under sub-section (2) there of, the amount deducted as tax;

he shall be liable to pay a penalty of ten thousand rupees or an amount equivalent to tax evaded or the tax not deducted under section 51 or short deducted or deducted but not paid to the Government or tax not collected under section 52 or short collected or collected but not paid to the Government etc.... whichever is higher.

TDS under IGST Act-

- S. 20. Subject to the provisions of this Act and the rules made there under, the provisions of Central Goods and Services Tax Act relating to,—
 - (i)------(v) registration;(vi) tax invoice, credit and debit notes;(vii) accounts and records;(viii) returns, **other than late fee**;(ix) payment of tax;(x) **tax deduction at source**;(xi) collection of tax at source; transitional provisions; and (xxv) miscellaneous provisions including the provisions relating to the imposition of interest and penalty, shall, mutatis mutandis, apply, so far as may be, in relation to integrated tax as they apply in relation to central tax as if they are enacted under this Act:
- **Provided that in the case of tax deducted at source, the deductor shall deduct tax at the rate of two per cent. from the payment made or credited to the supplier;**
- **Collect TDS of IGST at 2% on all the goods and services received from outside Karnataka.**

TDS

VAT V/s GST

TDS under VAT

- No separate Regn. for Deductors
- Only on works contract – Industrial canteens.
- No monetary threshold
- Rate of TDS - 4% - No TDS on I/S Purchases
- Refund of excess tax only after reassessment causing delay impacting the cash flow of the dealer.
- Book adjustment / Inter-Treasury payment of TDS

TDS under GST

- Mandatory Regn. based on PAN / TAN
- On all taxable supplies of goods and services. No TDS on exempted supplies.
- On value of each contract exceeding Rs. 2.5 lakh
- Rate of TDS – KGST – 1%
CGST – 1%
IGST 2%
- As TDS gets credited to the Electronic Cash Register of the Deductee on 10th of succeeding month, resulting in a running account of TDS, wherein excess amount, if any, can be utilised for payment of any other tax , interest and penalty.
- Payment of TDS through Returns.

Illustrations-1

Q:- Taluka Panchayat Haveri makes the following payment to a registered supplier:

Rs.5,00,000 towards supply of taxable goods including transportation charges, taxable at 12% GST extra.

Ans: Value of supply - Rs.5,00,000

KGST at 6% - 30,000

CGST at 6% - 30,000

Total Rs.5,60,000

TDS: KGST 1% 5,000

CGST 1% 5,000

} Rs.10,000

Illustrations-2

Q:- Taluka Panchayat Haveri makes the following payment to a taxable supplier:

Rs.1,00,000 towards supply of technical manpower supply, in partial supply of service of total contract value of Rs.6,00,000, taxable at 18% including GST.

Ans:- Value of supply Rs.84,746

KGST 9% 7,627

CGST 9% 7,627

Total - Rs.1,00,000

TDS KGST 1% on Rs.84,746 = 847

TDS CGST 1% on Rs.84,746 = 847

} Rs.1694

Illustration-3

- Q:- Director of Horticulture makes payment of Rs.10,00000 / towards supply of vegetables/ fruits / unbranded food grains including transportation charges, to a registered taxable person. How much tax should be deducted ?
- Ans:- No TDS in this case as payment is made towards supply of exempted goods and services.

FINANCE SECRETARIAT
NOTIFICATION (09/2017)

No. FD 48 CSL 2017, Bengaluru, dated: 29.06.2017.

Exemption on intra-State supplies of goods or services or both received by a deductor under section 51 of the said Act, from any unregistered supplier, who is not registered, from the whole of the State tax leviable thereon under section 9 of KGST / CGST Act, subject to the condition that the deductor is not liable to be registered otherwise than under sub-clause (vi) of section 24 of the said Act.

The Way Ahead

- Check whether you are registered as TDS Authority.
- If not registered, get registered with the help of jurisdictional CTD Authorities.
- Enlighten other TDS Authorities in your organization on taking Registration, the threshold value for TDS, rate of TDS, filing of Returns / Payment / TDS certificate.
- Ensure timely filing of TDS Returns from Oct.2018. onwards along with payment of collected Tax to avoid payment of interest and penalty.

