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GOODS AND SERVICES TAX AND E-COMMERCE: EXAMINING THE LEGAL FRAMEWORK AND REGULATORY CHALLENGES

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ABSTRACT

The rapid expansion of e-commerce has changed the way people buy and sell goods and services in India. Online platforms such as Amazon, Flipkart, and Meesho have made business easier for sellers and consumers. To regulate these transactions, the Goods and Services Tax (GST) introduced a uniform tax system across the country. The GST law also contains special provisions for e-commerce businesses to ensure proper tax collection and compliance. This study examines the legal framework governing GST in the e-commerce sector under the Central Goods and Services Tax (CGST) Act, 2017. Specifically, it analyses key statutory provisions regarding mandatory registration, Tax Collected at Source (TCS) under Section 52, operator liabilities, and ongoing compliance mandates. This study also highlights the major regulatory challenges faced by online sellers and e-commerce platforms, including compliance burden, statutory ambiguities, and issues relating to digital transactions. This study employs a doctrinal research methodology, analysing statutes, rules, judicial decisions, government reports, and academic literature. This study suggests ways to simplify GST compliance, strengthen the legal framework, and support the sustainable growth of e-commerce in India. This study concludes that an effective and balanced GST system is necessary to support e-commerce growth while ensuring transparency, fair taxation, and legal certainty.

Keywords: *Goods and Services Tax, E-Commerce, CGST Act 2017, Tax Collected at Source (TCS), Legal Compliance, Digital Economy.*

1. INTRODUCTION

The rise of the internet and smartphones has changed how people buy and sell goods in India. Online platforms like Amazon, Flipkart, Meesho, and Swiggy have made it easier for sellers to

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reach customers across the country.² While this digital growth has helped many small businesses grow, it has also created new challenges for the Indian tax system.³ Older tax laws were not built to handle online sales, making it hard for the government to track digital transactions and collect taxes properly.⁴

To solve these problems and create a single tax system across India, Parliament introduced the Goods and Services Tax (GST) in 2017.⁵ Because online marketplaces work differently from traditional shops, the Central Goods and Services Tax (CGST) Act, 2017, included special rules for e-commerce.⁶ Under Section 52, platform operators must collect Tax Collected at Source (TCS) on sales made through their sites.⁷ In addition, Section 9(5) makes online platforms directly responsible for paying GST on specific services, such as food delivery and ride-sharing.⁸

However, following these rules is not always easy for online businesses. Small sellers often face problems such as blocked working capital, mandatory registration requirements, and complex monthly filing requirements.⁹ Therefore, it is important to study the GST legal rules to understand how they affect online businesses and to suggest ways to simplify tax compliance.¹⁰

2. STATEMENT OF THE RESEARCH PROBLEM

Although the Goods and Services Tax (GST) rules were designed to create a fair and uniform tax system for online shopping, following them has created real, everyday problems for online sellers and platforms. India's e-commerce sector has grown rapidly, and lakhs of small sellers now depend on it for their livelihoods. But the tax rules were primarily designed to help the

² Competition Commission of India, *Market Study on E-Commerce in India: Key Findings and Observations*, 12–15 (2020).

³ Ministry of Finance, Government of India, *Report of the Task Force on E-Commerce and Digital Economy*, 34–38 (2018).

⁴ Arvind Datar, *The Indirect Tax Reform in India: From Fragmentation to Integration*, 45 *Indian L. Rev.* 112, 115–118 (2019).

⁵ *Central Goods and Services Tax Act*, No. 12 of 2017 (India).

⁶ *Central Goods and Services Tax Act*, No. 12 of 2017, § 2(45) (India).

⁷ *Id.* § 52; see also Central Board of Indirect Taxes and Customs, *Flyer on TCS Mechanism Under GST* (Ministry of Finance, Government of India 2018).

⁸ *Central Goods and Services Tax Act*, No. 12 of 2017, § 9(5) (India).

⁹ Goods & Services Tax Council, *Recommendations of 47th GST Council Meeting* (June 29, 2022).

¹⁰ Goods & Services Tax Council, *Recommendations of 47th GST Council Meeting* (June 29, 2022).

government track transactions and prevent tax evasion, not to make life easier for the sellers who use these platforms every day.

Under the Central Goods and Services Tax (CGST) Act, 2017, rules such as Tax Collected at Source (TCS) under Section 52 and platform liability under Section 9(5) place a heavy burden on online businesses. Small sellers often run short of cash because part of their money gets trapped as tax credit in government online accounts while they wait for monthly tax forms to be filed and matched. For a small business running on thin profit margins, even a short delay in getting this money back can affect its ability to buy new stock or pay its own bills on time. At the same time, platform companies face difficult rules when registering in multiple states and when handling product returns, discounts, or cancelled orders, since the law does not clearly explain how tax already collected should be adjusted in these situations.

These are not small technical issues. They directly affect whether small sellers can survive and grow in the digital economy that GST itself was meant to support. Therefore, the main research problem is that the current GST laws focus heavily on tax collection but fail to align with the everyday operational realities of online businesses, making it harder than it should be for small sellers and digital platforms to grow.

3. RESEARCH METHODOLOGY

This study uses a doctrinal legal research method to examine the legal rules and regulatory issues surrounding GST in India's e-commerce sector. The research is descriptive and qualitative, focusing on existing laws rather than collecting field data from people or businesses. It relies on primary legal sources — including the Central Goods and Services Tax (CGST) Act, 2017 (specifically Section 52 and Section 9(5)), government notifications, CBIC circulars, and court decisions — along with secondary legal sources such as policy reports from the Competition Commission of India (CCI), FICCI, and academic legal writing. By comparing the GST law's aims with the everyday, practical difficulties faced by small online sellers and digital platforms, this study identifies the main compliance problems and proposes practical legal solutions.

4. RESEARCH OBJECTIVES

This study seeks to critically examine the statutory framework governing electronic commerce under the Central Goods and Services Tax (CGST) Act, 2017, with a specific focus on the

operational mechanisms of Section 52 regarding Tax Collected at Source (TCS) and Section 9(5) concerning deemed-supplier liability. Building upon this legal foundation, the primary objective is to evaluate the practical compliance hurdles and liquidity constraints faced by e-commerce operators and small online vendors, with a particular focus on working capital blockages, multi-state registration burdens, and return-filing friction. Furthermore, this paper aims to identify statutory ambiguities surrounding product returns, order cancellations, and platform discounts across multi-party digital supply chains. Ultimately, the study aims to propose actionable policy reforms and legal enhancements to streamline GST compliance, ensure tax certainty, and foster the sustainable growth of India's e-commerce ecosystem.

5. LEGAL FRAMEWORK GOVERNING E-COMMERCE UNDER GST

The statutory architecture governing electronic commerce in India under the Central Goods and Services Tax (CGST) Act, 2017, rests on three primary legislative pillars: the definition of operator and compulsory registration mandates, Tax Collected at Source (TCS) under Section 52, and deemed-supplier liability under Section 9(5).

A. Definition and Mandatory Registration Framework

Under Section 2(45) of the CGST Act, an "electronic commerce operator" (ECO) is any person or company that owns, runs, or manages a digital facility or online platform for trade.¹¹ In other words, if a business owns or manages the digital space where trade happens, it is treated as an ECO under this section.

To maintain full administrative control over these platforms, Section 24(x) requires every e-commerce operator to register for GST, regardless of their annual turnover. Unlike other businesses, ECOs have no minimum turnover requirement — registration is required regardless of turnover.

In the past, Section 24(ix) applied a similarly strict rule to the sellers who sold through these e-commerce platforms. Every such vendor had to obtain mandatory GST registration for their very first transaction, with no exemptions at all, no matter how small their sales were.

¹¹ *Central Goods and Services Tax Act*, No. 12 of 2017, § 2(45) (India).

However, to support digital inclusion for micro-enterprises, the GST Council later relaxed this requirement. It allowed certain unregistered suppliers of goods to make intra-State supplies through e-commerce operators without obtaining mandatory registration, subject to prescribed conditions and the applicable turnover threshold.¹²

B. Tax Collected at Source (TCS) under Section 52

Section 52 of the CGST Act acts as the main anti-evasion and tracking mechanism for marketplace platforms.¹³ This provision exists primarily to ensure that transactions on e-commerce platforms do not go unnoticed by the tax department, since these platforms handle sales from a very large number of sellers simultaneously.

Under this provision, every e-commerce operator is required to collect tax at source on the "net value of taxable supplies" made through its platform by third-party sellers, but only when the platform itself collects payment for those supplies. This means that if the platform is the one receiving money from the customer on behalf of the seller, it must deduct a small amount as tax before passing the remainder of the payment on. The net value for this calculation is obtained by taking the total gross sales for the month and deducting any sales returns and order cancellations processed during the same month.

Following the recommendations made at the 53rd GST Council meeting, the CBIC brought out Notification No. 15/2024–Central Tax, which reduced the effective TCS collection rate to 0.5% in total. This is broken down as 0.25% CGST plus 0.25% SGST for supplies made within the same state, or 0.5% IGST for supplies made between different states. Once this tax is collected, the operator is required to deposit the TCS amount collected with the government by the 10th day of the following month, and must also file a monthly return in Form GSTR-8 reporting these details.

The amount of TCS deposited is then credited directly to the seller's Electronic Cash Ledger on the GST portal. This credited amount is not lost to the seller — rather, it remains available

¹² *Id.* §§ 24(ix), 24(x); see also Central Board of Indirect Taxes and Customs, Notification No. 34/2023–Central Tax (July 31, 2023).

¹³ *Central Goods and Services Tax Act*, No. 12 of 2017, § 52(1) (India).

for the vendor to use, and the seller can later utilise this balance to offset and pay their final GST tax liabilities.¹⁴

C. Deemed Supplier Liability under Section 9(5)

Section 9(5) works quite differently from Section 52. Under Section 52, the platform only collects tax on behalf of independent sellers — the tax liability still legally belongs to the seller, and the platform is merely acting as a collection point. Section 9(5), on the other hand, creates a legal fiction that shifts the entire primary tax liability away from the actual service provider and places it directly onto the platform operator itself.¹⁵

This rule applies only to certain specific, government-notified categories of services. These include passenger transportation services, such as those provided by platforms like Uber and Ola, as well as accommodation, housekeeping, and restaurant delivery services, such as those provided by platforms like Swiggy and Zomato. For all of these notified categories, the law treats the e-commerce operator as if it were the actual supplier who is responsible for paying GST. This is the case even though the platform itself does not provide the underlying service directly — the actual service, such as driving a passenger, cleaning a house, or cooking and delivering food, is still performed by the individual driver, worker, or restaurant, not by the platform.

In simple terms, the law deliberately looks past who is actually performing the service and instead assigns legal responsibility for paying GST to the platform, because the platform is easier for the tax department to identify, monitor, and hold accountable than a large number of individual small service providers spread across the country.

6. MAJOR REGULATORY AND OPERATIONAL CHALLENGES

Despite the statutory framework's intention to build an integrated digital market, the daily administration of GST creates severe operational friction for both small vendors and platform operators.

¹⁴ *Central Goods and Services Tax Act*, No. 12 of 2017, § 52(3) (India); *see also* Central Board of Indirect Taxes and Customs, *Flyer on TCS Mechanism Under GST* (Ministry of Finance, Government of India 2018).

¹⁵ *Central Goods and Services Tax Act*, No. 12 of 2017, § 9(5) (India); *see also* Central Board of Indirect Taxes and Customs, Circular No. 167/23/2021-GST (Dec. 17, 2021).

A. Working Capital Lock-Up and Liquidity Bottlenecks for MSMEs

Even though reducing TCS to 0.5% provided some relief, the mechanism under Section 52 continues to lock up crucial working capital for low-margin Micro, Small, and Medium Enterprises (MSMEs).¹⁶ This happens because the tax withheld at the source by the platform is not simply lost — it is transferred into the seller's own Electronic Cash Ledger on the GST portal. In theory, this money still belongs to the seller and should be usable by them.

However, in practice, small sellers often face long delays before they can actually access this money. This is because the data filed by the platform in Form GSTR-8 must match the seller's own returns filed in Forms GSTR-1 and GSTR-3B. Reconciling these different monthly filings so that the numbers reported by the platform and the seller line up correctly often takes time and does not always go smoothly.

However, delays in reconciliation and reporting can create practical difficulties for sellers in effectively managing their working capital.

B. Multi-State Compliance Burden and Reporting Mismatches

Because e-commerce allows sellers to reach customers across state borders, online businesses face steep compliance demands in multiple states at once. Since a seller can sell to customers across the country through a single platform, this creates a much greater administrative load than a normal, local, offline business that only deals with one state.¹⁷

Businesses operating across multiple states may be required to maintain separate GST registrations in the states where they have relevant places of business, increasing their compliance burden. This means a business cannot simply hold a single registration for the whole country — it must register again and again in each state from which it stores or ships its goods, adding to the paperwork and compliance burden.

On top of this, automated systems frequently issue notices and block tax credits due to minor clerical mismatches. These mismatches usually arise between the transaction values reported by platforms in Form GSTR-8 and the summary figures declared by individual vendors in their

¹⁶ Confederation of Indian Industry, *Impact of Tax Collected at Source (TCS) on Working Capital of E-Commerce Sellers*, Policy Paper No. 14/2021, 8–11 (2021).

¹⁷ National Association of Software and Service Companies (NASSCOM), *Issues Faced by E-Commerce Sector Under Goods & Services Tax (GST)*, Industry Representation Report, 8–10 (Apr. 2021).

own Form GSTR-3B. Even small differences in the numbers reported by the two sides — the platform and the seller — can trigger these automatic notices and cause the tax credit to get blocked.

C. Complexities in Returns, Discounts, and Intermediary Disputes

E-commerce retail sees a very high volume of product returns, order cancellations, and platform-funded promotional discounts.¹⁸ Because online shopping naturally involves customers ordering, returning, and cancelling items much more often than in a normal offline shop, this creates a constant stream of adjustments that the tax system has to account for.

Section 52 allows TCS to be calculated on the net taxable supplies within the same calendar month, meaning returns and cancellations occurring in that same month can simply be subtracted before the tax is calculated. However, a real problem arises when a customer returns a product only in a later month, after the TCS for that original sale has already been calculated and deposited with the government. In such cases, adjusting the tax liability is difficult because the return does not fall within the same monthly cycle in which the tax was already paid, creating significant accounting confusion for both the seller and the platform.

In addition, platform-funded cashbacks and promotional discounts pose their own separate problem. These schemes blur the line between what counts as a platform fee and the actual value of the taxable supply, since it is not always clear whether a discount should reduce the taxable value of the sale or be treated separately as a cost borne by the platform. This lack of clarity often leads to administrative disputes over how much tax is actually owed.

7. JUDICIAL RESPONSES: RELEVANT CASE LAWS

The judicial approach to GST demonstrates the need to balance effective tax administration with fairness, certainty and the practical interests of taxpayers. In *Union of India v. Mohit Minerals Pvt. Ltd.*,¹⁹ the Supreme Court examined the constitutional position of the GST Council and held that its recommendations are not binding on Parliament and State Legislatures. The decision is significant for the e-commerce sector because the GST regulation of digital transactions requires continuous adaptation to technological and commercial

¹⁸ Federation of Indian Chambers of Commerce & Industry (FICCI), *Simplifying GST Compliance for Micro and Small E-Commerce Vendors*, Tax Policy Advisory, 14–18 (2023).

¹⁹ *Union of India v. Mohit Minerals Pvt. Ltd.*, (2022) 10 SCC 700.

developments. It also reinforces the importance of cooperative federalism in designing a uniform yet flexible GST framework.

In *Union of India v. Filco Trade Centre Pvt. Ltd.*,²⁰ The Supreme Court addressed difficulties faced by taxpayers in availing the transitional input tax credit and directed the GST authorities to provide taxpayers an opportunity to claim the benefit through the GST portal. The decision highlights the importance of considering genuine procedural and technological difficulties faced by taxpayers. This principle is particularly relevant to e-commerce sellers, who depend heavily on automated GST systems for registration, return filing, reconciliation and TCS-related compliance. It supports the need for effective mechanisms to correct genuine reporting mismatches rather than imposing disproportionate compliance burdens.

Similarly, in *Chief Commissioner of Central Goods & Service Tax v. Safari Retreats Pvt. Ltd.*,²¹ The Supreme Court examined the statutory framework governing input tax credit and emphasised the importance of interpreting GST provisions in light of the legislation's scheme and purpose. The judgment is relevant to the present study because e-commerce businesses frequently face difficulties concerning tax credits, adjustments and the treatment of business transactions. A rigid application of GST provisions without considering their practical operation may adversely affect business liquidity and increase compliance costs.

These judicial developments collectively indicate that GST administration must not focus solely on revenue collection and regulatory control. The e-commerce sector requires a framework that provides legal certainty while also recognising technological limitations, procedural difficulties and the liquidity concerns of small online sellers. Therefore, judicial interpretation supports the need for simplified compliance mechanisms, effective rectification procedures and a more responsive GST framework for the rapidly developing digital economy. This approach is particularly important because e-commerce transactions involve multiple stakeholders, including platform operators, sellers, consumers and logistics service providers, making tax compliance more complex than conventional business transactions. Automated reporting and reconciliation mechanisms may also result in genuine errors or mismatches, which should not unnecessarily restrict legitimate tax credits or business funds. A taxpayer-friendly approach does not mean weakening tax enforcement; rather, it requires clear rules,

²⁰ *Union of India v. Filco Trade Centre Pvt. Ltd.*, 2022 SCC OnLine SC 912.

²¹ *Chief Commissioner of Central Goods and Service Tax & Ors. v. M/s Safari Retreats Private Ltd. & Ors.*, 2024 INSC 756.

transparent procedures and reasonable opportunities to correct inadvertent mistakes. In this context, judicial interpretation can guide GST authorities in ensuring that compliance measures remain proportionate to their regulatory objectives. Such an approach would strengthen taxpayer confidence, reduce avoidable disputes and promote a stable regulatory environment for small sellers and digital businesses while continuing to protect government revenue.

8. SUGGESTIONS AND POLICY RECOMMENDATIONS

To address these regulatory hurdles and achieve a balanced, sustainable e-commerce taxation regime in India, the following legislative and procedural reforms are recommended:

1. **Automated Refund Mechanism for Excess Cash Ledger Balances:** The GST portal should introduce an automated, fast-track refund system for accumulated TCS balances in the Electronic Cash Ledger of registered MSME vendors, processing unutilized balances within 15 days of return filing.
2. **Single National Registration for Cross-Border Digital Sellers:** The GST Council should introduce a single, unified national registration framework for small e-commerce sellers, eliminating the requirement to hold separate state-by-state registrations solely due to decentralised fulfilment networks.
3. **Standardised Adjustment Rules for Post-Month Sales Returns:** The Central Board of Indirect Taxes and Customs (CBIC) should issue comprehensive operational guidelines allowing real-time, cross-month TCS adjustments for product returns and cancellations, preventing double-taxation on returned inventory.
4. **Simplification of Threshold Enrolment Integration:** Technical systems on major e-commerce platforms should be fully integrated with the GST common portal to allow seamless onboarding of unregistered micro-vendors using Functional Enrolment Numbers without platform-level tech glitches.

9. CONCLUSION

The Goods and Services Tax framework under the Central Goods and Services Tax Act, 2017, has successfully brought structure and digital tracking to India's rapidly growing e-commerce sector. Before GST, there was no single, organised system to track the large number of transactions on online platforms, and this framework has helped fill that gap. Mechanisms such as Tax Collected at Source under Section 52 and deemed-supplier liability under Section 9(5)

have played a key role in this success — together, they have established vital audit trails that make it possible for the tax department to track sales happening across thousands of sellers and platforms, and they have simplified the process of collecting tax from a market that is naturally spread out and decentralised.

However, as this study demonstrates, the same rules that made tracking easier for the government have created real, everyday burdens for the people actually using these platforms. Multi-state compliance requirements can require businesses to maintain separate registrations in relevant states, adding to the compliance burden and creating unnecessary complexity. The working capital difficulties associated with Section 52 can impair sellers' liquidity and their ability to manage day-to-day operations, undermining their ability to run their businesses smoothly. In addition, the procedural difficulties in handling product returns, especially when a return happens in a month after the tax has already been deposited, continue to create confusion and extra work for both small online vendors and the digital platforms that connect them to customers.

Taken together, these problems show that achieving a truly efficient digital economy requires the GST Council to strike a better balance between two competing goals: protecting government revenue and reducing the administrative burden on businesses. As this study has argued, this balance can be achieved through practical, targeted reforms. Implementing a fast-track refund system for cash ledger balances would free up sellers' locked working capital sooner. Introducing a unified, single-window registration system would remove the need for sellers to register separately in every state. Providing clear, standardised guidelines for adjusting tax on cross-month returns would remove the accounting confusion currently faced by sellers and platforms alike. Together, these steps would help ensure legal certainty, protect the liquidity of small sellers, and support the sustainable, long-term growth of e-commerce in India.