



Time of Supply of Goods

(updated on 17th October, 2016)



From the rounds of discussion that have been taking place with regards to GST over the past few months, the focal point largely remains on the concept of supply. Time of supply has been a highly underrated concept to say the least. The deliberation here with regard to the chargeability clause read with the time of supply purports to change this notion and aims to create awareness about the importance of this portion in the Model GST law.

Clause 7 i.e. the chargeability clause of the Model GST law infers that the levy of GST will arise upon supplies of goods and/or services and will be collected in a manner as may be prescribed. To interpret this chargeability clause, there can be two schools of thought which need to be analyzed.

First School of thought

Levy refers to the taxable event occurring at a point in time when the charge of GST is said to have arisen. Since, the taxable event is upon supply which is defined in clause 3 of the Model GST law, it may be argued that the term 'collected in a manner as may be prescribed' may be referring to the time of supply under Clause 12 and 13. Drawing parallels from the Central Excise law, the levy of tax arises upon manufacture but the liability to pay tax gets deferred onto the date of removal of goods. Upon adopting the Doctrine of Harmonious construction in GST law, it may be argued that the taxable event is supply but the collection point is deferred until the time of supply.

However, this argument has a serious flaw. One of the events under time of supply is the date of receipt of advance. Since, the date of receipt of advance occurs before the supply even place, does this mean that the liability to pay tax arise before the levy of GST even arises? Under Central Excise law, the date of removal (point of collection) is always after the date of manufacture (taxable event). So, this school of thought holds good in Central Excise law. However under the GST law, since the time of supply can occur before the taxable event of supply, this school of thought seems absurd.

Second School of thought

The levy of GST is upon supply but the definition of supply under Clause 3 does not mention any point in time when supply occurs. The taxable event has to be a particular point in a timeline when the liability to pay tax should arise. Deducing the taxable event herein as the time of supply can certainly be given a food for thought. In other words, it can be inferred that the chargeability of GST will arise at the time of supply. As per the Model GST law, the liability to pay GST arises at the time of supply. Hence, it can be observed that the levy and the liability to pay GST arises at the same time i.e. time of supply. The Frequently Asked Questions released by the CBEC also supports this proposition by indicating that the time of supply will be occurring when the supply is deemed to have been made. This school of thought emphasizes that the concept of

time of supply is probably the most essential concept to be kept in mind for the GST to work smoothly.

The biggest and only concern with this school of thought is the chargeability clause does not directly talk about the time of supply. Deriving a far-fetched interpretation about the chargeability of GST occurring at the time of supply should not be the idea of the Government. One may wonder if the chargeability clause needs a relook for simplification of law and avoidance of litigation in future.

Time of supply of goods

The time of supply will occur at the earliest of the following dates:

1) Date of removal of goods by the supplier to the recipient when the goods are required to be removed: Removal of goods has been defined in clause 2(83) of the Model CGST/SGST Law to mean:

- (i) *dispatch of the goods for delivery by the supplier or any other person on behalf of the supplier* – This occurs in case of FOR (free on road) contracts wherein the supplier (or his agent/transporter) undertakes the delivery of goods. The risk of the goods in transit rests with the supplier.
- (ii) *collection of the goods by the recipient or any other person on behalf of the recipient* – This occurs in case of the contracts of ex-works, ex-factory, ex-showroom etc. wherein the supply is completed at the doorstep of supplier and the delivery is undertaken by the recipient (or his agent/transporter). The risk of the goods in transit is already passed on to the recipient.

Hence, the first date to be considered is the date of removal as described above. However, it is to be noted that this date is to be taken only when the goods are required to be removed.

2) Date on which the goods are made available to the recipient where the goods are not required to be removed: The date when the goods are made available to the recipient means the date when the goods are placed at the disposal of the recipient. The condition for this clause to be applicable is that the supply does not require removal. There are three cases which have been prescribed in the Model GST law which are said to be satisfying this condition:

- a) Where the goods are not physically capable of being moved
- b) Where the goods are supplied in assembled or installed form
- c) Where the goods are supplied by the supplier to his agent or his principal

In all the cases apart from the three above, it will be deemed that the goods are required to be removed and this clause will not be applicable.

- 3) Date on which the supplier issues the invoice:** The supply will be deemed to have taken place to the extent it is covered by the invoice. So, even if the value of supply turns out to be higher in future, the time of supply will be said to have occurred up to the value of invoice issued earlier.
- 4) Date on which the supplier receives the payment:** The supply will be deemed to have taken place to the extent it is covered by the payment. So, even if the value of supply turns out to be higher in future, the time of supply will be said to have occurred up to the amount of payment received earlier.

The date on which the supplier receives the payment will be earlier of:

- a) Date on which the payment is entered in the books of accounts of the supplier
- b) Date on which the payment is credited in the books of the supplier

- 5) Date on which the recipient shows the receipt of goods in his books of account:** This is easily the most contentious among all the dates. This is because it is not always possible for the supplier to know the date when the recipient records the receipt in his books. In fact, even a mistake of recording this date earlier by the recipient can have an adverse impact on the liability of the supplier. Ideally, this date of receipt of goods by the recipient in his books should come into picture only if the supplier does not record the supply in his books thereby making it difficult to determine the four dates above. However, the fact that this date has been made applicable in every case is a difficult proposition to digest.

Illustration 1:

Payment Received		Goods Removed on	Date issue of invoice	of	Receipt books in of recipient	Amount (Rs.)
Date	Amount					
15/06/2017	20,000	12/07/2017	18/07/2017		15/07/2017	30,000
21/07/2017	10,000					

What will be the time of supply and to what extent?

Ans: The time of supply will be:

Time of supply	Trigger Event	Value (Rs.)
15/06/2017	Date of receipt of payment	20,000
12/07/2017	Date of removal of goods	10,000

Illustration 2: In the above illustration 1, if no return had been filed by the supplier, then what will be the time of supply?

Ans: Since, the return is not furnished by the supplier, it is not possible to know the date of receipt of payment, removal of goods and issue of invoice by the supplier. So, the only recourse is to find out the date of receipt of goods in the books of the recipient i.e 15/07/2017.

Continuous Supply of goods

Continuous supply of goods has been defined under clause 2(83) of the Model GST law to mean *“a supply of goods which is provided or agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of a wire, cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or periodic basis”*

The time of supply for continuous supply of goods depends on whether successive statements of accounts or payments are involved or not.

Cases	Time of supply
Successive statement of accounts or successive payments are involved	Date of expiry of the period to which the successive statements of accounts or successive payments relate
No Successive statement of account	Earlier of: 1. Date of issue of invoice 2. Date of receipt of payment

Illustration 3: Under the terms of a contract, a cement manufacturing company is providing its waste on a continuous basis through a pipeline to a company which recycles waste materials.

Supply period	Period under Invoice	Invoice raised	Payment received	Amount
01/04/17 - 31/03/18	01/04/17 - 30/04/17	07/05/2017	09/05/2017	100,000

What will be the time of supply?

Ans: The time of supply of goods will be:

Situations	Trigger Event	Time of Supply
Successive statement of accounts at every month end as per the contract	Expiry of the period to which the successive statement of account relates	30/04/2017
No Successive statement of account under the contract	Date of invoice	07/05/2017

Reverse Charge

For goods on which tax is payable on reverse charge basis, the time of supply will be the earliest of:

- 1) Date of receipt of goods
- 2) Date on which payment is made
- 3) Date of receipt of invoice
- 4) Date of debit in the books of accounts

Illustration 4: Assume applicability of GST from 1st April, 2017.

Payment Received		Goods Received	Date of receipt of invoice	Debit in the books	Amount (Rs.)
Date	Amount				
15/06/2017	20,000	12/07/2017	18/07/2017	18/07/2017	30,000
21/07/2017	10,000				

What will be the time of supply?

Ans: The time of supply of goods will be:

Time of Supply	Trigger Event	Value
15/06/2017	Date of making the payment	20,000
12/07/2017	Date of receipt of goods	10,000

Goods taken on approval or sale or return basis

If the goods are removed before it is known whether a supply will take place, the time of supply will be the earlier of:

- 1) the time when it becomes known that supply has taken place
- 2) six months from the place of removal

Illustration 5: Assume applicability of GST on 1st April, 2017.

Event	Date	Value
Goods removed on sale or return basis	12/07/2017	30,000
Confirmation of supply	23/08/2018	

What will be the time of supply?

Ans: The time of supply will be **12/01/2018** which is the earlier of:

- 1) Date when the supply is confirmed i.e **23/02/2018**
- 2) Six months from the date of removal i.e. **12/01/2018**

Under the residuary clause, it has been stated that if it is not possible to determine the time of supply of goods from the abovementioned clauses, then the time of supply will be as follows:

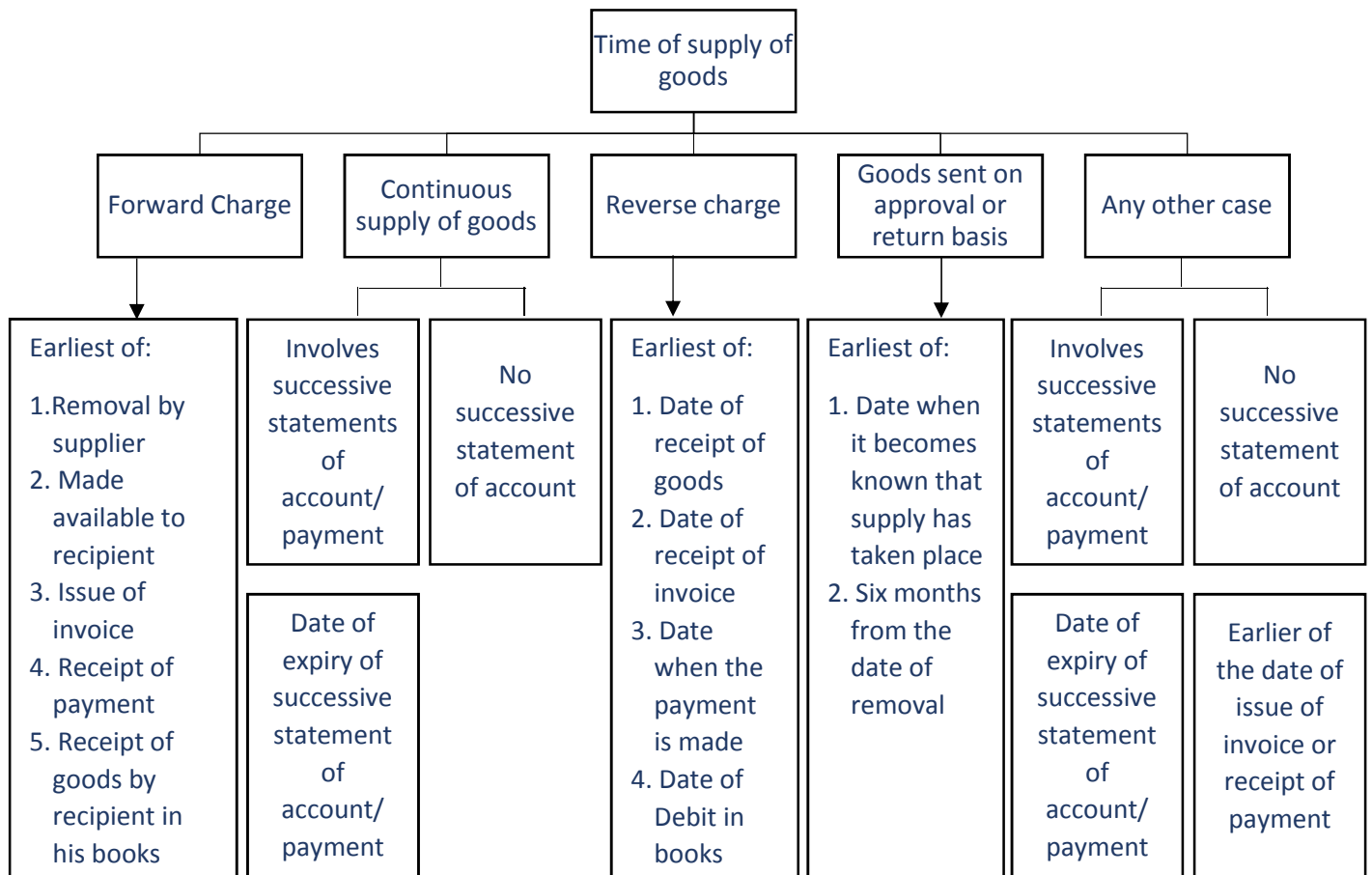
Situations	Time of supply
Where periodical return has to be filed	Date when the return is to be filed
Where the periodical return is not required to be filed	Date on which CGST/SGST is paid

Comparative provisions of the earlier law

Central Excise: Though the taxable event under the Central Excise law is manufacture, the date when the excisable goods are removed from the factory, the liability to pay tax arises. This is also one of the events to be seen in GST for determining the time of supply.

Value Added Tax: The liability to pay tax arises at the time of sale of goods. As per numerous VAT laws, the sale of goods is said to be completed when the ownership of goods is transferred or possession of goods is given to the transferee. This concept will no longer remain valid in GST as the relevance of sale has been substituted with supply.

Summarizing the entire discussion of time of supply of goods above:



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