

OPINION

1. **Queriest :**

M/s. PP Merchandising Services Private Limited,
"Krishnakriti", No 6, 3rd Cross Street,
Senthil Nagar, Kolathur,
Chennai – 600 099.

2. **Facts :**

2.1 A division of the queriest Marketing In Store Services (MISS) has received order from '3M' to supply broom stands to their factory located in Bengaluru, Karnataka. MISS has ordered the goods from a manufacturer in Delhi. MISS is GST registered only in the state of Tamil Nadu. Therefore, Delhi vendor invoice will be on MISS-Tamil Nadu. The Logistics is agreed with 3M as 'FOB-Delhi'. (MISS is responsible to deliver the product at courier agency of 3M in Delhi). Material will be delivered by courier agency to Bengaluru factory of 3M directly from Delhi. Invoicing to '3M' will be done by MISS from Tamil Nadu (IGST Invoice to 3M, Karnataka), the value of material will be original price + MISS's mark-up.

2.2 Queriest has entered into business with ITC Limited for payment to retailers for display of ITC products in their retail outlet. To enable payments to retailers, queriest has developed a webiste cum mobile application called redipae (www.redipae.in). This website enables the following activities in the process.

- i. Create and maintain retailer master data,
- ii. generation of invoices and
- iii. display payment details to retailer.

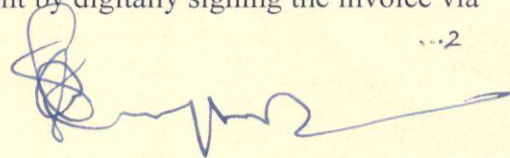
2.3 In creation of retailers master following two are main process.

- i. Identify and enrol the retailer in redipae master (collection of KYC data)
- ii. Audit of data (GST, PAN and Bank data is validated)

2.4 In the above said KYC process, queriest identified and classified retailers as GST registered and GST unregistered. But they failed to identify type of registration as whether Composition/Regular. After KYC audit is complete, the retailer is enrolled into the system and can start generating invoices.

Invoicing process: The value to be paid to each retailer is received from ITC Limited on a monthly basis. This list is uploaded to the redipae portal to enable retailers generate invoice. It is to be noted that invoices will be generated for pre-defined value the retailer gives his assent by digitally signing the invoice via mobile application.

...2



Invoice format is pre-designed in the portal. For GST registered vendor invoice will generate with GST component and for unregistered vendor, invoice will generate without GST. Even for retailers under composition scheme queriest has erroneously generated invoices with GST. However, so far GST component was not paid because of no reflection of invoice in the queriest's GSTR-2A.

2.5 Going forward, queriest has following challenges to be addressed:

- i. For composition scheme retailers, queriest intends to change the program to generate invoices with no GST. However for this, queriest believes that there is a provision that required the invoice to have certain header/mention of the nature of the invoice under Composition scheme. Queriest wants to know the process to be followed.
- ii. Retailers currently under composition scheme may get registered under Regular scheme due to crossing the service related turnover ceiling of Rs.5 Lacs. Despite his change of status, there is a possibility redipae application continues to generate invoices without GST.
 - a. Under the digital agreement signed by the retailer, he has undertaken to advise the queriest when this status changes and logically queriest is not at fault to continue to generate invoices under composition scheme.
 - b. But, the situation in reality is that, the application is generating the invoice on the basis of information provided by the retailer.

3. Query :

3.1 With regard to Facts against 2.1, queriest does not want to disclose the original price to 3M. But to transport the material from Delhi to Karnataka a valid Invoice and E-Way Bill is required.

3.2 This business is not one time but will continue and next time the transaction may happen from different state.

In these circumstances, the queriest would like to know what is the best way to carry out these transactions.

With regard to the Facts against 2.2 to 2.5, queriest seeks clarification on the following:

3.3 Will Redipae become liable at any time for having continued to generate invoice under composition scheme even when the retailer became a registered Dealer?

- Currently, the Redipae application provides the retailer the option to accept or reject the claim but at that point the GST amount is not displayed. Queriest can change this to generate the invoice and acceptance of the invoice where the GST amount is displayed and then have the retailer accept or reject it.

3.4 Or, to overcome the above issue whether the queriest can check the GST registration type of retailers every month and thereafter enable generation of invoices under the regular tax or composition scheme.

4. Opinion :

4.1 With regard to the first set of facts, it may be noted that there are numerous occasions where goods are supplied based on instructions or directions of a third party. Thus, there may be three parties in a particular transaction. One is the supplier or manufacturer, second one will be the ultimate recipient of the goods, third one will be the seller to the actual recipient who has placed the order for procurement of the goods on the first person.

4.2 As far as this type of transaction is concerned, place of supply of goods is determined in terms of Section 10 of IGST Act 2017. Section 10(b) reads as follows:

“(b) where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person.”

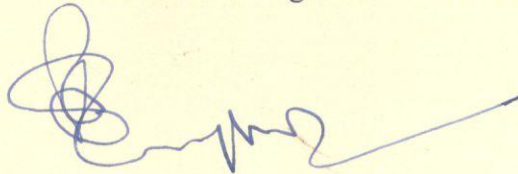
4.3 Thus, in the light of the above, the person who actually sells the goods to the ultimate buyer will be treated as the supplier of the goods and the place of supply of goods will be his place of business. In the present case, the queriest will be the supplier and 3M, Karnataka will be the recipient and thus, the supply will be inter-State supply.

4.4 Since the goods move from Delhi directly to Bangalore, generation of e-way bill has to be done by taking into account the present tripartite transaction.

4.5 In this regard, the government of India has released a Circular / Press Release No.152/2018 dated 23.04.2018 taking note of such situations. A copy of this Circular/Press Release is attached as Annexure to this opinion. This explains the nature of transaction involving three parties and the circular indicates two options for generation of e-way bill.

4.6 In the second option the bill can be generated by the queriest and filled up by the transporter (part B). While the queriest is generating the e-way bill, the details of the queriest are to be filled up and ‘bill to’ and ‘ship to’ details will be that of the ultimate consignee i.e. 3M, Bangalore. Only ‘despatch from’ information will be from Delhi. As far as invoice details are concerned, since the e-way bill is generated by the queriest, the tax invoice that will be supplied to the recipient of the goods i.e. 3M will be the basis for filling up the data. By choosing this option, the queriest can avoid furnishing of details including value at which it procures the goods from the manufacturer at Delhi.

- 4.7 With regard to the second set of facts, the best way forward will be to suitably modify the software so that it captures details with regard to suppliers/recipients operating under composition scheme also. Queriest has already indicated that this is being done.
- 4.8 When the retailers become ineligible to continue under composition scheme and then when they switch over to the normal mode of payment of GST, getting information on time from such retailers can definitely pose challenges. It is indicated that under the digital agreement signed by the retailer, he takes the responsibility to inform the recipients of services regarding change in the status of registration. Once he undertakes that and when invoicing is proposed on the basis of the information available with the queriest / ITC Ltd. then, legally there will not be any liability on the queriest or ITC Ltd. It is also to be noted that technically, though the invoice data is pre-defined, it is subject to verification and confirmation by the retailer and ultimately, he digitally signs the invoice and generates it.
- 4.9 To ensure that in respect of retailers operating under composition scheme, the correct information is captured whenever invoices are generated, queriest has suggested two options. It is reported that the retailer has already given an undertaking with regard to his registration status and his liability to communicate, if there is any change in that status. To monitor that there is no omission in this regard, additionally, as suggested, the queriest can check the GST registration type of retailer every month and thereafter enable generation of invoices under regular GST or under composition scheme.



S. MURUGAPPAN

sm/ss

Disclaimer:- The above opinion is provided based on the information and documents made available to us by the queriest and further based on the laws and rules prevalent as on date and the understanding of such provisions by the author and is meant for the private use of the person to whom it is provided without assuming any liability for any consequential action taken based on the views expressed here.