

E-Invoicing & Nil Rated Supply

E-Invoicing under GST Law means electronic invoice. In 35th meeting of GST Council it was decided to implement e-invoicing.

Implementation of Electronic Invoicing was done in 5 phases, initially specific categories of businesses were covered, mostly large enterprises having turnover of Rupees 500 Crore and it has been expanded to cover mid-sized businesses and small businesses as well.

As per the Notification No. 17/2022 issued by CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS, from October 1, 2022 government extended the E-invoicing applicability to businesses having turnover more than Rupees 10 Crore.

There is lot confusion in those who are supplying both taxable goods and nil rated goods. One of our clients dealing in pulses on which G.S.T is charged @nil and its By-Product i.e., cattle feed on which G.S.T is now charged @5% (2.5% + 2.5%), they were confused whether they need to issue E-Invoice only for Cattle Feed (By-Product) or for both Pulses (Product) and Cattle Feed (By-Product).

For in-depth analysis and to conclude we have to go through GST Law so let's start:

E-INVOCING:

Rule 48(4) stipulates that the e-invoice shall be prepared by notified class of registered persons, by uploading such particulars as contained in Form GST INV-03 on the Common GST Electronic Portal and obtain an IRN (Invoice Reference Number), in prescribed manner and subject to prescribed conditions and restrictions.

E-invoicing is not generation of invoice on GST portal but it means taxpayers will continue to create their GST invoices on their own Accounting/Billing/ERP Systems as per e-invoice schema. These invoices will then be reported to Invoice Registration Portal (IRP). On such reporting, IRP will generate a unique 'Invoice Reference Number (IRN)', digitally sign it and return the e-invoice to the supplier. A GST e-invoice will be valid only with a valid IRN.

E-Invoice portal automates multi-purpose reporting with a one-time input of invoice details.

Presently, invoices, credit notes and debit notes, when issued by notified persons (to registered persons (B2B) or for the purpose of exports) are covered under e-invoice.

If the invoice issued by a notified person is in respect of supplies made by him, tax on which is payable under reverse charge under **section 9(3)**, e-invoicing is applicable.

TAX INVOICE:

Section 31(1) states that A registered person supplying taxable goods shall before or at the time of,-

- (a) Removal of goods for supply to the recipient, where the supply involves movement of goods; or
- (b) Delivery of goods or making available thereof to the recipient, in any other case issue a tax invoice showing the description, quantity and value of goods, the tax charged therein and such other particulars as may be prescribed.

Provided that the Government may, on the recommendations of the Council, by notification, specify the categories of goods or supplies in respect of which a tax invoice shall be issued within such time and in such manner as may be prescribed.

EXEMPT SUPPLY:

means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under **section 11**, or under **section 6** of the Integrated Goods and Services Tax Act, and includes non-taxable supply [**Section 2(47)**].

BILL OF SUPPLY:

Bill of Supply [**Section 31(3)(c) read with rule 49**] stipulates that a registered person supplying exempted Goods or services or both or a registered person paying tax under composition levy, shall issue a bill of supply instead of a tax invoice. Person opting for composition levy shall mention the words "composition taxable person, not eligible to collect tax on supplies" at the top of the bill of supply issued by him.

INTERPRETATION:

1. Since E-invoicing is not generation of invoice by a Government portal. Taxpayers have to create their GST invoices on their own and invoices will then be reported to 'Invoice Registration Portal (IRP)'.
2. Invoice has to be issued by the Registered Person supplying taxable goods.
3. Taxable supply has been broadly defined and means any supply of goods or services or both which, is leviable to tax under the Act.
4. Exempt Supply clearly states the supply of any goods or services which attracts nil rate of tax. 5. In case of a registered person supplying exempted goods and/or services, no tax implications are there. Recipients should not expect Tax Invoice from such suppliers as they cannot issue tax invoice. Since no tax is collected from the recipient by a registered person and a registered person supplying exempted goods and/or services, Bill of Supply issued by such persons does not contain the details pertaining to rate of tax and amount of tax. Further, value to be mentioned in the Bill of Supply is not also taxable value.

CONCLUSION:

1. E-invoicing is mandatory for all the taxable supplies being made by a registered person to another registered person (B2B Supplies).
2. For nil rated supplies registered person has to issue Bill of Supply.

Prepared By: Sukhshant Chhabra

Contact No.: 098887-16017

