

Open Network for Digital Commerce

**GUIDANCE NOTE ON INDIRECT TAX
IMPLICATIONS FOR SUPPLY BY
UNREGISTERED/COMPOSITION
SELLER THROUGH ECO I.E. SELLER
APP**

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I. Background

1. ONDC is a not-for-profit company, set-up with an objective of democratizing digital commerce in India.
2. ONDC has set-up an inter-operable open network, where Buyers and Sellers can transact with each-other without both parties needing to be present on same platform/ application.
3. With the recent amendment w.e.f. 1 October 2023, GST unregistered taxpayer and taxpayers registered under the composition scheme can now also supply goods through E-commerce portal.
4. In light of the above amendment, ONDC could use the below points to prepare a guidance note for such unregistered or composition seller and ECOs in view of the above provisions under the GST Law.

EXECUTIVE SUMMARY

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II. Executive Summary

A. Types of Sellers on ECO

Unregistered person	Normal Taxable person	Composition Taxable person
<ul style="list-style-type: none">• Not required to register under GST Law• Can provide only intra state supply• Below persons are not required to obtain GST registration<ul style="list-style-type: none">○ Aggregate turnover is below the threshold (10/20/40 lakhs) – For state wise turnover limits, please refer detailed guidance note○ Persons exclusively engaged in providing exempt supply○ Agriculturist whose supply is from cultivated land○ As may be notified by government	<ul style="list-style-type: none">• Charge GST as per rate prescribed for the underlying supply• Can avail ITC of GST charged on procurements• Can provide both intra or inter state supply• Is required to file monthly or quarterly returns (if turnover is more than 5 crores)• Is required to issue a Tax Invoice	<ul style="list-style-type: none">• Simple, voluntary and optional scheme for eligible taxpayers• Aggregate turnover is below the threshold (1.5 crore/75 lakhs)• Tax to be paid on turnover and not on each transaction• No tax can be recovered from the customer• Not eligible to avail ITC• Is required to issue Bill of Supply• Cannot make inter-state supplies

B. Overview of GST TCS

Below table summarises key aspects relating to GST TCS

Particulars	Description
ECO	<ul style="list-style-type: none">• ECO means any person who owns, operates, or manages digital or electronic facility or platform for electronic commerce
GST TCS	<ul style="list-style-type: none">• ECO is required to collect GST TCS on the taxable supplies made through it by Sellers where the consideration with respect to such supplies is received by ECO
GST TCS Rate	<ul style="list-style-type: none">• To be collected by the ECO's @ 1% (IGST) or @ 0.5% each of CGST and SGST

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Amount on which GST TCS is to be collected	<ul style="list-style-type: none"> • GST TCS is to be deducted from the net value of taxable supplies for the month • Net value of taxable supplies for the month is to be calculated separately for each underlying Seller and GST TCS is to be paid for each registration • Net value of taxable supplies means the aggregate value of taxable supplies made by each underlying Seller through the ECO reduced by the aggregate value of taxable supplies returned to each underlying Seller during the month (for respective tax heads) • GST TCS is withheld by the ECO from the amount collected for the underlying supply, the amount is deposited with the government and can be used by the Seller for making payment of GST on its outward supplies
Exempt Supply	<ul style="list-style-type: none"> • Exempt supply means (a) supply which attracts nil rate of tax (b) supply exempt by way of notification (c) non taxable supply (supply which is not leviable to tax) • No TCS is required to be collected as TCS is only applicable on taxable supplies
GST registration	<ul style="list-style-type: none"> • GST registration to be taken by ECO in all states where the suppliers are located

C. Conditions for composition taxable person & unregistered person to supply goods through ECO who is required to collect TCS – Amendment wef 1 October 2023

1. W.e.f. 1 October 2023, following person are allowed to supply through ECO (subject to certain conditions as listed below)

Unregistered Person	Composition Taxable Person
<ul style="list-style-type: none"> • Inter- State supply - Not permitted to make interstate supplies or supply from more than one state • Threshold - Aggregate turnover should be below threshold¹ • PAN - Should have PAN under Income Tax Act, 1961 • Declaration - Should declare PAN, address and state for where supply will be made • Enrolment Number - Should obtain enrolment number from GSTN portal and share it with ECO. Refer detailed 	<ul style="list-style-type: none"> • Inter- State supply - Not permitted to make interstate supplies • TCS - ECO shall collect TCS on such supplies made by seller and pay in cash • Reporting - ECO shall report such supplies in GSTR-8 • Liability - TCS deducted can be used to make payment of liability

¹ Check detailed guidance note below for more details

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guidance note for procedure to obtain enrolment number.	
<ul style="list-style-type: none"> • Reporting - ECO shall report such supplies in GSTR-8 	

D. Person allowed to supply through ECO under various scenarios post 1 October 2023

2. Below mentioned is the summary of scenarios for unregistered or composition taxable person for supplying goods through ECO who is required to collect TCS in the table below:

Sr. No.	Type of Person	Nature of Supply	Nature of Transaction	Whether supply can be made through ECO	
				Before 01 October 2023	W.e.f. 1 October 2023
1.	Composition Taxable Person	Inter State	Goods / Services	No	No
2.	Composition Taxable Person	Intra State	Goods	No	Yes
3.	Composition Taxable Person (except restaurant services)	Intra State	Services	NA	NA
4.	Composition Taxable Person – Restaurant Services	Intra State	Services	Yes	Yes
5.	Unregistered Person	Inter State	Goods / Services	No	No
6.	Unregistered Person	Intra State	Goods	No	Yes
7.	Unregistered Person	Intra State	Services	Yes	Yes

E. TCS applicability – Marketplace / Aggregator model²

Sr. No	Category of Seller	Nature of Supply	Nature of Transaction	TCS Applicable	TCS to be collected by
1.	Composition Taxable Person	Intra State	Goods	Yes	Seller App

² We have provided the TCS applicability under marketplace / inventory model assuming that the consideration of goods / services is collected by the Seller App / Buyer App / Logistics Service Provider appointed by such Buyer / Seller App

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2.	Composition Taxable Person – Restaurant Services	Intra State	Services	No ³	NA
3.	Composition Taxable Person – Other than Restaurant Services	Intra State	Services	Not Permissible	
4.	Composition Taxable Person	Inter State	Goods / Services		
5.	Unregistered Person	Intra State	Goods	No	NA
6.	Unregistered (other than notified services where ECO is required to pay tax)	Intra State	Services	No	NA
7.	Unregistered (notified services where ECO is required to pay tax)	Intra State	Services	No ⁴	NA
8.	Unregistered person	Inter State	Goods / Services	Not Permissible	

F. TCS applicability – Inventory Model (i.e. Seller and Seller App are the same)⁵

Sr. No	Type of Seller App (i.e. Seller)	Nature of Supply	Nature of Transaction	TCS Applicable	TCS to be collected by
1.	Composition Taxable Person	Intra State	Goods	Yes	Buyer App
2.	Composition Taxable Person – Restaurant Services	Intra State	Services	No ⁶	NA
3.	Composition Taxable Person - Other than Restaurant Services	Intra State	Services	Not Permissible	
4.	Composition Taxable Person	Inter State	Goods / Services		
5.	Unregistered Person	Intra State	Goods	No	NA
6.	Unregistered (other than notified	Intra State	Services	No	NA

³ GST on restaurant service to be paid by ECO i.e. the Seller App

⁴ GST to be paid by ECO i.e. the Seller App

⁵ We have provided the TCS applicability under inventory model, assuming that the consideration of goods / services is collected by the Buyer App / Logistics Service Provider appointed by such Buyer App

⁶ GST to be paid by ECO i.e. the Buyer App

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	services where ECO is required to pay tax)				
7.	Unregistered (notified services where ECO is required to pay tax)	Intra State	Services	No ⁷	NA
8.	Unregistered person	Inter State	Goods / Services	Not Permissible	

G. Penalty Implications on ECO

- ECOs are liable for penalty amounting to **INR 10,000 each under CGST and SGST or amount of tax involved**, whichever is higher in following cases:
 - Allows supply of goods / services by **unregistered persons other than persons exempted from registration by a notification**
 - Allow **inter-state supply of goods or services by a person** who is not eligible to make such supplies
 - Fails to **furnish correct details in the TCS return of any outward supplies** effected through it by person exempted from obtaining registration

⁷ GST to be paid by ECO i.e. the Buyer App

DETAILED GUIDANCE NOTE

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III. Key GST Topics

A. Category of person providing services through ECO

1. Unregistered person

- Unregistered person refers to an individual who is not obligated to register under the GST Laws.
- Persons not required to obtain GST registration (as per section 23 of the CGST Act):
 - Person engaged in businesses that supply goods or services not subject to tax or wholly exempt from tax under the CGST Act,
 - an agriculturist to the extent that their supply is produced from cultivated land, and
 - Categories of individuals specified by the Government who may be exempt from obtaining GST registration through notification.
- This category also includes individuals whose turnover does not exceed the threshold limit (INR 10/20/40 lakhs).

2. Normal Taxpayer

- Normal taxpayer is liable for collecting and paying GST on the value of goods and services supplied, based on the rates of the goods/service notified by the Government.
- Such taxpayer can avail ITC of the taxes paid on procurements which can be utilized for payment of taxes due on the supply of goods or services.
- Taxpayer can file monthly or quarterly returns (for a turnover up to 5 crores)
- A supplier has to obtain registration in every State/UT where he makes taxable supply if his aggregate turnover⁸ exceeds a specified threshold limit.

Threshold Limit – Person is required to obtain GST registration if the aggregate turnover of such person exceeds specified threshold limit. State wise threshold for GST registration has been summarised below:

⁸ *Aggregate turnover includes taxable supplies, exempt supplies, exports, interstate supplies of persons having same PAN and value on outward supplies on which tax is payable under reverse charge.

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Threshold limit of INR 10 lakhs (both goods & services) (Special category states)	Threshold limit of INR 20 lakhs (both goods & services)	Threshold limit of INR 20 lakhs (both goods and services) and INR 40 lakhs (only for goods)
1. Manipur	5. Arunachal Pradesh	11. Jammu & Kashmir
2. Mizoram	6. Meghalaya	12. Assam
3. Nagaland	7. Sikkim	13. Himachal Pradesh
4. Tripura	8. Uttarakhand	14. Remaining states not covered elsewhere
	9. Puducherry	
	10. Telangana	

3. Composition levy scheme:

- Composition levy scheme is a very simple, hassle-free compliance scheme for small taxpayers. It is a voluntary and optional scheme.
- Under such scheme, tax is to be paid on a certain percentage (ranging from 1% to 6%) of entire turnover and not on each transaction. Hence, no tax can be recovered from the customer.
- Registered person opting for composition scheme for goods should have an aggregate turnover up to INR 1.5 crores (INR 75 lakhs in Arunachal Pradesh, Manipur, Uttarakhand, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura) in the preceding FY.
- Persons not eligible to opt for Composition scheme:
 - Any supply of goods which are not liable to be taxed under this Act.
 - Inter-state outward supplies of goods
 - Supply of services through electronic commerce operators who are required to collect tax under section 52.
 - a manufacturer of notified goods
 - a casual dealer
 - a Non-Resident Foreign Taxpayer
 - a person registered as Input Service Distributor (ISD)
 - a person registered as TDS Deductor/Tax Collector
- Also, composition taxable person is not eligible to avail ITC and required to file monthly returns.

4. Difference Between Composition GST & Regular GST Schemes

Particulars	Composition taxable person	Regular Taxpayer
Threshold	INR 1.5 crore (Specified states- INR 75 lakhs)	INR 10/20/40 lakhs depending on the state and nature of business

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Particulars	Composition taxable person	Regular Taxpayer
Restriction on inter-state supplies	Yes	No
Availment of ITC	ITC cannot be availed	ITC can be availed
Documents to be issued	Bill of supply and shall mention the words ' <i>Composition taxable person, not eligible to collect tax on supplies</i> '	Tax invoice to be issued
Returns	<ul style="list-style-type: none"> Quarterly payment of taxes in Form CMP-08 Furnishing of return in Form GSTR-4 annually Furnishing of annual return in GSTR-9A 	<ul style="list-style-type: none"> Furnishing of return in Form GSTR-1 (outward supplies) Furnishing of return in Form GSTR- 3B, and payment of taxes Annual Return and reconciliation statement in GSTR-9 & GSTR-9C
Payment of GST	No GST shall be collected from the customer	Net tax to be paid in cash after adjustment of ITC. GST is required to be separately charged on the invoice

B. Person liable to collect TCS – Overview of TCS provisions.

Particulars	Description
Who is required to collect TCS?	<ul style="list-style-type: none"> ECO is required to collect GST TCS on the taxable supplies made through it by Sellers where the consideration with respect to such supplies is received by ECO. In case of ONDC both Buyer App and Seller App will qualify as ECO. In case of multiple ECOs, TCS compliance is required to be undertaken by the ECO who is making payment to the seller (Clarified by CBIC) It is relevant to note that liability to collect TCS under Section 52 of the CGST Act will not be applicable if ECO supplies own goods or services through its platform. FAQ issued by CBIC clarifies that in case of multiple ECOs, TCS is to be collected by the person who is making payment to the Seller. <p><i>Note - ECO means any person who owns, operates, or manages digital or electronic facility or platform for electronic commerce</i></p>
GST TCS Rate	<ul style="list-style-type: none"> GST TCS is to be collected by the ECOs at the rate of 1% (IGST) or 0.5% (CGST and SGST each)

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Particulars	Description
Value on which TCS is collected:	<ul style="list-style-type: none"> • GST TCS will be deducted on the Net value of taxable supplies for the month. • Net value of taxable supplies for the month is to be calculated separately for each underlying Seller and GST TCS is to be paid for each registration. • Net value of taxable supplies means the aggregate value of taxable supplies each underlying Seller through the ECO reduced by the aggregate value of taxable supplies returned to each underlying Seller during the month (for respective tax heads). • GST TCS is withheld by the ECO from the amount collected for the underlying supply. • Amount withheld is then deposited to the government and the same shall be available in the electronic cash ledger of the underlying Seller who can use the same for making the payment of GST on its outward supplies.
TCS on exempt supplies	<ul style="list-style-type: none"> • Section 52 of the CGST Act categorically provides that TCS is to be collected on the net value of taxable supplies. Thus, provision of collecting TCS is not applicable for exempt supplies. • This is also clarified by the government vide FAQs on TCS, which is mentioned below: <i>Q 15. Whether TCS to be collected on exempt supplies? Ans. No, TCS is not required to be collected on exempt supplies.</i> Hence, TCS compliance would not be required by Seller App if underlying product is exempt

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GUIDANCE NOTE FOR SELLERS

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IV. Guidance note for Sellers

A. Provisions prior to 1 October 2023 – Certain supply restricted through ECO.

1. Under the provisions of CGST Act, every person supplying goods or services through ECOs liable to deduct TCS (other than supplies wherein ECO is required to pay tax), was required to be mandatorily registered under GST.
2. *Vide* Notification No. 65/2017 dated 15 November 2017, supplier of services (other than supplies where ECO is required to pay tax) were exempted from obtaining GST registration if they are supplying services through ECO who is required to collect TCS and whose aggregate turnover is below threshold in a FY.
3. Above exemption during the period prior to 1 October 2023 was applicable only for **intra state supplier of services** and not for any supply of goods.
4. Further, taxable persons making supply of goods or services through an ECO (who is required to collect TCS) were not eligible to opt for composition scheme.

B. Amendment in provisions (w.e.f. 1 October 2023) - Categories of persons who can supply through ECO.

5. Amendments have been made w.e.f. 1 October 2023 to allow unregistered and composition taxable persons to supply goods through ECO:
 - Persons under the composition scheme can now supply through ECO.
6. Prior to 1 October 2023, person supplying through ECO was not eligible to opt for composition scheme.
7. W.e.f., 1 October 2023⁹, this restriction has been removed and hence, now person registered under composition scheme can also supply through ECO.
8. It may be noted that composition scheme is available only for intrastate supply of goods i.e. supplies should be in the same state.
 - Unregistered supplier of goods being allowed to supply through ECO.¹⁰
9. As mentioned above, unregistered suppliers of services were allowed to provide services through ECO without obtaining GST registration within the state.

⁹ Notification No. 36/2023 – Central Tax dated 4 August 2023

¹⁰ Notification No. 37/2023-Central Tax dated 4 August 2023

10. CBIC has issued Notification No. 34/2023-Central Tax dated 31 July 2023 to allow unregistered person whose aggregate turnover does not exceed the threshold for GST registration to also make supply of goods through an ECO who is required to collect TCS.
11. For ease of reference, we have summarized different scenarios for unregistered or composition taxable person for supplying goods through ECO who is required to collect TCS in the table below:

Sr. No.	Type of Person	Nature of Supply	Nature of Transaction	Whether supply can be made through ECO	
				Before 01 October 2023	W.e.f. 1 October 2023
1.	Composition Taxable Person	Inter State	Goods / Services	No	No
2.	Composition Taxable Person	Intra State	Goods	No	Yes
3.	Composition Taxable Person (except restaurant services)	Intra State	Services	NA	NA
4.	Composition Taxable Person – Restaurant Services	Intra State	Services	Yes	Yes
5.	Unregistered Person	Intra State	Goods	No	Yes
6.	Unregistered Person	Inter State	Goods	No	No
7.	Unregistered Person	Intra State	Services	Yes	Yes
8.	Unregistered Person	Inter State	Services	No	No

C. Conditions for not obtaining GST registration and carrying on business through ECO ¹¹

12. While unregistered persons are now allowed to supply through ECO, it may be noted that they are now required to comply with following conditions:
- Inter-State Supply** - Restriction on Inter-State supply of goods and supply through ECO in more than one State or Union territory
 - Turnover Threshold** - Aggregate turnover should be below the threshold limit.
 - PAN** - Unregistered person should have PAN issued under the Income Tax Act, 1961

¹¹ Notification No. 34/2023-Central Tax dated 31 July 2023

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- iv. **Declaration** - Before making any supply of goods through ECO, the person must declare their PAN, address, and the State or Union territory in which such persons seek to make such supply.
- v. **Enrolment Number** - Unregistered person should obtain enrolment number on GSTN portal. Limitation to one enrolment number in a state or union territory. No supply can be made without enrolment number. It is important to note that only one enrolment number can be applied using one PAN (irrespective of the state).
- vi. **Cessation of enrolment number** - Where registration is subsequently granted to such person, the enrolment number shall cease to be valid from the effective date of registration.

D. Applicability of TCS in case of unregistered and composition taxable person

- 13. Every ECO, not being an agent is required to collect GST TCS on the taxable supplies made through it by Sellers where the consideration with respect to such supplies is to be collected by the ECO.
- 14. GST TCS is to be collected by the ECOs at the rate of 1% (IGST) or 0.5% (CGST and SGST each).
- 15. TCS is to be collected on 'net value of taxable supplies' i.e. net of sales returns pertaining to seller for the particular month.
- 16. In this connection, we have summarised applicability of TCS for unregistered and composition taxable person:

Unregistered person

Section 52 provides that TCS is to be collected on 'net value of taxable supplies' and definition of net value of taxable supplies provides that it shall mean the aggregate value of taxable supplies made during any month by all registered persons through the operator.

Thus, ECO is not liable to collect TCS where the supplies are made by unregistered person. This has also been prescribed in the Notification No. 37/2023-Central Tax dated 4 August 2023.

Composition taxable person

Since, goods supplied by composition taxable person are taxable and hence, such composition taxable person is required to collect TCS @1% in respect of supplies made by composition taxable person if consideration is collected by ECO. This has been prescribed in the Notification No. 36/2023-Central Tax dated 4 August 2023.

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17. Following are the list of scenarios where the supply through ECO is restricted and hence the question of TCS applicability does not arise:

Sr. No.	Type of Person	Nature of Supply	Nature of Transaction
1.	Composition Taxable Person	Inter State	Goods / Services
2.	Composition Taxable Person (except restaurant services)	Intra State	Services
3.	Unregistered Person	Inter State	Goods/Services

18. TCS applicability for various scenarios applicable for unregistered and composition taxable person has been captured in the below table where consideration is to be collected by ECO:

Marketplace and aggregator model¹²

Sr. No	Type of Person	Nature of Supply	Nature of Transaction	TCS Applicable	TCS to be collected by
1.	Composition Taxable Person	Intra State	Goods	Yes	Seller App
2.	Composition Taxable Person – Restaurant Services	Intra State	Services	No ¹³	NA
3.	Unregistered Person	Intra State	Goods	No	NA
4.	Unregistered (other than notified services where ECO is required to pay tax)	Intra State	Services	No	NA
5.	Unregistered (notified services where ECO is required to pay tax)	Intra State	Services	No ¹⁴	NA

¹² We have provided the TCS applicability under marketplace / inventory model assuming that the consideration of goods / services is collected by the Seller App / Buyer App / Logistics Service Provider appointed by such Buyer / Seller App

¹³ GST on restaurant service to be paid by ECO i.e. the Seller App

¹⁴ GST to be paid by ECO i.e. the Seller App

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Inventory model¹⁵

Sr. No	Type of Seller App (i.e. Seller)	Nature of Supply	Nature of Transaction	TCS Applicable	TCS to be collected by
1.	Composition Taxable Person	Intra State	Goods	Yes	Buyer App
2.	Composition Taxable Person – Restaurant Services	Intra State	Services	No ¹⁶	NA
3.	Unregistered Person	Intra State	Goods	No	NA
4.	Unregistered (other than notified services where ECO is required to pay tax)	Intra State	Services	No	NA
5.	Unregistered (notified services where ECO is required to pay tax)	Intra State	Services	No ¹⁷	NA

E. Compliances to be done by sellers-reporting requirements.

19. Various compliances applicable to unregistered and composition taxable person on account of the amendment under the GST Law has been provided below:

Sr. No.	Compliance	Composition taxable person	Unregistered person
1.	Document to be issued	Issue a bill of supply ¹⁸ for the supplies made by it through the ECO.	Issue invoice without GST for the supplies made by it through the ECO.
2.	E-Invoicing	Not Applicable as below threshold limit for applicability of e-invoices	Not Applicable as below threshold limit for applicability of e-invoices

¹⁵ Practically, we understand that the unregistered and composition taxable persons would not be registering as seller apps on the ONDC network, instead they would be registering as sellers. However, we have included the implications for completeness purpose.
Further, We have provided the TCS applicability under inventory model, assuming that the consideration of goods / services is collected by the Buyer App / Logistics Service Provider appointed by such Buyer App

¹⁶ GST to be paid by ECO i.e. the Buyer App

¹⁷ GST to be paid by ECO i.e. the Buyer App

¹⁸ Bill of supply will have to be issued as prescribed under Rule 49 of the CGST Rules

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Sr. No.	Compliance	Composition taxable person	Unregistered person
3.	TCS credit	Payment of TCS shall be made by the ECO only in cash. TCS of a month shall be deposited with Government by 10th of next month. TCS will be available in the electronic cash ledger of the Composition taxable person and the composition taxable person can utilise the TCS to pay its GST liability on the outward supplies.	Not Applicable
4.	Return Filing	Composition taxable person shall have to file return GST CMP-08 on quarterly basis and GSTR-4 on annual basis.	Not Applicable
5.	E-way bill	E-way bill shall have to be generated where the value of goods exceeds INR 50,000.	Not Applicable

F. Process to obtain enrolment number (Not relevant for composition taxable person)

20. As mentioned under Section C – ‘Conditions for not obtaining GST registration and carrying on business through ECO’, Unregistered person is required to obtain enrolment number on GSTN portal in order to make supplies through ECO.

21. It is important to note that only one enrolment number can be applied using one PAN.

22. Further, if the GSTIN is already Active/Suspended using one PAN on GSTN portal then user shall not be able to enrol to supply through e-commerce operators using same PAN.


23. We have laid down the process of obtaining the enrolment number herein below:

Steps to generate enrolment number by unregistered persons¹⁹:

- i. Visit the GSTN Portal at [Goods & Services Tax \(GST\) | Home](#)

¹⁹ Advisory issued on the GSTN portal dated 12 October 2023

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[Holiday List](#)

[Generate User ID for Unregistered Applicant](#)
[Locate GST Practitioner \(GSTP\)](#)

[Cause List](#)
[Search Advance Ruling](#)

[Verify RFN](#)

- _____

- PROCEED

- Eg:
- Primary Email Address*
-

- Name as per PAN
- PAN of the unregistered supplier
- Primary email address and mobile number
- State in which the unregistered supplier wants to enrol as a supplier through ECO.
- Complete address
- HSN of goods or services

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GUIDANCE FOR ECOs i.e SELLER APPS

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The reader is advised to consult a tax expert for specific advice.*

V. Guidance note for ECOs (i.e. Seller Apps)

A. Provisions prior to 1 October 2023 - Certain supply restricted through ECO.

1. Under the provisions of CGST Act, every person supplying goods or services through ECOs liable to deduct TCS (other than supplies wherein ECO is required to pay tax), was required to be mandatorily registered under GST.
2. *Vide* Notification No. 65/2017 dated 15 November 2017, supplier of services (other than supplies where ECO is required to pay tax) were exempted from obtaining GST registration if they are supplying services through ECO who is required to collect TCS and whose aggregate turnover is below the threshold in a FY.
3. Above exemption during the period prior to 1 October 2023 was applicable only for intra state supplier of services and not for any supply of goods.
4. Further, taxable persons making supply of goods or services through an ECO (who is required to collect TCS) were not eligible to opt for composition scheme.

B. Amendment in provisions (w.e.f. 1 October 23) - Categories of persons whom ECOs can onboard

5. Amendments have been made w.e.f. 1 October 2023 to allow unregistered and composition taxable persons to supply goods through ECO:
 - ECOs can now onboard persons under the composition scheme
6. Under the composition levy scheme, a registered person supplying goods whose aggregate turnover is below the specified limit can opt to pay tax at a fixed percentage on its annual turnover to the government.
7. Currently specified categories of persons whose aggregate turnover in the preceding FY did not exceed one crore fifty lakh rupees (seventy-five lakh rupees for selected States²⁰) are allowed to opt under composition scheme and GST rates for such persons varies between the range of 1% - 5%.
8. Prior to 1 October 2023, person supplying through ECO was not eligible to opt for composition scheme.
9. W.e.f., 1 October 2023²¹, this restriction has been removed and hence, now ECOs can onboard persons registered under composition scheme.

²⁰ (i) Arunachal Pradesh, (ii) Manipur, (iii) Meghalaya, (iv) Mizoram, (v) Nagaland, (vi) Sikkim, (vii) Tripura, (viii) Uttarakhand:

²¹ Notification No. 36/2023 – Central Tax dated 4 August 2023

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10. It may be noted that composition scheme is available only for intrastate supply of goods.

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- ECOs can now onboard unregistered supplier of goods²²

11. As mentioned above, unregistered suppliers of services were allowed to provide services through ECO without obtaining GST registration within the state.
12. Recently, CBIC has issued Notification No. 34/2023-Central Tax dated 31 July 2023 to allow unregistered person whose aggregate turnover does not exceed the threshold for GST registration to also make supply of goods through an ECO who is required to collect TCS.
13. Therefore, ECOs can onboard unregistered supplier of goods making supplies within the state.
14. For ease of reference, we have summarized different scenarios for unregistered or composition taxable person for supplying goods through ECO who is required to collect TCS in the table below:

Sr. No.	Type of Person	Nature of Supply	Nature of Transaction	Whether ECO can onboard	
				Before 01 October 2023	W.e.f. 1 October 2023
1.	Composition Taxable Person	Inter State	Goods / Services	No	No
2.	Composition Taxable Person	Intra State	Goods	No	Yes
3.	Composition Taxable Person (except restaurant services) ²³	Intra State	Services	NA	NA
4.	Composition Taxable Person – Restaurant Services	Intra State	Services	Yes	Yes
5.	Unregistered Person	Intra State	Goods	No	Yes
6.	Unregistered Person	Inter State	Goods	No	No
7.	Unregistered Person	Intra State	Services	Yes	Yes
8.	Unregistered Person	Inter State	Services	No	No

²² Notification No. 37/2023-Central Tax dated 4 August 2023

²³ Composition taxable person are not allowed to provide services other than restaurant services (Section 10 of CGST Act)

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15. While unregistered persons are now allowed to supply through ECO, it may be noted that they are now required to comply certain conditions for both ECO and sellers.
16. There are penal implications prescribed under the GST Law on the ECOs in case the conditions are not complied with. Therefore, it is imperative for the ECOs to ensure that the unregistered persons being onboarded comply with the following conditions:
- i. **Inter-State Supply** - Restriction on inter-State supply of goods and supply through ECO in more than one State or Union territory.
 - ii. **Turnover Threshold** - Aggregate turnover should be below the threshold limit.
 - iii. **PAN** - Unregistered person should have PAN issued under the Income Tax Act, 1961.
 - iv. **Declaration** - Before making any supply of goods through ECO, the person must declare their PAN, address, and the State or Union territory in which such persons seek to make such supply.
 - vii. **Enrolment Number** - Unregistered person should obtain enrolment number on GSTN portal. Limitation to one enrolment number in a state or union territory. No supply can be made without enrolment number. It is important to note that only one enrolment number can be applied using one PAN.
 - v. **Cessation of enrolment number** - Where registration is subsequently granted to such person, the enrolment number shall cease to be valid from the effective date of registration.

For ECO, it will be critical to now capture above relevant details at the time of onboarding of unregistered seller.

C. Applicability of TCS

17. Every ECO, not being an agent is required to collect GST TCS on the taxable supplies made through it by Sellers where the consideration with respect to such supplies is to be collected by the ECO.
18. GST TCS is to be collected by the ECOs at the rate of 1% (IGST) or 0.5% (CGST and SGST each).
19. TCS is to be collected on 'net value of taxable supplies' i.e. net of sales returns pertaining to seller for the particular month.
20. In this connection, we have summarised applicability of TCS for unregistered and composition taxable person:

Unregistered person - Section 52 provides that TCS is to be collected on 'net value of taxable supplies' and definition of net value of taxable supplies provides that it shall mean the aggregate value of taxable supplies made during any month by all registered persons through the operator. Thus, ECO is not liable to collect TCS where the supplies are made

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by unregistered person. This has also been prescribed in the Notification No. 37/2023-Central Tax dated 4 August 2023.

Composition taxable person – Since, goods supplied by composition taxable person are taxable and hence, TCS is required to collect TCS @1% in respect of supplies made by composition taxable person if consideration is collected by ECO. Hence, for the purpose of collection of TCS, there is no differential treatment for composition taxable person. This has been prescribed in the Notification No. 36/2023-Central Tax dated 4 August 2023.

21. Following are the list of scenarios where the supply through ECO is restricted and hence the question of TCS applicability does not arise:

Sr. No.	Type of Person	Nature of Supply	Nature of Transaction
1.	Composition Taxable Person	Inter State	Goods / Services
2.	Composition Taxable Person (except restaurant services) ²⁴	Intra State	Services
3.	Unregistered Person	Inter State	Goods/Services

It would be responsibility of the ECO to ensure that such restricted supplies are not made through them.

22. TCS applicability for various scenarios applicable for unregistered and composition taxable person has been captured in the below table where consideration is to be collected by ECO:

Marketplace and aggregator model²⁵

Sr. No	Type of Person	Nature of Supply	Nature of Transaction	TCS Applicable	TCS to be collected by
1.	Composition Taxable Person	Intra State	Goods	Yes	Seller App
2.	Composition Taxable Person – Restaurant Services	Intra State	Services	No ²⁶	NA
3.	Unregistered Person	Intra State	Goods	No	NA

²⁴ Composition taxable are not allowed to provide services other than restaurant services (Section 10 of CGST Act)

²⁵ We have provided the TCS applicability under marketplace / inventory model assuming that the consideration of goods / services is collected by the Seller App / Buyer App / Logistics Service Provider appointed by such Buyer / Seller App

²⁶ GST on restaurant service to be paid by ECO i.e. the Seller App

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4.	Unregistered (other than notified services where ECO is required to pay tax)	Intra State	Services	No	NA
5.	Unregistered (notified services where ECO is required to pay tax)	Intra State	Services	No ²⁷	NA

Inventory model²⁸

Sr. No	Type of Seller App (i.e. Seller)	Nature of Supply	Nature of Transaction	TCS Applicable	TCS to be collected by
1.	Composition Taxable Person	Intra State	Goods	Yes	Buyer App
2.	Composition Taxable Person – Restaurant Services	Intra State	Services	No ²⁹	NA
3.	Unregistered Person	Intra State	Goods	No	NA
4.	Unregistered (other than notified services where ECO is required to pay tax)	Intra State	Services	No	NA
5.	Unregistered (notified services where ECO is required to pay tax)	Intra State	Services	No ³⁰	NA

D. Penal Implications on ECOs

23. Under the CGST Act, ECOs are liable to penalty³¹ amounting to INR 10,000 or amount of tax involved, whichever is higher where ECOs:

²⁷ GST to be paid by ECO i.e. the Seller App

²⁸ Practically, we understand that the unregistered and composition taxable persons would not be registering as seller apps on the ONDC network, instead they would be registering as sellers. However, we have included the implications for completeness purpose.

Further, We have provided the TCS applicability under inventory model, assuming that the consideration of goods / services is collected by the Buyer App / Logistics Service Provider appointed by such Buyer App

²⁹ GST to be paid by ECO i.e. the Buyer App

³⁰ GST to be paid by ECO i.e. the Buyer App

³¹ Penalty is applicable as per Section 122(1B) of the CGST Act

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- i. Allows supply of goods / services by unregistered persons other than persons exempted from registration by a notification.
- ii. Allow inter-state supply of goods or services by a person who is not eligible to make such supplies.
- iii. Fails to furnish correct details in the TCS return of any outward supplies effected through it by person exempted from obtaining registration.

24. Responsibility is casted on the ECOs to ensure that supplies by only permitted unregistered persons and composition taxable person and done on the ECO portal and therefore it is imperative for the ECOs to ensure that the sellers onboarded are compliant with the provisions under the law.

E. Onboarding process - Illustrative checklist for ECOs

25. Imposition of penalty on ECO in case of non-compliance done by an unregistered person or composite taxable person while supplying goods through ECO casts the responsibility on ECO to ensure that there are no violations of the provisions of GST Law in case of such supplies.

26. Thus, to ensure compliance, it is advisable to have a proper checklist at the time of onboarding any composition taxable person or unregistered person over ECO platform.

27. Considering the same, we have provided the following check list/ procedure which can be considered by ECOs while designing their checklist for onboarding any composition taxable person or unregistered person. The checklist is illustrative and in addition to the existing documents collected by them:

28. ECO must monitor to ensure that if an unregistered person surpasses any conditions or thresholds that make them liable for GST registration, immediate action is taken. In such cases, ECO should restrict the sale of goods by such unregistered person through ECO until they have obtained GST registration.

- At the time of onboarding

29. At the time of onboarding ECOs could obtain the following information from the sellers:

- i. **Taxpayer type** – To capture whether vendor is regular taxpayer/composite taxpayer or unregistered person and determine associated compliances with the same.
- ii. **GSTIN / UIN Status** – To understand whether the GSTIN of the vendor is Active/cancelled/suspended.
- iii. **PAN and enrolment number** - in order to provide supplies through ECO, CBIC has directed unregistered person to have PAN and enrolment number before affecting

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supplies through ECO. Accordingly, ECO should collect PAN and enrolment number from unregistered person at the time of onboarding.

Considering that unregistered taxpayers may need help on process to obtain enrolment number, ECO could educate the unregistered sellers.

- iv. **Process to verify enrolment number** – ECO is required to report sales made by unregistered person through them. Reporting is required to be made based on the enrolment number. Such details are required to be verified on GSTN portal or through service providers such as GSPs.

- At the time of affecting supplies through ECO

30. Obtain details of HSN code of the supplies made by the composition taxable person and unregistered person to ensure that composition taxable person is supplying only goods and not supplying any services (except restaurant services).

31. Pin code mapping – ECO should develop restrictions on the platform to ensure that only intra state supplies are being undertaken by such unregistered and composition taxable person.

32. Verify aggregate turnover of the sellers.

- Declarations

33. Terms and conditions should be modified to cast onus on the seller to comply with the provision under the GST Law.

34. ECO could consider obtaining declaration / indemnity from the vendor on account of non-compliances by the vendor.

35. Please note that above is an illustrative check list and not exhaustive. Therefore, ECO can have additional check list as per their requirement of business.

F. Compliances to be done by ECOs- Reporting requirements.

36. Various compliances applicable to ECOs on account of the amendment under the GST Law has been provided below:

Applicable Return	Reporting to be done	Table
GSTR-8	ECOs will have to report the following details in respect of the supplies made by unregistered person through ECO:	Table 3.1

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Applicable Return	Reporting to be done	Table
	<ul style="list-style-type: none"> — Enrolment no. of supplier — Gross value of supplies made — Value of supplies returned — Net value of the supplies 	
GSTR-8	<p>ECOs will have to report the following details in respect of the supplies made by composition person through ECO:</p> <ul style="list-style-type: none"> — GSTIN of supplier — Details of supplies made which attract TCS: <ul style="list-style-type: none"> • Gross value of supplies made • Value of supplies returned • Net amount liable for TCS — Amount of tax collected at source (CGST/SGST/IGST) 	Table 3
GSTR-1	<p>ECO providing notified supplies under Section 9(5) of CGST Act (Restaurant Services) are required to report the following details:</p> <ul style="list-style-type: none"> — URP2B: Transaction between unregistered supplier and registered recipient (Invoice wise details to be furnished) — URP2C: Transaction between unregistered supplier and recipient (POS wise details to be furnished) 	Table 15
GSTR-3B	ECO providing notified supplies under Section 9(5) of CGST Act (Restaurant Services) are required to report the same in GSTR-3B.	Table 3.1(a)

37. Composition taxable persons shall issue a bill of supply for the supplies made by it through the ECO. Therefore, the ECOs shall have to allow bill of supply as a document type on its platform.

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VI. Glossary

Acronym	Full form
ONDC	Open Network for Digital Commerce
GST	Goods and Services Tax
ECOs	Electronic Commerce Operators
CGST Act	Central Goods and Services Tax Act, 2017
TCS	Tax Collected at Source
FY	Financial Year
CBIC	Central Board of Indirect Taxes and Customs
PAN	Permanent Account Number
GSTN	Goods and Services Tax Network
GSTIN	Goods and Services Tax Identification number
HSN	Harmonized System of Nomenclature
UIN	Unique Identity Number
GSPs	GST Suvidha Providers
GSTR	Goods and Services Tax Return
SGST	State Goods and Services Tax
IGST	Integrated Goods and Services Tax
POS	Place of Supply
NPs	Network Participants
KYC	Know your customer

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VII. Important links

Sr. No	Particulars	Links or websites
1.	GSTN Portal	Goods & Services Tax (GST) Home
2.	GST rate check	Goods & Service Tax, CBIC, Government of India :: GST Goods and Services Rates (cbic-gst.gov.in) (This site may not be updated so it is prudent to check with GST rate notifications available on CBIC website)
3.	GST Acts, notifications, circulars	CBICWEBSITE
4.	Flyers on TCS, E-commerce, Composition taxable person	CBIC Content Msts
5.	Search enrolment number	Goods & Services Tax (GST) Services
6.	Application for enrolment number	https://reg.gst.gov.in/registration/generateuid

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VIII. List of Notifications/ Advisories/Section

Notification No/Advisory	Gist of Notification/Advisory
Notification No. 65/2017 dated 15 November 2017	Exemption from obtaining GST registrations through ECO in case turnover is below INR 20 Lakhs
Notification No. 52/2018 dated 20 September 2018	Provides rate of collection of TCS
Notification No. 10/2019 - Central Tax dated March 2019	Exemption from registration for any person engaged in exclusive supply of goods and whose aggregate turnover in a FY does not exceed INR 40 lakhs
Notification No. 34/2023- Central Tax dated 31 July 2023	Conditions for not obtaining GST registration and carrying on business through ECO
Notification No. 36/2023 - Central Tax dated 4 August 2023	Removal of restriction for supply of goods through ECO for composition taxable person
Notification No. 37/2023- Central Tax dated 4 August 2023	Unregistered supplier of goods being allowed to supply through ECO
Advisory issued on 12 October 2023	Steps to generate enrolment number by unregistered persons

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IX. Scope Limitations

Our comments are provided in respect of the GST implications alone, which are based on our interpretation of the provisions and is not binding on the GST tax authorities or any third party other than ONDC.

Our view above is based on the present legal provisions and clarifications/notifications/ case laws available as on date.

Our comments are based on the CGST Act and Rules and notifications and circulars available on the subject matter as on date in public domain. Unless specifically requested to do so, we are under no obligation to keep you informed of subsequent modifications to the law or practice.

A misstatement or omission of any fact or a change or an amendment in any of the facts, assumptions, or representations we have relied upon, may require a modification of all or a part of our document.

This document is based on an analysis of the tax laws in India and represents our interpretation of the said laws. The foregoing is subject to change and any such change could have a retroactive effect on the conclusions presented in this document.

Our interpretation of the tax laws and our consequent comments are not binding on any Revenue/ Regulatory authorities and there can be no assurance that the Revenue/ Regulatory authorities may not take a position contrary to our comments and the basis of claim will not be challenged. The outcome of the proceedings before the revenue authorities is outside our control and hence you understand and accept the responsibility for the outcome of our recommendation under the engagement.

Our advice is as of the date of this document and is based on the law and practice as on that date. Unless specifically requested to do so, we are under no obligation to keep you informed of subsequent modifications to the law or practice.

Our document is solely for the benefit of ONDC and not to be relied upon by anyone other than ONDC. Hence, if you wish to disclose copies of our work to any other person or entity, you must inform them that they may not rely upon any of our work for any purpose without our written consent.

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