

Delivery companies in E-commerce space face hidden tax heat

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BANGALORE: Logistics service providers who have been slapped with demands for additional tax by authorities in several Indian states are among a growing number of players in India's booming online retail sector to be tripped up by arcane tax laws framed originally for retail sales in physical stores.

Even as Amazon, which offers an online platform linking sellers and consumers in India, grapples with demands from tax authorities in Karnataka, several firms which provide logistics services to online retailers have fallen afoul of tax structures in states such as Maharashtra, West Bengal and Kerala.



(Even as Amazon, which offers...)

"They (tax authorities) saw our bank account and saw crores (of transactions) and put a penalty on us. But this was not our money; we were collecting and transferring this money to our ecommerce clients," said ES Sudharsan, 50, cofounder of IndiaOnTime, a logistics services company.

The firm has been slapped with a penalty of over Rs 2.5 crore by the Palakkad office of the Department of Commercial Taxes in Kerala. Its operations came to a halt as national bank accounts were frozen in February due to the tax imbroglio. The three-year-old startup was handling about 6,000 shipments a day in the southern state for most of the top ecommerce companies and was collecting over Rs 40 lakh a day as cash-on-delivery. While the logistics firm was paying service tax, the authorities demanded payment of value added tax (VAT). "The tax authorities decided that the firm was a dealer and (therefore) liable to pay VAT since it was delivering goods and collecting payment," said Sudharsan. The Commissioner of Commercial Taxes, Kerala, did not reply to email queries on the matter. Another logistics firm Ecom Express does not deliver in Kerala at present.

Tax Noose

Karnataka deemed Amazon to be a commission agent and demanded VAT from it

The branch certificates of Amazon's merchants stocking products in its Bangalore warehouse were cancelled

Kerala considers logistics services companies like IndiaOnTime and GoJavas as dealers as they deliver goods and collect payment on behalf of merchants

IndiaOnTime has been slapped with a penalty of over ₹2.5cr in Kerala

Its operations came to a halt its bank accounts were frozen in February due to the tax imbroglio

In Maharashtra, whenever a truck enters a municipality it gets taxed, making complicated the tax the seller has to pay

Its cofounder TA Krishnan said, "In Kerala the logistics companies are classified as a dealer and liable to pay tax. Some companies operating in Kerala are trying to remit money directly to the merchant's account. But when companies have thousands of merchants on their platform, how will this work?" GoJavas, another ecommerce logistics firm, has now limited the number of deliveries that it makes in Kerala. The coastal state is not the only one to trip up ecommerce companies. "In terms of taxation, each state is a country in itself," said Krishnan.

Experts said the trouble is due to the fact that the laws are open to interpretation. "When the law was designed, it was meant for physical stores located in that state and not for the ecommerce model," said Vaibhav Parikh, a partner at law firm Nishith Desai Associates. "With the growth of ecommerce each state is looking to get revenue and is interpreting the law accordingly."

Tax officials said they are unfairly being made the villains. "We are not against businesses. We are also trying to figure out how to apply the existing laws to this new industry," said a Maharashtra commercial tax official, who declined to be named as he was not authorised to speak on this matter. "Some call themselves a marketplace but follow the inventory model and are circumventing the law. That is not right." He said authorities impose the tax after doing due diligence on the company's operations and based on the

provisions of Central Sales Tax Act of 1956, Indian Contract Act of 1872 and the Sale of Goods Act of 1930. In Maharashtra, local body tax is a concern.

"When a truck enters a municipality it gets taxed again, so the tax the seller has to pay gets even more complicated," said the head of an e-tail firm who spoke on condition of anonymity. In August, the Karnataka tax authorities deemed that Amazon was a "commission agent" and had to pay VAT. They also cancelled the

branch certificates of Amazon's merchants stocking products in the former's Bangalore warehouse, affecting 50 merchants.

The issue is yet to be resolved . Amazon, Flipkart and Snapdeal— the top ecommerce companies in the country—declined to comment for this story. Industry insiders assert clarification of laws and uniformity in interpretation is urgently needed. "Our point of view is that the ecommerce company should have to only pay the same taxes as a physical retailer, not more," said R Chandrashekar, president of Nasscom.