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## Impact of gst law with reference to E-commerce industry in India

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Received-29.08.2024,

Revised-04.09.2024,

Accepted-10.09.2024

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**Abstract:** According to Article 366(12A), “the products and Services Tax (GST) is defined as any tax imposed on the provision of products, services, or both, with the exception of taxes on the distribution of alcoholic beverages for human use”. According to “the revised Article 366(26A), the term “service” refers to something distinct from products”. According to Article 366(12), any materials, objects, or items are classified as products. The government perceives the GST as a tax reform rather than a modification of the existing Indian tax structure. They are assessing the advantages and disadvantages of the indirect taxation system. India was among the 123 nations worldwide that implemented the Value Added Tax (VAT) system. On January 17, 2005, Finance Minister P. Chidambaram devised and proposed Value Added Tax (VAT) proposals to both the Centre and the States. The implementation of VAT at the national level and the replacement of the Central Excise Tax and Sales Tax System at the state level resulted in a substantial alteration to the tax collecting procedure. In 2014, a proposal was made to introduce the Goods and Services Tax (GST) in India, with the planned implementation date set for June 2016. The Goods and Services Tax (GST) is administered via a dual system, with one component managed by the Central Government (CGST) and another by the State Government (SGST). The tax base is almost same for both the federal government and the states. The Goods and Services Tax (GST) was introduced in India on July 1, 2017, consisting of three primary models: (i) Central GST, (ii) State GST, and (iii) Dual GST. The E-commerce sector in India has been making an increasingly significant contribution to the Indian economy. In order to fully capitalize on a well-established and lucrative E-commerce sector, retail E-commerce enterprises need a reliable indirect tax strategy to effectively tackle the tax evaluation challenges they have encountered. The installation of GST is anticipated to address several supply chain issues that E-commerce enterprises have encountered, resulting in expedited shipment and refunds, as well as diminished administrative tasks. Additionally, this will assist enterprises and E-commerce sites in enhancing their supply chain strategies by prioritizing more efficient storage and organizational choices based on cost and service.

**Key words:** GST, Sales Tax System, CGST, SGST, E-commerce industry, Article 366 ( 12A )

**Introduction** - The tax collection from online organizations and electronic trade is a main issue for global associations, charge specialists, and public offices. In its most evolved structure, electronic trade permits unidentified purchasers to pay unknown dealers in electronic cash for a blend of product, administrations, and licenses. The payee might be found anyplace with admittance to a PC, and public limitations make no difference. The ongoing discussion over the tax collection from online organizations or electronic business is like the questionable scholar and managerial discussion that happened during the 1980s in regards to mail-request exchanges. Be that as it may, the extra request relating to online business or electronic trade is the way to accommodate public monetary limitations with the borderless universe of the web. State run administrations are as of now losing a large number of dollars in charge income because of the expansion of online organizations inside their purviews, and duty specialists are finding it progressively hard to stem this drain. Numerous assessments on pay, creation and utilization of items and administrations, transportation, and different exercises of bringing in and dispensing cash have come about because of India's national government structure.

Development has changed the worldwide viewpoint on leading business, and by 2025, the worth of India's electronic trade market is projected to reach \$1 trillion. The Indian web based



business market is supposed to arrive at US\$200 billion by 2026, up from US\$38.5 billion out of 2017<sup>1</sup>, because of rising web utilization and expanded internet based retail. Notwithstanding web based business pioneers, ordinary organizations are continuously upgrading their advanced presence. Quick advances in innovation will more than once require present day mandates or lawful mediations.

The internet business industry in India has been continuously adding to the Indian economy, and a stable winding obligation strategy is expected as a panacea for various cost assessment sicknesses experienced by web based business substances in the retail space to receive the rewards of a flourishing and beneficial web based business industry.

Moreover, the execution of GST is expected to determine various store network issues stood up to by web based business associations, remembering quicker shipment and returns and a decrease for regulatory and record-keeping work. This will likewise help affiliations and electronic business substances in improving store network techniques, with an accentuation on upgrading warehousing and affiliation choices that are essentially cost and organization driven. The double construction of the Labor and products Duty (GST) will likewise bring about the improvement and unraveling of the cost system, making it simpler and speedier for the people who sell across state lines, accordingly lessening the weight on shoppers. In this unique situation, flow research centers around the "Effect of the GST regulation on the Indian web based business industry."

**MEANING OF E-COMMERCE-** OECD (2011)<sup>2</sup> defines "e-commerce as a web-based business transaction involving the sale or procurement of products or services, conducted over computer networks by strategies expressly designed to obtain or submit requests. The products or services are requested through these methods; however, the payment and final delivery do not need to be conducted online. An online business transaction may involve businesses, families, individuals, governments, and other public or private organizations. To be included are orders placed via the Internet, extranet, or electronic information commerce".

Online business is the trading of labor and products that is finished over PC networks utilizing techniques intended to get or send demands. Regardless of whether an item or administration is sold electronically, the cost and official development of the item or administration don't need to be composed on the web. A deal on the web can occur between organizations, families, people, states, and other public or private groups<sup>3</sup>.

Close to the Modern Transformation in the twentieth hundred years, the ascent of electronic business could be the main occasion throughout the entire existence of cash. While Europe and the U.S. were the principal victors of the Modern Upset, there are solid signs that India, alongside the U.S. furthermore, China, will be the significant recipients of the electronic trade change. This is on the grounds that India has countless gifted individuals who can perform specialized work. To accomplish its business objectives, the Indian business is involving development as a main thrust. In doing as such, it has been zeroing in on how the advantages of new innovation and the dangers that accompany having a business rely upon it change.

Orders put over the web, extranet, or an electronic information trade are essential for these electronic exchanges. The strategy for setting the sales portrays this sort of exchange. Orders made by telephone, fax, or manually written notes are constantly illegal. Online business associations might utilize some or all the accompanying:

- i) Sites where individuals can purchase things on the web and have them sent straightforwardly to them.
- ii) Offering or participating in web-based business places, which track business-to-client or client to-client bargains that can't be contacted.
- iii) Business-to-business trading.
- iv) Getting snippets of data from web contacts and online media and utilizing them.
- v) Electronic information trade between organizations.
- vi) Sending email or fax messages to clients who have previously been reached and set up.





vii) Going into shopping to get new items and administrations out there.

viii) There was a surge of online business without precedent for quite a while, which caused a flood in web-based business. In 2010, the business alone saw a 50 percent expansion. With the second rush of online business in India in the mid 2000s, better approaches for shopping on the web, similar to bunch purchasing destinations, secret arrangements clubs, and correlation shopping stages, started to develop. During this long time, there were likewise numerous amazing consolidations and acquisitions, with cash rolling in from probably the main speculation sources in India and all over the planet.

ix) People are impacted by the web. Clients have become more requesting as they have dived deeper into new items and administrations. The speed of the web has changed each part of business, whether it's the means by which clients feel about an organization, how they feel about its embellishments, or the way that production network pioneers deal with the chain of stores<sup>4</sup>.

**CROSS-BORDER E-COMMERCE TAXATION-** Because of the ascent of cross-line online deals, different expense related issues have arisen, like the accompanying:

- i) Is it important to foster new rules and standards to decide the nature and character of pay got from cross-line online exchanges?
- ii) Is there a requirement for another definition and importance of super durable foundation (PE) in India with the end goal of cost assessment?
- iii) Is there a need to change the reason of duty assortment, for example, charge on home or pay collected, arose, and got in India?
- iv) Should standards of appraisal decency be stuck to while thinking about charge assortment from online deals?
- v) Are last buyers procured or not?
- vi) Is locale an issue related with online deals?
- vii) Copyright encroachment.

On a worldwide scale, web-based business exchanges represent various issues connected with security, purview, and tax collection. The key guideline of assessment assortment is to stay away from predisposition, which expects that charge assortment rules shouldn't impact monetary choices. Thus, monetarily equivalent pay ought to be dealt with in basically the same manner, whether or not they are from traditional business coordination strategies or online exchanges.

To accomplish peaceful accord on web-based business issues, the Association for Monetary Participation and Improvement (OECD)<sup>5</sup> has been dealing with ways of tending to them. The OECD has proposed a few principles that legislatures ought to follow and has likewise spread-out new standards for how expenses ought to be gathered from online agreements. These principles are:

- i) Governments ought to establish a steady climate for electronic business to develop, work to wipe out superfluous boundaries to exchange, and mediate when important to safeguard significant public interests in the computerized world, as they do in reality.
- ii) When government activity is vital, it ought to be proportionate, immediate, strong, clear, and unprejudiced.
- iii) Governments ought to look for a center ground.<sup>6</sup>

To address web-based business tax assessment issues, two things should be explained: to begin with, the kind of pay produced from online business exchanges (e.g., sovereignty, business benefit, or expenses for specialized administrations); furthermore, second, the meaning of PE in the source nation and how to allot benefits to it.

**RESEARCH PROBLEM-** The web based business industry in India has been developing quickly and contributing essentially to the Indian economy. To use the advantages of this developing industry, online business organizations in the retail space require a predictable backhanded charge way to deal with address specific duty issues they are confronting.



The execution of GST is likewise expected to determine a few inventory network issues that internet business organizations have been experiencing, prompting speedier delivery and returns and diminished accounting. This will likewise help organizations in further developing their store network frameworks by zeroing in more on going with better warehousing and hierarchical choices in light of cost and administration. The two-layered design of GST will likewise improve and upgrade the duty structure, making it simpler and speedier for individuals to sell across state lines and decreasing the weight on purchasers.<sup>7</sup>

**E-COMMERCE TRANSACTIONS-** Electronic business has supplanted customary joint effort. "E" addresses the decision and acknowledgment of electronic development, while "exchange" addresses business exercises like trading labor and products on the web. Online business incorporates putting away, making, leasing, selling, and transportation merchandise by means of the Web. Web based business has opened entryways and set out open doors for individuals from varying backgrounds, including drives like Karshaka Data Frameworks Administrations and Systems administration (KISSAN), a web-based business and e-organization drive by the Division of Horticulture, Kerala, which gives ranchers online pesticide, seed, crop board, and promoting data.

**STATUTORY PROVISIONS UNDER GST LAW-** Important arrangements in this setting are Sect.-28 incorporates definitions, including subsections (41-48), 50, 52, 56, 64, 65, 85, 86, 89, 102, and area 9, Article 265 of the Constitution of India.

Area 52 of the CGST9-

Charge Assortment at Source This Sec. takes into consideration obligation to be demanded at the source under specific circumstances. The Sec. depicts exhaustively the expense authorities who are guided by the Focal Government to gather charge at the source, the pace of duty assortment, and the strategy for settling the assessment gathered. How much appraisal gathered is kept in the Electronic Money Record of the individual from whom the cost was gathered. Ordinary CGST, UTGST, and SGST Act arrangements have been taken apart as such.

**Examination of Sec. 52 related to Different Resolutions and Guidelines:**

1. Each web based business administrator will gather TCS at a pace of something like 1% of the net worth of exchanges for which they gather thought of the stock. If it's not too much trouble, note that assuming there is an arrival of merchandise to providers, the comparing sum will be deducted from the gross worth, and TCS might be charged on the subsequent net sum.
2. The sum gathered will be paid to the Focal/State Government independently in something like ten days of the month's end in which the assortment is made.
3. Assuming the online business administrator neglects to gather the weight under sub-fragment 1 of Area 52 or gathers an aggregate that is not exactly the total expected to be gathered under said sub-portion or where they neglect to pay to the public power the aggregate gathered as cost under sub-portion 3 of Sec. 52, they will be dependent upon discipline under provision (vi) of sub-portion 1 of Sec. 122 of the Demonstration, which might stretch out to Rs. 25,000 notwithstanding.
4. The web-based business administrator should record Structure GSTR-8 in the span of ten days of the month's end in which the provisions are made, specifying the outward supplies of labor and products or both made through it, as well as the arrangements returned through it and the sum gathered in sub-fragment 1.
5. The Web based business executive should accumulate subtleties of the obligation gathered at the source under Area 52 of Structure GSTR-8 and make them accessible to the provider electronically to some extent D of Structure GSTR-2A. A comparative arrangement exists for Structure GSTR-2.





6. According to Area 52(5) of the CGST Act, Web based business administrators should document the Yearly Assertion by December 31st following the finish of the financial year, which is Walk 31st of the applicable year.
7. How much duty gathered by the Online business administrator is reflected in the provider's Electronic Money Record once the administrator has documented the important month to month return.
8. Assuming that there is a disparity between the data given by the Web based business administrator in their month to month returns and that given by the providers who sell labor and products through the administrator, the proper specialists might lead a cross-really take a look at request. Either party might address the off-base data. Assuming the provider neglects to make the important amendments, they might be punished for rebelliousness. The careless provider (who under-announced their turnover) should pay any short settlement with interest, according to Area 50.
9. Any power holding the position of Representative Chief or higher may give a notification to an Internet business administrator mentioning data on (a) provisions of items or administrations made through the administrator during a particular period, or (b) load of product held by the providers who sell labor and products through the administrator in distribution centers or stockrooms regulated by the administrator.
10. The Online business administrator should answer the notification in the span of 15 days of getting it. In the event that the administrator neglects to give the necessary subtleties, they might be fined up to Rs. 25,000/-, according to Area 52(14) of the Act.<sup>10</sup>
11. The UTGST Demonstration of 2017 embraces the arrangements of the CGST Act in regards to Duty Assortment at Source, likely to its own arrangements.

**DEALS THAT FALL UNDER SECTION 14 OF THE IGST ACT OF 2017-** Since GST is a utilization based charge, any products that are consumed in India, like those in the public space, are dependent upon GST. Be that as it may, consider an electronic business trade where the substance completing the trade isn't situated in India and has no actual presence there, yet at the same time offers types of assistance to non-business people in India. We know that when the assistance recipient is in India, yet the specialist organization is beyond India, the recipient is liable for paying the expense under RCM. Since a non-monetary master isn't in danger of enrollment, could they need to pursue long haul enlistment to liberate themselves from the RCM (Switch Charge System) commitment? The right response is "NO." Area 14 of the IGST Act makes the substance offering the assistance obligated for enlistment and installment of charges in these circumstances.

Sec. 14(1) of the IGST Act<sup>11</sup> states that assuming that an individual in a non-available region gives online data and data set admittance or recovery benefits that are gotten by a non-available web-based beneficiary, the individual who offered the types of assistance in the non-available domain is liable for paying coordinated charge on such a stockpile of administrations.

Online data and data set admittance or recovery (OIDAR) administrations are those whose conveyance is interceded by data innovation over the web or an electronic organization and whose nature makes their stockpile generally computerized with minimal human mediation, and difficult to guarantee without data innovation. This incorporates electronic administrations, for example,

- a) advertising on the web;
- b) providing cloud administrations;
- c) providing e-taxpayer driven organizations;
- d) providing e-wellbeing administrations;
- e) providing web based business administrations.



A non-available web-based beneficiary is any administration, neighborhood authority, government authority, or individual who isn't enlisted and gets online data and data set admittance or recovery administrations under any circumstance other than trade, industry, or some other business or calling an in the available area.

**IMPACT OF GST ON E-COMMERCE-** Overall discourse, electronic exchange is designated "business trades that are driven electronically." Albeit this depiction might sound straightforward, electronic business began as online retail in the stock-and-sell model, yet it has now upset the manner in which individuals lead business, making it more proficient and useful than customary techniques. The outcome of organizations like Flipkart, Myntra, Paytm, Amazon, Make My Excursion, and eBay has grabbed the eye of everybody, from old-school monetary specialists to new entrepreneurs and even states. Online exchanges have prompted better approaches for getting labor and products to individuals, making everything less expensive without bringing down the nature of their merchandise. In this review, we have ordered a portion of these models and will look at how the Labor and products Duty ("GST") influences them.<sup>12</sup>

Tax collection on cross-line web based business exchanges in India has been a test because of the shortfall of real presence of providers, managerial troubles in following and gathering costs, and the extent of GST troubling. The extension of the computerized economy and web business affiliations has had a worldwide effect, including on the web enlistment based administrations, online proposal of items/administrations/programming, web gaming, inn/flight reservations, and that's just the beginning, like Netflix, Amazon, Flipkart, Uber, Airbnb, MakeMyTrip, and Nintendo. With impact from 1 April 2020, India has considerably enlarged the extent of "Adjustment Duty" to envelop such cross-line web exchanges. The Money Act, 2020, which was supported by the Leader of India on Walk 27, 2020, changed the game plans of Balance Duty, and expanded its level to present a 2% toll on web based business supplies or administrations used by a non-electronic business operator.<sup>13</sup>

Concerns have been raised in regards to a fair battleground in the worldwide market between privately found physical stores and unfamiliar web-based specialist co-ops. One might dare to dream that the Base Disintegration and Benefit Moving (BEPS) Activity Plans<sup>14</sup> will arrive at a worldwide agreement by 2020, as expected. Given the disparate interests of 'have locales' and 'market purviews,' it would require a colossal measure of purposeful political will to arrive at a worldwide agreement on tax collection rules. Up to that point, countries, including India, will keep on executing one-sided measures for burdening computerized members to safeguard their income advantages.

**Electronic Commerce Operator (ECO):** Under GST, OIDAR and ECO have been presented. ECO incorporates any individual who claims or deals with a cutting edge office or electronic exchanging stage. As indicated by this, an ECO is expected to achieve charge grouping at source (Expense Gathered at Source) @ 1% for its things and tries from a characterized client. For assigned administrations, for example, radio-taxi and accommodation advantages, the ECO should deliver 100 percent of the fundamental supplier's GST responsibility. Notwithstanding, the muddled high level player evaluation framework actually has ambiguities:

- i. Service aggregators might qualify as both an OIDAR particular association and an ECO, requiring two GST enrollments.
- ii. While an improved and single enlistment framework exists for OIDAR expert centers, an ECO is expected to enroll in all States where the basic supplier exists. Consequently, contingent upon the particular exercises, ECOs might have the troublesome obligation to enroll in all States in India and follow the connected procedural necessities. New web-based business chiefs who don't have an actual presence in a State might have to relegate specialists to enlist.





iii. At the point when an ECO consents to deliver 100 percent of the supplier's use risk for specific administrations, it is indistinct the way that extra procedural guidelines like receipt issuance should be assented to.

iv. The planning of an ECO's cost assortment is indistinct. As indicated by CBIC's internet based business flier, the manager ought to make the determination during the month the recipient pays the idea aggregate. Notwithstanding, the FAQ expresses that the ECO should charge at source "when the stock is made through it." It is hazy in the event that this ought to be the date when the supplier makes the genuine (stowed away) supply to a conclusive client, when the client finishes the web-based trade on the ECO's webpage and makes the internet based portion, or when the essential reserve is provided (which might be the date of receipt or supply). Since an ECO's month to month attestation will match the stressed supplier's legitimate return for that month or any first month, this viewpoint is pivotal. In the event that an overwhelm stays unsettled, the ungraceful cash will be added to the supplier's yield liability with premium.

**JUDICIAL PRONOUNCEMENTS-** On account of K.K. Ramesh (Applicant) versus The Association of India, The Secretary, Office of the GST Committee Secretariat, New Delhi and The Chief, Business Duty Official, Cheupakkam, Chennai,<sup>15</sup> the Madras High Court found that the Candidate had documented a writ request after the power liable for upholding the GST regulation excused their enlistment application for neglecting to give explanation on blunders in their records. The Solicitor, who was abused by the excusal of their enlistment application, recorded this writ appeal in the Hon'ble High Court.

As indicated by the Respondents' entries, the Hon'ble High Court permitted the Solicitor to record another enlistment application with the vital reports. On the off chance that the Solicitor records another application, it will be thought of, and the equipped power will settle with regards to this issue. In view of the context oriented examination, apparently a competitor whose GST enlistment application has been dismissed may present another application.

On account of Rajeevan V.N. (Applicant) versus The Focal Duty Official 1 Circle, Cochin And Jose Thomas, Kottayam, (Respondent)<sup>16</sup>, the Kerala High Court observed that the Solicitor Assessee couldn't record GST benefits because of the transitory ID and mystery state not working. Also, the Solicitor Assessee was considered ineligible for selection. The Candidate Assessee can't start the enlistment interaction or document the GST return because of the impermanent ID and mystery key being non-practical. The Hon'ble High Court encouraged the Respondent-Office to shun making coercive recuperation moves until the judgment is given. The Hon'ble High Court has not yet pursued a choice, but rather it has exhorted the Respondent-Office not to make a move against selected people who couldn't follow GST guidelines because of non-working brief IDs and mystery phrases.

In M/s KTL (P) Ltd. (Candidate) versus Association of India<sup>17</sup>, the High Court of Judicature at Allahabad observed that the Candidate Assessee couldn't submit Structure GST TRAN-01 in light of the fact that the Respondent-Division's electronic framework was not working. The Applicant Assessee upheld this appeal of mandamus to widen the headings of Structure GST TRAN-01. The Solicitor Assessee, who couldn't finish Structure GST TRAN-01 because of Respondent-Division electronic issues, is qualified for impermanent credit. The Respondent Division will restart the entryway and permit the Solicitor Assessee to finish up Structure GST TRAN-01 in something like 14 days of the Decent High Court's guidance. The High Court of Judicature at Allahabad requested the Respondent-Division to truly help the Applicant Assessee on the off chance that the doorway isn't restarted. The Solicitor can pay expenses on the standard electronic framework utilized for credit thought. The relevant examination recommends that the Office can't deny impermanent credit when the enrolled accessible individual couldn't record Structure GST TRAN - 01 because of specialized concerns. The workplace ought to guarantee that



such enrolled accessible individual is qualified for brief credit by returning the passage or genuinely handling the transitory credit application.

With regards to the executives expenses, the Indian legal executive has laid out the accompanying standards:

1. Documentary proof is fundamental to lay out the realness of costs caused for the installment of the board expenses/intra-bunch charges.
2. It is trying to give substantial proof of the everyday counsel given by different gathering communities to bunch organizations, yet this can be derived from how business is led.
3. The organization's genuine business necessities should be assessed according to the organization's point of view. The expense authority has no power to direct the necessities of a business.
4. While computing Snow capped mountain, the expense specialists can't challenge the citizen's business insight. It really depends on the citizen to decide how to direct its business.
5. The TPO (Move Evaluating Official) can't ascertain the exchange's Snow capped mountain (A manageable distance Cost) on an impromptu premise. The arrangements of Sec. 92C (1)<sup>18</sup> require the utilization of one of the endorsed approaches for ascertaining the A careful distance Cost of global exchanges. vi. The advantage test is expected for deciding a safe distance cost of intra-bunch administrations. 'Benefit' should be distinguished according to the assessor's viewpoint; it should be potential, sensible, and predictable; it may not be quantifiable in financial terms alone; it very well might be key yet can't be coincidental.

To guarantee conformance with a safe distance standard, the board expenses should be completely broke down and carefully reported. Arising law regarding the matter recommends that a powerful report confirming the receipt of the executives administrations would go quite far toward keeping away from or limiting openness around here. Given the intricacies in question and the degree of top to bottom examination required, it is judicious for citizens to be good to go ahead of time.

**CONCLUDING REMARKS:** Today, web trade is quickly building up some decent forward movement. Online business can be characterized as the head of any business movement that uses the Web as a medium. The extent of online trade is dynamic and reliably extending. Given the new unfamiliar direct speculation (FDI) and administrative standards in presence, the web-based business commercial center strategy has been the best model in India. All the more critically, it is unsure whether these regulations will actually want to evaluate in light of extraterritoriality truly. Taking everything into account, while the law looks for development, it is fundamental for organizations to find the separated intricacies of the general set of laws, deal with the intricacies, and live with the ambiguities. The presentation of the Labor and products Assessment (GST) regulation adjusted the major rules overseeing how online business is directed in India. The Association for Monetary Co-Activity and Advancement (OECD), G20-Twenty OECD Taking part Countries in its venture BEPS (Base Disintegration and Benefit Sharing) Activity Point 1 have totally communicated that the whole economy is digitalizing, and that it would be troublesome, on the off chance that certainly feasible, to ring-wall the advanced monetary structure. After due conversation and thought with its part countries, the OECD and G20 wouldn't convey an answer on Tax collection from the Computerized Economy until the year 2020. Because of the postpone in giving arrangements, individual nations have started singularly burdening the Advanced Economy inside their burdening locales, in light of the first proposition set forth by OECD and G20. Considering the previous, India should proceed cautiously along this way to trouble the Computerized Economy, similar to a honey bee that extricates nectar from a blossom without harming the actual bloom. India ought to likewise devise its expense appraisal methodology on the advanced economy in at least one of the previously mentioned ways, with the goal that the





electronic business industry isn't troubled by charges and can create and flourish to its maximum capacity.

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