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PLACE OF SUPPLY

It's a win for democratic ethos of India and a victory for everyone, GST will improve the way of doing business.

-Narendra Modi

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Introduction

The POS provisions determine the place where the tax should go. The POS & the location of the supplier are the two determinants to ascertain the nature of supply i.e., whether a supply is intra-State or inter State.

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Definitions

Section 2(2): Address of Delivery

Address of delivery means the address of the recipient available in the records of the supplier.

Section 2(110): Telecommunication service

Telecommunication service means

Service of any description (including electronic mail, voice mail, data services, audio text services, text radio paging and cellular mobile telephone services).

which is made available to users by means of any transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature, by wire, radio, visual or other electromagnetic means.

Section 2(113): Usual place of residence

Usual place of residence means-

- (a) in case of an individual, the place where he ordinarily resides;
- (b) in other cases, the place where the person is incorporated or otherwise legally constituted;

Remember that: The term "location of supplier of goods" has not been defined in the Act.



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Section 7 of IGST act: Inter-State supply

1.	Supply of goods between different states/UT's
	Subject to the provisions of section 10, supply of goods, where the location of the supplier and the place of supply are in- (a) two different States; (b) two different Union territories; or (c) a State and a Union territory, shall be treated as a supply of goods in the course of inter-State trade or commerce.
2.	Not applicable
3.	Supply of services between different states/UTS be treated as inter-state
	Subject to the provisions of section 12, supply of services, where the location of the supplier and the place of supply are in- (a) two different States; (b) two different Union territories; or (c) a State and a Union territory, shall be treated as a supply of services in the course of inter-State trade or commerce.
4.	Not applicable
5.	Supply which is not intra- be treated as Inter state
	Supply of goods or services or both, (a) Not applicable (b) Not applicable (c) in the taxable territory, not being an intra-State supply and not covered elsewhere in this section, shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce.

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Section 8 of IGST act: Intra-State supply

1.	Supply of goods within same state/UT-intrastate supply
	Subject to the provisions of section 10, supply of goods where the LOS and the POS of goods are in the same State or same UT shall be treated as intra-State supply.
2.	Supply of services within same state/UT- intrastate supply
	Subject to the provisions of section 12, supply of services where the LOS and the POS of services are in the same State or same UT shall be treated as intra-State supply:



Explanation 1. For the purposes of this Act, where a person has, -

- (i)... Not applicable
 - (ii) an establishment in a State or UT and any other establishment outside that State or UT; or
 - (iii) an establishment in a State or UT and any other establishment registered within that State/UT,
- then such establishments shall be treated as establishments of distinct persons.

Explanation 2. A person carrying on a business through a branch/an agency/a representational office in any territory shall be treated as having an establishment in that territory.

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Section 9 of IGST act: Supplies in territorial waters

Notwithstanding anything contained in this Act, -

(a) where the location of the supplier is in the territorial waters,	the location of such shall,	Shall, for the purposes of this Act, be deemed to be in the coastal State or UT where the nearest point of the appropriate baseline is located.
(b) where the place of supply is in the place of supply, the territorial waters,	The place of supply,	

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Sec 10 of IGST: POS of goods other than supply of goods imported into, or exported from India

Section	Nature of transaction	Place of supply
10(1)(a)	Where the supply involves movement of goods, whether by the supplier or by the recipient or by any other person.	Location of the goods at the time at which the movement of goods terminates for delivery to the recipient.
10(1)(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 POS of such goods shall be the principal place of business of such person.
10(1)(c)	Where the supply does not involve movement of goods, whether by the supplier or the recipient	Location of such goods at the time of the delivery to the recipient.
10(1) (ca)	where the supply of goods is made to a person other than a registered person, the place of supply shall, notwithstanding anything contrary contained in clause (a) or clause (c)	Location as per the address of the said person recorded in the invoice issued in respect of the said supply and the location of the supplier where the address of the said person is not recorded in the invoice. Explanation. For the purposes of this clause, recording of the name of the State of the said person in the invoice shall be



		deemed to be the recording of the address of the said person.
10(1)(d)	Where the goods are assembled or installed at site.	Place of such installation or assembly.
10(1)(e)	Where the goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle	Location at which such goods are taken on board.

Remember that:

As per **Sec 19(1)(ca)**: There are cases where an unregistered person purchases goods over the counter (OTC) in one State and thereafter, transports the goods to another State (generally, the State where he resides). For instance, migrant workers, tourists, etc. who come to a State for work, tourism, etc. and purchase goods in that State to take it to their respective State. Similarly, in automobile sector, the residents of a State may travel to another State to purchase vehicle from that State to take advantage of lower registration charges and road tax, which vary from State to State and thereafter, take the vehicle to their State. Since GST is a destination-based tax, now provision introduced so that the tax can be transferred to the appropriate state where the consumption is happening.

Examples

1. In case of supply involving movement of goods, the POS is the location of the goods at the time when the movement of goods terminates (ends) for delivery to the recipient.

- Mr. Ram of Pune, Maharashtra sells 10 refrigerators to Mr. Shyam of Nasik, Maharashtra for delivery at Mr. Shyam's place of business in Nasik. The POS is Nasik in Maharashtra.
- b. Mr. Ram of Bangalore, Karnataka sells 20 refrigerators to Mr. Shyam of Ahmedabad, Gujarat for delivery at Mr. Shyam's place of business in Ahmedabad. The POS is Ahmedabad.

2. Bill to Ship to Sale

- Mr. X (a supplier registered in UP having principal place of business at Noida) asks Mr. Y of Ahmedabad to deliver 50 washing machines to his buyer Mr. Z at Jaipur, Rajasthan. In this case, two supplies are involved, one between Mr. X and Mr. Z and other between Mr. Y and Mr. X. While the former supply is covered under clause (a) of section 10(1), the latter one i.e., between Mr. Y and Mr. X is covered under clause (b) of section 10(1).

Accordingly, in this case, the POS of goods is not the location of delivery of such goods (Jaipur) but the principal place of business of third person i.e., PPOB of Mr. X located at Noida.

3. Supply not involving movement of goods

- Mr. A (New Delhi) has leased his machine (cost Rs 8,00,000) to Mr. B (Noida, UP) for production of goods on a monthly rent of Rs 40,000. After 14 months Mr. B requested Mr. A to sell the machine to him for Rs 4,00,000, which is agreed to by Mr. A. In this case, there will be no movement of goods and the same will be sold on as is where is basis. Thus, the location of the machine at the time of such sale will be the POS i.e., Noida.



4. Supply involving installation or assembly of goods

- Mr. A (New Delhi) purchases a machine from Mr. B (New Delhi) for being installed in his factory at Noida, UP. The POS is the site at which the machine is installed i.e., Noida.

5. Goods supplied on board a conveyance

- Mr. X (New Delhi) boards the New Delhi-Kota train at New Delhi. He sells the goods taken on board by him (at New Delhi), at Jaipur during the journey. The POS of goods is the location at which the goods are taken on board i.e., New Delhi and not Jaipur where they have been sold.

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Section 12 of the IGST Act: POS of services where location of supplier and recipient is in India

Section 12(1): Applicable only if LOS and LOR is in India

The provisions of this section shall apply to determine the POS of services where the location of supplier of services and the location of the recipient of services is in India.

Section 12(2): General Rule of POS (also known as residuary rule)

The **POS** of services, except the services specified in sub-sections (3) to (14),

- made to registered person** shall be the location of such person;
- made to any person other than a registered person** shall be, -
 - the location of the recipient where the address on record exists; and
 - the location of the supplier of services in other cases.

Examples

a. Mr. A (a CA registered in New Delhi) makes a supply of service to his client Mr. B of Noida, UP (registered in UP). In this case, since the supply is made to a RP, the POS is the location of the registered recipient i.e., Noida.

b. Mr. A, a Chartered Accountant in Gurugram, Haryana, (registered services to his client Mr. C who is a resident of New Delhi but is not registered under GST. If the in Haryana) provides consultancy address of Mr. C is available in the records of Mr. A, location of Mr. C i.e., New Delhi will be the POS, else the location of Mr. A, which is Gurugram, will be the POS.

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Section 12(3): Services in relation to an immovable property/boat/ vessel

The POS of services,

- directly in relation to an immovable property**, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work; or
- by way of lodging accommodation** by a hotel, inn, guest house, home stay, club or campsite, by whatever name called, and including a house boat or any other vessel; or



(c) **by way of accommodation** in any immovable property for organizing any marriage or reception or matters related thereto, official, social, cultural, religious or business function including services provided in relation to such function at such property; or

(d) **any services ancillary to the services referred to in clauses (a), (b) and (c), shall be the location at which the immovable property or boat or vessel, as the case may be, is located or intended to be located:**

Provided that if the location of the immovable property or boat or vessel is located or intended to be located outside India, the POS shall be the location of the recipient.

Explanation. Where the IMP/boat/vessel is located in more than one State/UT,

- ☞ the supply of services shall be treated as made in each of the respective States/UTs,
- ☞ in proportion to the value for services separately collected or determined in terms of the contract/agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

Rule 4: Computation of value of services where immovable property is located in more than one State and where the location of supplier and recipient is in India

Following manner has been prescribed namely: -

(i) in case of services provided by way of lodging accommodation by a hotel, inn, guest house, club or campsite, by whatever name called (except cases where such property is a single property located in two or more contiguous States or UTs or both) and services ancillary to such services, the supply of services shall be treated as made in each of the respective States/UTs,

☞ in proportion to the number of nights stayed in such property;

(ii) **in case of all other services in relation to immovable property** including services by way of accommodation in any immovable property for organizing any marriage or reception etc., and in cases of supply of accommodation by a hotel, inn, guest house, club or campsite, by whatever name called where such property is a single property located in two or more contiguous States or UTs or both, and services ancillary to such services, the supply of services shall be treated as made in each of the respective States or UTs,

☞ in proportion to the area of the immovable property lying in each State or UT)

(iii) **in case of services provided by way of lodging accommodation by a house boat** or any other vessel and services ancillary to such services, the supply of services shall be treated as made in each of the respective States or UTs, in proportion to the time spent by the boat or vessel in each such State or UT,

☞ which shall be determined on the basis of service provider. declaration made to the effect by the service provider.



Illustration 1: A hotel chain X charges a consolidated sum of Rs.30,000 for stay in its two establishments in Delhi and Agra, where the stay in Delhi is for 2 nights and the stay in Agra is for 1 night. The POS in this case is both in the UT of Delhi and in the State of UP and the service shall be deemed to have been provided in the UT of Delhi and in the State of UP in the ratio 2:1 respectively. The value of services provided will thus be apportioned as Rs.20,000 in the UT of Delhi and Rs.10,000 in the State of UP.

Illustration 2: There is a piece of land of area 20,000 square feet which is partly in State S₁ say 12,000 square feet and partly in State S₂, say 8000 square feet. Site preparation work has been entrusted to T. The ratio of land in the two states works out to 12:8 or 3:2 (simplified). The POS is in both S₁ and S₂. The service shall be deemed to have been provided in the ratio of 12:8 or 3:2 (simplified) in the States S₁ and S₂ respectively. The value of the service shall be accordingly apportioned between the States.

Illustration 3: A company C provides the service of 24 hours accommodation in a houseboat, which is situated both in Kerala and Karnataka in as much as the guests board the house boat in Kerala and stay there for 22 hours but it also moves into Karnataka for 2 hours (as declared by the service provider). The POS of this service is in the States of Kerala and Karnataka. The service shall be deemed to have been provided in the ratio of 22:2 or 11:1 (simplified) in the states of Kerala and Karnataka, respectively. The value of the service shall be accordingly apportioned between the States.

Examples:

1. KTS Builders (Mumbai) is constructing a factory building for PLM Pvt. Ltd. (Kolkata), in New Delhi. The POS is the location of the immovable property i.e., New Delhi
2. Shah and Shah, an architectural firm at Kolkata, has been hired by MKF Builders of Mumbai to draw up a plan for a high-rise building to be constructed by them in Ahmedabad, Gujarat. The POS is the place where the immovable property is intended to be located i.e., Ahmedabad.
3. Mr. Ramesh, a CA, (New Delhi) travels to Mumbai for business and stays in a hotel there. The POS of accommodation service is the place where the hotel is located i.e., Mumbai
4. Mr. X, a consulting engineer based in Mumbai, Maharashtra renders professional services in respect of an immovable property of Mr. Y (Bangalore) located in Australia. Since the immovable property is located outside India, the POS of service is the location of recipient i.e., Bangalore and not the place where the immovable property is located (Australia).

Immovable property/Boat/Vessel located in more than one State/UT

1. Sometimes the immovable property may extend to more than one location, for example, a railway line, a national highway or a bridge on a river may originate in one State and end in the other State or a house boat stay may traverse more than one State.
2. In such cases, Le, where the immovable property or boat or vessel is located in more than one State/UT, the service is deemed to have been supplied in each of the respective States/UTs, proportionately in terms of the value of the services.



Clarification on Place of supply in case of supply of services in respect of advertising sector

Issue: There may be a case wherein there is supply (sale) of space or supply (sale) of rights to use the space on the hoarding/ structure (immovable property) belonging to vendor to the client/advertising company for display of their advertisement on the said hoarding/ structure. What will be the POS of services provided by the vendor to the advertising company?

Crux: Supply of space on hoarding given by vendor to advertisement co. is grant of rights to use an immovable property, hence Section 12(3) shall apply & POS shall be location where such hoarding/ structure is located.

Issue: There may be another case where the advertising company wants to display its advertisement on hoardings/billboards at a The responsibility of arranging the hoardings/ billboards lies with the vendor who may himself specific location availing the services of a own such structure or may be taking it on rent or rights to use basis from another person. The vendor is responsible for display of the advertisement of the advertising company at the said location. During this entire time of display of the advertisement, the vendor is in possession of the hoarding/structure at the said location on which advertisement is and the advertising company is not occupying the space or the structure. In this case, what displayed will be the place of supply of such services provided by the vendor to the advertising company?

Crux: Where the vendor is responsible for display of advertisement, he is providing advertisement services to Advertisement Co. then POS shall be as per section 12(2) of IGST Act.

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Section 12(4): Performance Based Services

The POS of

- restaurant and catering services,
 - personal grooming,
 - fitness,
 - beauty treatment,
 - health service including cosmetic and plastic surgery
- shall be the location where the services are actually performed.

Example

1. Mr. A, a business man from Pune dines in a restaurant at Mumbai while on a business trip. The POS of restaurant service is the location where such service is performed i.e., Mumbai.
2. Mr. Timmy Ferreira, a makeup artist at Kolkata, goes to Jaipur, Rajasthan for doing the makeup of Ms. Simran Kapoor, a Bollywood actress based in Mumbai. The POS is the location where such service is performed i.e., Jaipur.



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Section 12(5): Training and performance appraisal services

The POS of services in relation to training and performance appraisal to, -

- (a) a RP, shall be the location of such person;
- (b) a person other than a RP, shall be the location where the services are actually performed.

Examples:

- (1) DED Consultants (Kolkata) impart GST training to accounts and finance personnel of Sun Cements Ltd. (Guwahati, Assam) at the company's Kolkata office. Since the recipient is registered, the POS is the location of the registered person Le., Guwahati.
- (2) Mr. Suresh (unregistered person based in Noida) signs up with Excellent: Linguistics (New Delhi) for training on English speaking at their New Delhi Centre. Since the recipient is unregistered, the POS is the location where services are provided i.e., New Delhi.

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Section 12(6): Services by way of admission to events/amusement park/other places

The POS of services provided by way of admission to a cultural, artistic, sporting, scientific, educational, entertainment event or amusement park or any other place and services ancillary thereto, shall be the place where the event is actually held or where the park or such other place is located

Examples:

1. Mr. A, a resident of Ghaziabad, UP, buys a ticket for circus organized at Gurugram, Haryana by a circus company based in New Delhi. The POS is the location where the circus is held Le., Gurugram.
2. Mr. B of New Delhi buys a ticket for an amusement park located in Noida, UP. The place of the supply Is the location where the park is located i.e., Noida.

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Section 12(6): Services by way of admission to events/amusement park/other places

Explanation. Where the event is held in more than one State or UT and a consolidated amount is charged for supply of services relating to such event, the POS of such services shall be taken as being in each of the respective States or UTs in proportion to

- the value for services separately collected or
- determined in terms of the contract or agreement entered into in this regard or,
- in the absence of such contract or agreement, on such other basis as may be prescribed.



Rule 5: Computation of value of services where event is organized in more than one State and where the location of supplier and the recipient is in India

The supply of services attributable to different States/UTs, s 12(7) of the said Act, in the case of

- (a) services provided by way of organisation of a cultural, artistic, sporting, scientific, educational or entertainment event, including supply of services in relation to a conference, fair exhibition, celebration or similar events, or
- (b) services ancillary to the organisation of any such events or assigning of sponsorship to such events, or where the services are supplied to a person other than a registered person, the event is held in India in more than one State or UT and a consolidated amount is charged for supply of such services, shall be taken as being in each of the respective States or UTs, and in the absence of any contract or agreement between the supplier of service and recipient of services for separately collecting or determining the value of the services in each such State or UT, as the case maybe, shall be determined by application of the generally accepted accounting principles.

Illustration: An event management company E has to organize some promotional events in States S1 and S2 for a recipient R. 3 events are to be organized in S1 and 2 in S2. They charge a consolidated amount of Rs.10 lakhs from R. The POS of this service is in both the States S1 and S2. Say the proportion arrived at by the application of generally accepted accounting principles is 3:2. The service shall be deemed to have been provided in the ratio 3:2 in S1 and S2 respectively. The value of services provided will thus be apportioned as Rs. 6,00,000 in S1 and Rs. 4,00,000 in S2.

Example:

1. Mega Events, an event management company at New Delhi, organizes an award function for Shah Diamond Merchants of Ahmedabad (registered in Gujarat), at Mumbai. Since the recipient is a registered person, the POS is the location of the recipient, i.e., Ahmedabad.
2. Mega Events, an event management company at New Delhi, organizes an award function for Shah Diamond Merchants of Ahmedabad (registered in Gujarat), at Mauritius. Since the recipient is a registered person, the POS is the location of the recipient, i.e., Ahmedabad.
3. Grand Wedding Planners (Chennai) is hired by Mr. Ramesh (unregistered person based in Hyderabad) to plan and organize his wedding at New Delhi. The recipient being an unregistered person, the POS is the location where the event is held i.e., New Delhi.

The POS of services by way of transportation of goods, including by mail or courier to, -

- (a) a registered person, shall be the location of such person;
- (b) a person other than a RP, shall be the location at which such goods are handed over for their transportation:



Examples:

- (i) M/s XYZ Pvt. Ltd. is a registered company in New Delhi. It sends its courier to Pune through Brue Air Courier Service. The recipient being RP, the POS is the location of recipient i.e., New Delhi.
- (ii) Mr. Y, an URP, of New Delhi sends a courier to his brother in Amritsar, Punjab. The recipient being URP, the POS is the location where goods are handed over for their transportation i.e., New Delhi.
- (iii) PR Pvt. Ltd., a Goods Transportation Agency based in Kanpur, UP, is hired by Hajela Enterprises (registered supplier in Kanpur) to transport its consignment of goods to a buyer in New Delhi. The recipient being registered, the POS is the location of recipient i.e., Kanpur.
- (iv) ST Pvt. Ltd., a Goods Transportation Agency based in Noida, UP, is hired by Chhaya Trade Links (registered supplier in New Delhi) to transport its consignment of goods to a buyer in Kanpur, UP. The recipient being registered, the POS is the location of recipient i.e., New Delhi.
- (v) Mr. Srikant, a manager in a Bank, is transferred from Bareilly, UP to Bhopal, MP. Mr. Srikant's family is stationed in Kanpur, UP. He hires Goel Carriers of Lucknow, UP (registered in UP), to transport his household goods from Kanpur to Bhopal. The recipient being an unregistered person, the POS is the location where goods are handed over for their transportation i.e., Kanpur.

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Section 12(9): Passenger transportation service

The POS of passenger transportation service to,

- (a) a registered person, shall be the location of such person;
- (b) a person other than a registered person, shall be the place where the passenger embarks on the conveyance for a **continuous journey**:

Proviso: where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage, the POS of such service shall be determined in accordance with the provisions of sub-section (2).

Explanation: for the purposes of this sub-section, the return journey shall be treated as a separate Journey, even if the right to passage for onward and return journey is issued at the same time.

Examples:

Issue of right to passage for future use-point of boarding not known at the time of issue of right

- (i) An airline may issue seasonal tickets, containing say 10 leafs which could be used for travel between any two locations in the country.
- (ii) The card issued by New Delhi metro could be used by a person located in Noida, or New Delhi or Faridabad, without the New Delhi metro being able to distinguish the location or journeys at the time of receipt of payment.

Example:

1. Mr. Amar (registered person in New Delhi) travels from Mumbai to Bangalore in Air jet flight. Mr. Amar has bought the tickets for the journey from Air jet's office registered in New Delhi. The POS is the location of recipient Le., New Delhi



2. Mr. C (unregistered person in Chennai) has come to Delhi on a vacation. He buys pre-paid Delhi Metro Card from Delhi Metro (New Delhi) for hassle free commute in the National Capital Region. Recipient being unregistered person, the POS is the address of Mr. C i.e., Chennai. If address of Mr. C is not available with the Delhi Metro, the POS will be the location of the supplier of services i.e., New Delhi.

3. Mr. Shyam, an unregistered person, based in Gurugram, Haryana book is a two-way air journey ticket from New Delhi to Mumbai on 5th December. He leaves New Delhi on 10th December in a late-night flight and lands in Mumbai the next day. He leaves Mumbai on 14th December in a morning flight and lands in New Delhi the same day.

The return journey is treated as a separate journey, even if the tickets for onward and return journey are issued at the same time. Thus, being an unregistered person, the POS for the outward and return Journeys are the locations where the unregistered person embarks on the conveyance for the continuous journey i.e., New Delhi and Mumbai respectively.

Section 2(3) of IGST act 2017: Continuous journey

Continuous journey means a journey for which a single or more than one ticket or invoice is issued at the same time, either by a single supplier of service or through an agent acting on behalf of more than one supplier of service, and which involves no stopover between any of the legs of the journey for which one or more separate tickets or invoices are issued.

Explanation. For the purposes of this clause, the term "stopover" means a place where a passenger can disembark either to transfer to another conveyance or break his journey for a certain period in order to resume it at a later point of time;

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Section 12(10): Service supplied on board a conveyance

Services on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle- Location of the first scheduled point of departure of that conveyance for the journey.

Goods: watched, mineral water, soft drink, chips, etc.

Services: Breakfast, lunch etc.

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Section 12(11): Telecommunication services

The POS of telecommunication services including data transfer, broadcasting, cable and direct to home television services to any person shall, -

(a) in case of services by way of fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna, be the location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services;

(b) in case of mobile connection for telecommunication and internet services provided on post-paid basis, be the location of billing address of the recipient of services on the record of the supplier of services;



(c) in cases where mobile connection for telecommunication, internet service and DTH television services are provided on pre-payment basis through a voucher or any other means, -

(i) through a selling agent or a re-seller or a distributor of subscriber identity module card or re-charge voucher, be the address of the selling agent or re-seller or distributor as per the record of the supplier at the time of supply; or

(ii) by any person to the final subscriber, be the location where such pre-payment is received or such vouchers are sold;

(d) in other cases, be the address of the recipient as per the records of the supplier of services and where such address is not available, the POS shall be location of the supplier of services:

Proviso:

1. where the address of the recipient as per the records of the supplier of services is not available, the POS shall be location of the supplier of services:

2. if such pre-paid service is availed or the recharge is made through internet banking or of services on the record of other electronic mode of payment, the location of the recipient the supplier of services shall be the POS of such services.

Examples:

(i) Mr. X (Kolkata) gets a landline phone installed at his home from Skybel Ltd. The POS is the location where the telecommunication line is installed i.e., Kolkata.

(ii) Mr. Y (Mumbai) gets a DTH installed at his home from RT Ltd. The POS is the location where the DTH is installed i.e., Mumbai.

(iii) Mr. D (Mumbai) takes a post-paid mobile connection in Mumbai from Skybel Ltd. The POS is the location of billing address of the recipient i.e., Mumbai.

(iv) Mr. E (New Delhi) gets his post-paid bill paid online from Goa. The POS is the location of the billing address of the recipient i.e., New Delhi.

(v) Mr. C (Pune) purchases a pre-paid card from a selling agent in Mumbai. The POS is the address of the selling agent or re-seller i.e., Mumbai.

(vi) Mr. F (Puducherry) gets a pre-paid recharged from a grocery shop in Chennai. The POS is the location where such pre-payment is received i.e., Chennai.

Explanation. Where the leased circuit is installed in more than one State/UT and a consolidated amount is charged for supply of services relating to such circuit, the POS of such services shall be taken as being in each of the respective States/UTs in proportion to the value for services separately collected or determined



in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

Rule 6: Computation of value of services where leased circuit is installed in more than one State and where the location of supplier and the recipient is in India

The supply of services attributable to different States or UTs, u/s 12(11),

In the case of supply of services relating to a leased circuit where the leased circuit is installed in more than one State or UT and a consolidated amount is charged for supply of such services, shall be

- taken as being in each of the respective States or UTs,
- and in the absence of any contract or agreement between the supplier of service and recipient of services for separately collecting or
- determining the value of the services in each such State or UT, as the case maybe, shall be determined in the following manner, namely: -

(a) The number of points in a circuit shall be determined in the following manner:

(i) in the case of a circuit between two points or places, the starting point or place of the circuit and the end point or place of the circuit will invariably constitute two points:

(ii) any intermediate point or place in the circuit will also constitute a point provided that the benefit of the leased circuit is also available at that intermediate point;

(b) the supply of services shall be treated as made in each of the respective States or UTs, **in proportion to the number of points lying in the State or UT.**

Illustration 1 A company T installs a leased circuit between the Delhi and Mumbai offices of a company C. The starting point of this circuit is in Delhi and the end point of the circuit is in Mumbai. Hence one point of this circuit is in Delhi and another in Maharashtra. The POS of this service is in the UT of Delhi and the State of Maharashtra. The service shall be deemed to have been provided in the ratio of 1:1 in the UT of Delhi and the State of Maharashtra, respectively.

Illustration 2: A company T installs a leased circuit between the Chennai, Bengaluru and Mysuru offices of a company C. The starting point of this circuit is in Chennai and the end point of the circuit is in Mysuru. The circuit also connects Bengaluru, Hence one point of this circuit is in TN and two points in Karnataka. The POS of this service is in the States of TN and Karnataka. The service shall be deemed to have been provided in the ratio of 1:2 in the States of TN and Karnataka, respectively.

Illustration 3: A company T installs a leased circuit between the Kolkata, Patna and Guwahati offices of a company C. There are 3 points in this circuit in Kolkata, Patna and Guwahati. One point each of this circuit is, therefore, in West Bengal, Bihar and Assam. The POS of this service is in the States of West-Bengal, Bihar and Assam. The service shall be deemed to have been provided in the ratio of 1:1:1 in the States of West Bengal, Bihar and Assam, respectively.



16

Section 12(12): Financial and stock broking services

The POS of banking and other financial services, including stock broking services to any person shall be the location of the recipient of services on the records of the supplier of services:

Provided that if the location of recipient of services is not on the records of the supplier, the POS shall be the location of the supplier of services.

Example:

- (i) Mr. A (Chennai) buys shares from a broker in BSE (Mumbai). The POS is the location of the recipient of services on the records of the supplier i.e., Chennai.
- (ii) Mr. B (New Delhi) withdraws money from Best Bank's ATM in Amritsar. Mr. B has crossed his limit of free ATM withdrawals. The POS is the location of the recipient of services in the records of the supplier i.e., New Delhi.
- (iii) Mr. C, an unregistered person from Varanasi, UP, visits a bank registered in New Delhi for getting a demand draft made. Since the location of recipient is not available in the records of the supplier, the POS is the location of the Supplier of services i.e., New Delhi.

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Section 12(13): Insurance services

The POS of insurance services shall, -

- (a) to a registered person, be the location of such person:
- (b) to a person other than a registered person, be the location of the recipient of services on the records of the supplier of services.

Examples:

- (i) Mr. A, CEO of XY Ltd., Mumbai (a company registered in Maharashtra) buys insurance cover for the inventory stored in company's factory located at Mumbai, from Excellent Insurers, Chennai (registered in TN). The POS is the location of the registered recipient i.e., Mumbai.
- (ii) Ms. B (unregistered resident of Kolkata) goes to her native place Patna, Bihar and buys a medical Insurance policy for her parents there from Safe Insurers, Patna (registered in Bihar). The POS is the location of the recipient of services on the records of the supplier i.e., Patna.

18

Section 12(14): Advertisement service to the Government

The POs of advertisement services to the CG/SG, a statutory body or a LA meant for the States or UTs identified in the contract or agreement.

- shall be taken as being in each of such States or UTs and
- the value of such supplies specific to each State or UT shall be in proportion to
 - the amount attributable to services provided by way of dissemination (act of spreading something) in the respective States/UTs as may be determined in terms of the contract/agreement entered into in this regard or,



- in the absence of such contract/agreement, on such other basis as may be prescribed.

Rule 3: Manner for determination of proportion of value attributable to different States/UTS, in absence of agreement:

The proportion of value attributable to different States/UTs,

- ❖ In the case of supply of advertisement services to the CG, a SG, a statutory body or a LA, u/s 12(14) of the IGST Act, 2017,
- ❖ In the absence of any contract between the supplier of service and recipient of services,
- ❖ shall be determined in the following manner namely:-

SI No.	Type of advertisement	Value of service attributable to dissemination in different States /Union territories where the advertisement is broadcasted/ run/played/disseminated
1	Advertisements in newspapers and publications	Amount payable for publishing an advertisement in all the editions of a newspaper or publication, which are published in each State/UT.
2	Advertisements through printed material like pamphlets, leaflets, diaries, calendars, T-shirts, etc.	Amount payable for the distribution of a specific number of such material in each State/Union territory
3	Advertisements in hoardings (other than those on trains)	Amount payable for the hoardings located in each State/ Union territory.
4	Advertisements on Trains	Amount attributable to each State/UT calculated in the ratio of length of the railway track in each of such State/UT, for that train
5	Advertisements on the back of utility bills of oil and gas companies, etc.	Amount payable to each State/UT for the advertisements on bills pertaining to consumers having billing addresses in each of such State/UT.
6	Advertisements on railway tickets	Amount attributable to each State/UT calculated in the ratio or number of Railway Stations in each of such State/UT.
7	Advertisements on radio stations	Amount payable to such radio station, which by virtue of its name is part of each State/UT.
8	Advertisement on television channels	Amount attributable to each State/UT calculated basis the viewership of such channel in each of such State/UT which shall be derived as under: (a) Viewership can be ascertained from the channel viewership figures published by the Broadcast Audience Research Council. (b) Figures for the last week of a given quarter is used for calculating viewership for the succeeding quarter. (c) Where the channel viewership figures relate to a region Comprising of more than one State/UT, the viewership figures for a State/ UT of that



PLACE OF SUPPLY

		<p>region, is calculated in ratio of the populations of that State/UT, as determined in the latest Census.</p> <p>(d) The ratio of the viewership figures for each State/UT so calculated, when applied to the amount payable for the service, shall represent the portion of the value attributable to the dissemination in that State/UT.</p>
9	Advertisements in cinema halls	Amount payable to a cinema hall or screens in a multiplex in each State/UT.
10	Advertisements on internet It is deemed that such service is provided all over India.	<p>Amount attributable to each State/UT calculated basis the internet subscribers in each of such State/UT which shall be derived in the following manner:</p> <p>(a) Internet subscribers can be ascertained from the internet subscriber figures published by the Telecom Regulatory Authority of India (TRAI).</p> <p>(b) Figures for the last quarter of a given financial year will be used for calculating the number of internet subscribers for the succeeding financial year.</p> <p>(c) Where the internet subscriber figures relate to a region comprising of more than one State/UT, the subscriber figures for a State/UT of that region shall be calculated in the ratio of the populations of that State/UT, as determined in the latest census.</p> <p>(d) The ratio of the subscriber figures for each State or UT SO calculated, when applied to the amount payable for the service, shall represent the portion of the value attributable to the dissemination in that State or UT.</p>
11	Advertisements through SMS	<p>Amount attributable to each State/UT calculated on the basis of the telecom subscribers in each of such State/ Union territory.</p> <p>(a) Telecom subscribers in a telecom circle can be ascertained from the telecom subscriber's figures published by the TRAI. Figures for a given quarter will be used for calculating the subscribers for the succeeding quarter.</p> <p>(b) Where such figures relate to a telecom circle comprising of more than one State/UT, the subscriber figures for that State/UT shall be calculated in the ratio of the populations of that State/UT, as determined in the latest census.</p>



LET'S SOLVE

Section 10: POS of goods other than supply of goods imported into, or exported from India.

**Question 1**

In case of a domestic supply, what is the place of supply where goods are removed?

Answer

As per section 10 (1)(a), the place of supply of goods is the location of the goods at the time at which the movement of goods terminates for delivery to the recipient.

**Question 2**

Parth of Pune, Maharashtra enters into an agreement to sell goods to Bakul of Bareilly, Uttar Pradesh. While the goods were being packed in Pune godown of Parth, Bakul got an order from Shreyas of Shimoga, Karnataka for the said goods. Bakul agreed to supply the said goods to Shreyas and asked Parth to deliver the goods to Shreyas at Shimoga. You are required to determine the place of supply(ies) in the above situation.

Answer:

The supply between Parth (Pune) and Bakul (Bareilly) is a bill to ship to supply where the goods are delivered by the supplier [Parth] to a recipient [Shreyas (Shimoga)] or any other person on the direction of a third person [Bakul]. The place of supply in case of bill to ship to supply of goods is determined in terms of section 10(1)(b) of IGST Act, 2017.

As per section 10(1)(b) of IGST Act, 2017, 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.

Thus, in the given case, it is deemed that the Bakul has received the goods and the place of supply of such goods is the principal place of business of Bakul. Accordingly, the place of supply between Parth (Pune) and Bakul (Bareilly) will be Bareilly, Uttar Pradesh

This situation involves another supply between Bakul (Bareilly) and Shreyas (himoga). The place of supply in this case will be determined in terms of section 10(1) (a) of IGST Act, 2017.

Section 10(1)(a) of IGST Act, 2017 stipulates that where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient.

Thus, the place of supply in second case is the location of the goods at the time when the movement of goods terminates for delivery to the recipient (Shreyas) i.e., Shimoga, Karnataka.

**Question 3**

Asha Enterprises, supplier of sewing machines, is located in Kota (Rajasthan) and registered for purpose of GST in the said State. It receives an order from Deep Traders, located in Jalandhar (Punjab) and registered for the purpose of GST in the said State. The order is for the supply of 100 sewing machines with an instruction to ship the sewing machines to Jyoti



Sons, located in Patiala (Punjab) and registered in the said State for purpose of GST. Jyoti Sons is a customer of Deep Traders. Sewing machines are being shipped in a lorry by Asha Enterprises. Briefly explain the following:

- (a) the place of supply under IGST Act, 2017;
- (b) the nature of supply: -whether inter-State or intra-State and
- (c) whether CGST/SGST or IGST as would be applicable in this case

Answer:

The supply between Asha Enterprises (Kota, Rajasthan) and Deep Traders (Jalandhar, Punjab) is a bill to ship to supply where the goods are delivered by the supplier [Asha Enterprises] to a recipient [Jyoti Sons (Patiala, Punjab)] on the direction of a third person [Deep Traders].

In case of such supply, it is deemed that the said third person has received the goods and the place of supply of such goods is the principal place of business of such person [Section 10(1)(b) of the IGST Act, 2017]. Thus, the place of supply between Asha Enterprises (Rajasthan) and Deep Traders (Punjab) will be Jalandhar, Punjab.

Since the location of supplier and the place of supply are in two different States, the supply is an inter State supply in terms of section 7 of the IGST Act, 2017, liable to IGST.

This situation involves another supply between Deep Traders (Jalandhar, Punjab) and Jyoti Sons (Patiala, Punjab). In this case, since the supply involves movement of goods, place of supply will be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient, i.e., Patiala, Punjab [Section 10(1)(a) of the IGST Act, 2017].

Since the location of supplier and the place of supply are in the same State, the supply is an intra-State Supply in terms of section 8 of the IGST Act, 2017, liable to CGST and SGST.



Question 4

What will be the place of supply if the goods are delivered by the supplier to a person on the direction of a third person?

Answer:

As per section 10(1)(b), it would be deemed that the third person has received the goods and the place of Supply of such goods will be the principal place of business of such person.



Question 5

With reference to GST law, Determine the place of supply with reasons in the following independent circumstance:

Mizu Machine Ltd., registered in the State of Andhra Pradesh, supplied a machinery to Keyan Wind Farms Ltd., registered in the State of Karnataka. However, this machinery was assembled and installed at the wind mill of Keyan Wind Farms Ltd., which was located in the State of Tamilnadu.



Answer:

Section 10(1)(d) of the IGST Act, 2017 provides that if the supply involves goods which are to be installed or assembled at site, the place of supply is the place of such installation or assembly. Thus, the place of supply is the site of assembly of machine, i.e. Tamilnadu.

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Question 6

What is the place of supply where the goods or services are supplied on board a conveyance, such as a vessel, an aircraft, a train or a motor vehicle?

Answer:

AS per section 10(1)(e), in respect of goods, the place of supply is the location at which such goods are taken on board. However, in respect of services, the place of supply is the location of the first scheduled point of departure of that conveyance for the journey in terms of sections 12(10) and 13(11).

Section 12: POs of services where location of supplier & recipient is in India & Section 12(3): Immovable property related services

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Question 7

The place of supply in relation to immovable property (situated in India) is the location of immovable property. Suppose a road is constructed from Delhi to Mumbai covering multiple states. What will be the place of supply of construction services?

Solution

Where the immovable property is located in more than one State, the supply of service is treated as made in each of the States in proportion to the value for services separately collected or determined, in terms of the contract or agreement entered into in this regard or, in the absence of such Contract or agreement, on Such other reasonable basis as may be prescribed in this behalf [Explanation to section 12 (3) for domestic supplies]

In the absence of a contract or agreement between the Supplier and recipient of services in this regard, the proportionate value of services supplied in different States/Union territories (where the immovable property is located) is computed on the basis of the area of the immovable property lying in each state/union territories (Rule 4 of the IGST Rules].



Section 12 (4): Restaurant & catering services, personal grooming, fitness, beauty treatment, health service incl. cosmetic and plastic surgery



Question 8

A film star from Mumbai gets his cosmetic surgery done in a Hospital in Delhi. What should be the place of supply?

Solution

The place of supply shall be based on the principle of place of performance and shall be in Delhi. (Section 12 (4) of IGST Act). Other such similar services requiring physical presence of natural person (recipient) like restaurant and catering services, personal grooming, fitness, beauty treatment, health services including cosmetic and plastic surgery shall be the location where the services are actually performed.

Section 12(7): Organisation of Event & ancillary services



Question 9

Mr. Murthy, an unregistered person and a resident of Pune, hires the services of M/s Sun Ltd. an event management company registered in Delhi, for organizing of the new product launch in Bengaluru.

- (i) Determine the place of supply of services provided by M/s Sun Ltd.
- (ii) What would your answer be in case the product launch takes place in Bangkok?
- (iii) What would your answer be in case Mr. Murthy is a registered person and product launches take place in Bengaluru and Bangkok?

Answer:

(i) As per section 12(7) (a) (ii) of IGST Act, 2017, when service by way of organization of an event is provided to an unregistered person, the place of supply is the location where the event is actually held and if the event is held outside India, the place of supply is the location of recipient. Since, in the given case, the service recipient [Mr. Murthy] is unregistered and event is held in India, place of supply is the location where the event is actually held i.e., Bengaluru. The location of the Supplier and the location of the recipient is irrelevant in this case.

(ii) However, if product launch takes place outside India [Bangkok], the place of supply will be the location of recipient i.e., Pune, Maharashtra.

(iii) When service by way of organization of an event is provided to a registered person, place of supply is the location of recipient vide section 12(7) (a) (i) of IGST Act, 2017. Therefore, if Mr. Murthy is a registered person, then in both the cases i.e., either when product launch takes place in Bengaluru or Bangkok, the place of supply will be the location of recipient i.e., Pune, Maharashtra.



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Question 10

Damani Industries has recruited Super Events Pvt. Ltd., an event management company of Gujarat, for organising the grand party for the launch of its new product at Bangalore. Damani Industries is registered in Mumbai. Determine the place of supply of the services provided by Super Events Pvt. Ltd. to Damani Industries.

Will your answer be different if the product launch party is organised at Dubai?

Answer:

Section 12(7) (a) (i) stipulates that when service by way of organization of an event is provided to a registered person, place of supply is the location of recipient.

Since, in the given case, the product launch party at Bangalore is organized for Damani Industries (registered in Mumbai), place of supply is the location of Damani Industries, i.e., Mumbai, Maharashtra.

In case the product launch party is organised at Dubai, the answer will remain the same, i.e., the place of Supply is the location of recipient (Damani Industries)- Mumbai, Maharashtra.

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Question 11

What would be the place of supply of services provided by an event management company for organizing a sporting event for a Sports Federation which is held in multiple States?

Answer:

In case of an event, if the recipient of service is registered, the place of supply of services for organizing the event is the location of such person. However, if the recipient is not registered, the place of supply is the place where event is held.

Since the event is being held in multiple states and a consolidated amount is charged for such services, the place of supply will be taken as being in each state in proportion to the value of services so provided in each state [Explanation to section 12(7)]

In the absence of a contract or agreement between the supplier and recipient of services, the proportionate value of services made in each State (where the event is held) will be computed in accordance with rule 5 of the IGST Rules by the application of generally accepted accounting principles.

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Question 12

Determine the place of supply for the following independent cases under the IGST Act, 2017:

(i) Grand Gala Events, an event management company at Kolkata, organises two award functions for Kalyan Jewellers of Chennai (Registered in Chennai, Tamil Nadu) at New Delhi and at Singapore.

(ii) Perfect Planners (Bengaluru) is hired by Dr. Kelvin (unregistered person based in Kochi) to plan and organise his son's wedding at Mumbai, Maharashtra.

Will your answer be different if the wedding is to take place at Malaysia?

Answer:

(i) When service by way of organization of an event is provided to a registered person, place of supply is the location of recipient in terms of section 12(7)(a)(i).



Since, in the given case, the award functions at New Delhi and Singapore are organized for Narayan Jewellers (registered in Chennai), place of supply in both the cases is the location of Narayan Jewellers, i.e., Chennai, Tamil Nadu.

(ii) As per section 12(7)(a) (i), when service by way of organization of an event is provided to an unregistered person, the place of supply is the location where the event is actually held and if the event is held outside India, the place of supply is the location of recipient.

Since, in the given case, the service recipient [Dr. Kelvin] is unregistered and event is held in India. place of supply is the location where the event is actually held, i.e., Mumbai, Maharashtra.

However, if the wedding is to take place outside India [Malaysia], the place of supply is the location of recipient, i.e., Kochi, Kerala.

Section 12(8): Transportation of goods, including by mail or courier



Question 13

What is the place of supply of services by way of transportation of goods, including mail/courier when the both the supplier & the recipient of the services are located in India?

Solution

If the recipient is registered, the location of such person is the place of supply. However, if the recipient is not registered, the place of supply is the place where the goods are handed over for transportation. Further, if the goods are transported outside India, the destination of such goods is the place of supply [Section 12(8)].

Section 12(9): Passenger transportation service



Question 14

M/s Aerospace Airlines, having registered place of business in Mumbai under GST, issued a ticket from London to Delhi to Mr. Ajit Khanna, a resident of Agra, UP, who is not registered under the GST. Determine the 'place of supply' with supporting notes related to legal provisions.

Answer:

The place of supply of passenger transportation service to Mr. Ajit Khanna -an unregistered person - is London, i.e. the place where he embarked on the conveyance for a continuous journey.



Question 15:

What will be the place of supply of passenger transportation service, if a person travels from Mumbai to Delhi and back to Mumbai?

Answer:

If the person is registered, the place of supply will be the location of recipient. If the person is not, registered, the place of supply for the forward journey from Mumbai to Delhi will be Mumbai, the place where he embarks (Section 12(9)).



However, for the return journey, the place of supply will be Delhi as the return journey has to be treated as separate journey [Explanation to section 12(9)].

Question 16:

Mr. Yogesh is working in Infosys Company having office in Bengaluru. Infosys Company is registered under GST. Mr. Yogesh purchased the ticket from Hyderabad for transportation as passenger by Air from Hyderabad to Chennai. Mr. Yogesh discloses the name of the organization and its registration number and the place where the organization is registered.

Supplier of service is located at Hyderabad. Find the following:

- (i) Place of supply of service and GST liability.
- (ii) Whether your answer is different if Mr. Yogesh has not disclosed the name of the organization and its registration number?

Answer:

- (i) POS = Bengaluru (i.e., location of recipient of service)
GST = IGST as liable to pay by Air Travel Operator
- (ii) POS = Hyderabad (i.e., Place where the passenger embarks on the continuous journey)
GST = CGST & SGST is liable to pay by Air Travel Operator.

Section 12(11): Telecommunication services



Question 17

What is the place of supply for mobile connection? Can it be the location of supplier?

Answer:

The location of supplier of mobile services cannot be the place of supply as the mobile companies are providing services in multiple states and many of these services are inter-state. The consumption principle will be broken if the location of supplier is taken as place of supply and all the revenue may go to a few states where the suppliers are located.

The place of supply for mobile connection would depend on whether the connection is on postpaid or prepaid basis. In case of postpaid connections, the place of supply is the location of billing address of the recipient of service.

In case of pre-paid connections, the place of supply is the place where payment for such connection is received or such pre-paid vouchers are sold. However, if the recharge is done through internet/e payment, the location of recipient of service on record will be taken as the place of supply.

Section 12(12): Banking & other financial services, incl. stock broking



Question 18

A person from Mumbai goes to Kullu-Manali and takes some services from ICICI Bank in Manali. What is the place of supply?

Answer:



If the service is not linked to the account of person, place of supply will be Kullu i.e., the location of the supplier of services. However, if the service is linked to the account of the person, the place of supply will be Mumbai, the location of recipient on the records of the supplier.

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Question 19

With reference to GST law, Determine the place of supply with reasons in the following independent circumstance:

Miss Kanika of Kolkata (West Bengal) visited to Jodhpur Law University (Rajasthan) and paid her college fees by purchasing a demand draft from a bank located in the University campus. Miss Kanika did not have any account with the bank.

Answer:

Section 12(12) of the IGST Act, 2017 provides that the place of supply of banking and other financial services, including stock broking services to any person is the location of the recipient of services in the records of the supplier of services. However, if the location of recipient of services is not available in the records of the supplier, the place of supply is the location of the supplier of services.

Therefore, since the location of recipient is not available the records of the supplier, the place of supply is the location of the supplier of services, i.e. Rajasthan (or Jodhpur).

Section 12(13): Insurance services

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Question 20

An unregistered person from Gurugram travels by Air India flight from Mumbai to Delhi and gets his travel insurance done in Mumbai. What is the place of supply of insurance services?

Answer:

When insurance service is provided to an unregistered person, the location of the recipient of services on the records of the supplier of insurance services is the place of supply. So Gurugram is the place of supply [Section 12(13)].