

CHAPTER - 4

REVERSE CHARGE & ECO

3 Mark - 800 Question
10 Mark Question

INDEX

Sr.No.	Title	Pg.No.
1	Introduction	95
2	Relevant Definition	95
3	Comparison between Normal charge and Reverse Charge	96
4	Section 9(3) of CGST Act/ Section 5(3) of IGST Act:- RCM in notified cases	98
5	Section 9(4) of CGST Act/ Section 5(4) of IGST Act:- RCM for supply of specified categories of goods &/or services by an unregistered supplier to specified class of registered persons	116
6	Section 9(5) of CGST Act/ Section 5(5) of IGST Act:- Tax payable by ECO on notified services	117

Introduction

Reverse Charge Mechanism Defined:

- Reverse charge means the **recipient pays GST** for certain notified supplies.
- Normally, the supplier is liable, but reverse charge shifts it to the recipient.

Shift in Liability and Compliance:

- Under reverse charge, the recipient becomes liable for
 - GST payment and
 - Compliance tasks like registration, tax deposit, and return filing.
- This shift applies to **specific categories of supply** designated by the Government on GST Council's recommendation.

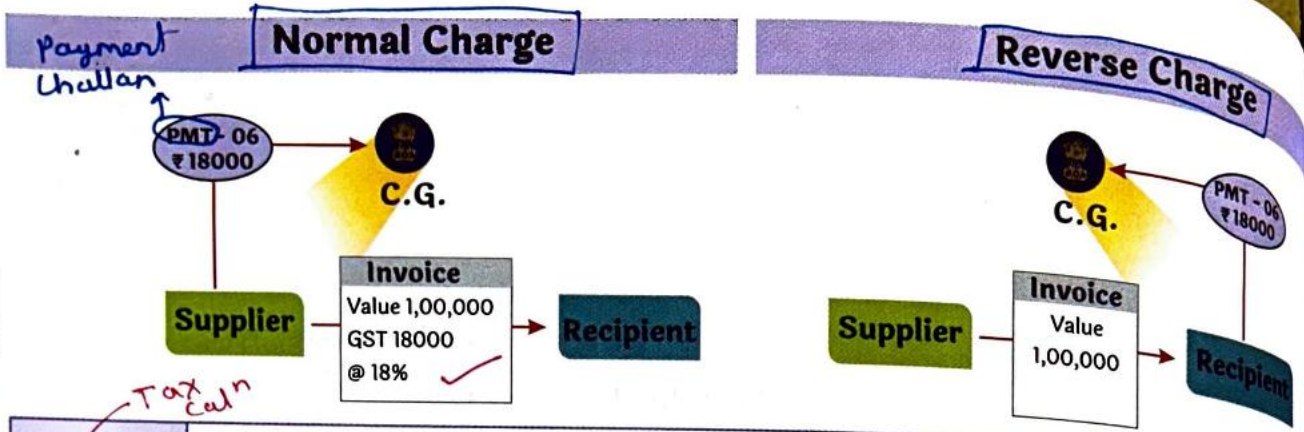
Definitions:-

Sec 2(98) : Reverse Charge

means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under section 9(3) or 9(4), or under section 5(3) or 5(4) of the Integrated Goods and Services Tax Act.

Sec 2(93) : Recipient

Already seen in chapter 2 Concept of Supply



Assessment	Supplier has to assess the tax & transfer it to Recipient	Recipient has to assess the tax
Payment to C.G.	Supplier is liable to make payment to Govt.	Recipient is liable to make payment to Govt.
Registration	Supplier has to register under GST	Recipient has to register compulsorily u/s
Due date of Payment	Monthly	Monthly [In some cases quarterly]
Time of Supply	Goods- Sec 12(2) of CGST Act Service - Sec 13(2) of CGST Act	Goods- Sec 12(3) of CGST Act Service - Sec 13(3) of CGST Act
Mode of Payment	by using - Electronic credit ledger - Electronic Cash ledger	By using electronic cash ledger only (Recipient cannot use his electronic ledger for payment of GST on such supply after payment of GST under RCM, he can input tax credit as per the provision of ITC)

Imp Note :- There is no forward or reverse charge in case of exempted/nil rated supply as no tax is payable on such supplies

Reverse Charge Scenarios in GST Law:

- First Scenario (Section 9(3) CGST/SGST, Section 5(3) IGST Act):**
 - Applies to specified goods or services.
 - Recipient of the supply is liable to pay tax directly.
- Second Scenario (Section 9(4) CGST Act, Section 5(4) IGST Act):**
 - Relates to specified goods or services from unregistered suppliers to specified class of registered recipient.
 - Tax liability falls on registered recipients.

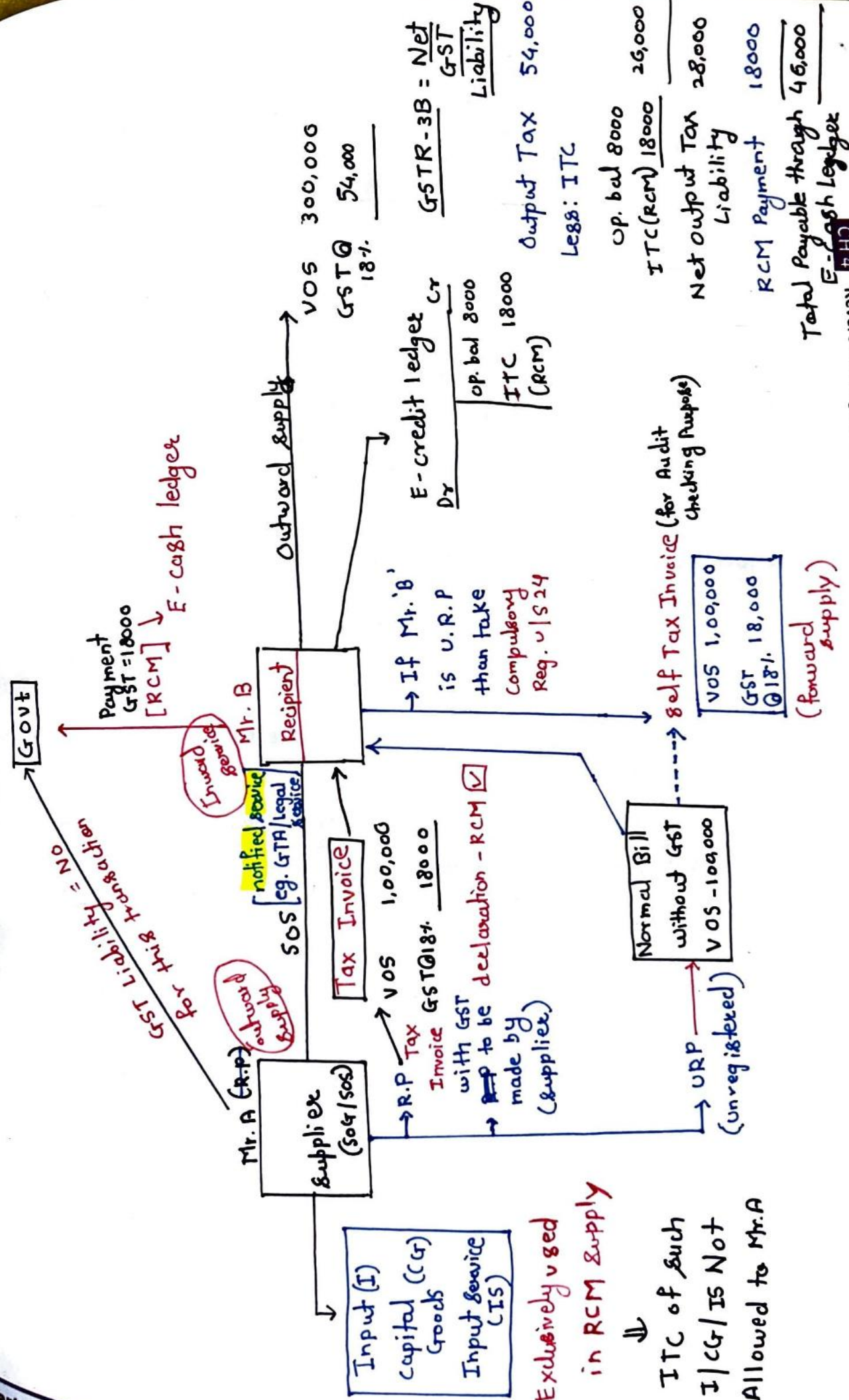
Legal Provision

Sec 9(3) : Reverse Charge under notified cases

The Government may, on the recommendations of the Council,

- by notification, specify categories of supply of goods or services or both,
- the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both

and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.



only Read once

Goods and services notified under reverse charge mechanism under section 9(3) of the CGST Act section 5(3) of the IGST Act are as follows:

Liability under RCM for Supply of Goods (N/N 4/2017 Central Tax(Rate)) (Not relevant for export)

S.No.	Description of supply of Goods	Supplier of goods	Recipient of supply (Liable to pay)
1.	Cashew nuts, not shelled or peeled	Agriculturist	Any registered person
2.	Bidi Wrapper leaves (tendu)	Agriculturist	Any registered person
3.	Tobacco leaves	Agriculturist	Any registered person
4.	Silk yarn	Manufacturer	Any registered person
4.A	Raw cotton	Agriculturist	Any registered person
5.	Supply of lottery.	SG, UT or any local authority	Lottery distributor or selling agent
6.	Used vehicles, seized and confiscated goods, old and used goods, waste and scrap	Central Government [excluding Ministry of Railways (Indian Railways)], State Government, Union territory or a local Authority	Any registered person
7.	Private Sector Lending certificate	Any registered person	Any registered person

CH 4 Reverse Charge & ECO

RCM Notified Services	N/N 13/2017-CT (Rate)	Dated 28th June, 2017
	N/N 4/2017-UTT (Rate)	
	N/N 4/2017-IT (Rate)	

Important Explanations

Recipient for GTA	The person who pays or is liable to pay freight for the transportation of goods by (GTA) in goods carriage, located in the taxable territory shall be treated as the person who receives the service for the purpose of notifications.
Body Corporate	has the same meaning as assigned to it in section 2(11) of the Companies Act, 2013.
Limited Liability Partnership (LLP) * * *	A "LLP" formed and registered under the provisions of the Limited Liability Partnership Act, 2008 shall also be considered as a partnership firm or a firm.
Special Explanation for Scope of Govt.	Provisions of this notification, in so far as they apply to the Central Government and State Governments, shall also apply to the Parliament, State Legislatures, Courts and Tribunals.

Apply of services taxable under reverse charge under section 9(3) of the CGST Act, i.e. the services where tax is payable by the recipient:

Goods Transport Agency (GTA) Services


GST Rates for GTA Services

⇒ **5% Tax Rate** (2.5% CGST + 2.5% SGST/UTGST or 5% IGST): When GTA doesn't claim Input Tax Credit (ITC) on goods or services used for providing GTA services & liability under RCM.

Note:- However, under this case, recipient under RCM can take the ITC of such 5% tax paid by him.

⇒ **12% Tax Rate** (6% CGST + 6% SGST/UTGST or 12% IGST): When GTA opts to pay GST [under forward charge] at this rate and avails ITC on goods or services used for GTA services.

Reverse Charge

Services	100 % Liability
<p>Supply of Services in relation to transportation of goods by road</p> <p>By Goods Transport Agency (G.T.A.)  To Notified Person</p>	Notified Person

Notified Recipient located in taxable territory who is liable to pay freight

- (a) Factories under the Factories Act.
- (b) Societies under Societies Registration Act.
- (c) Co-operative societies established by or under any law
- (d) **Persons registered under GST Act**
- (e) Body corporates established by or under any law
- (f) Partnership firms, registered or not, including LLP & Association of persons
- (g) Casual taxable persons (CTP)

Definition

Goods Transport Agency (GTA) :- means any person who provides service in relation to transport of goods by road AND issues Consignment Note (also called 'bilty'), by whatever name called.
 ↳ LR / Freight Note / bilty

Non applicability of RCM Provide

- 1) **RCM doesn't apply** when GTA transports goods for:
 - ⇒ Central/State/Union territory Government departments/establishments
 - ⇒ Local authorities ✓
 - ⇒ Governmental agencies ✓

registered for tax deduction under section 51, not for taxable supplies)
- 2) **RCM shall not apply (i.e. Forward charge is applicable) if:-**
 - i) GTA is registered under CGST Act &
 - ii) exercised option to pay tax on services of GTA under forward charge & (12-1.)
 - iii) GTA has issued a tax invoice to recipient charging CGST at the applicable rates and has made a declaration on such invoice.

Note:- Once exercised the option, GTA has to pay tax in future years until it shifts to Reverse charge Mechanism by filing declaration

CH 4 Reverse Charge & ECO

3) **Based on interpretation & clarification:**
 a) If such a consignment note is not issued by the transporter, the supplier not come within the ambit of GTA. therefore,
 → Individual truck/tempo operators who do not issue any consignment note are not covered within the meaning of the term GTA. (This service is exempted)

de-fault +
 assumption
 → RCM (5%)

P1:- ABC Ltd. is the manufacturer of various goods. Company wants to deliver the goods to their various customers and for such purpose, ABC Ltd. has availed a service from GTA. GTA has issued a freight note of ₹ 20,000 in the name of ABC Ltd. Determine who is liable to pay tax on transportation service & also explain whether ABC Ltd. can take ITC of such service.

P2:- Mr. A who is a registered person under GST in Maharashtra. He has supplied the goods to Mr. B in Gujarat on Ex-factory or Ex-shop basis. Mr. B appoints a GTA of Maharashtra for transportation of goods from Maharashtra to Gujarat. GTA has issued the freight note in the name of Mr. B. Explain

Add
 Intra 211
 Inter

a) Who is liable to pay GST if Mr. B is registered under GST?
 b) Nature of supply for levy of GST (GTA service) (for GTA service)
 Would your answer differ, if Mr. B is not a registered person?
 Transporter
 Buyer

Exemption

Exemption is available for Services provided by a GTA to an unregistered person including an unregistered CTP, other than notified recipients

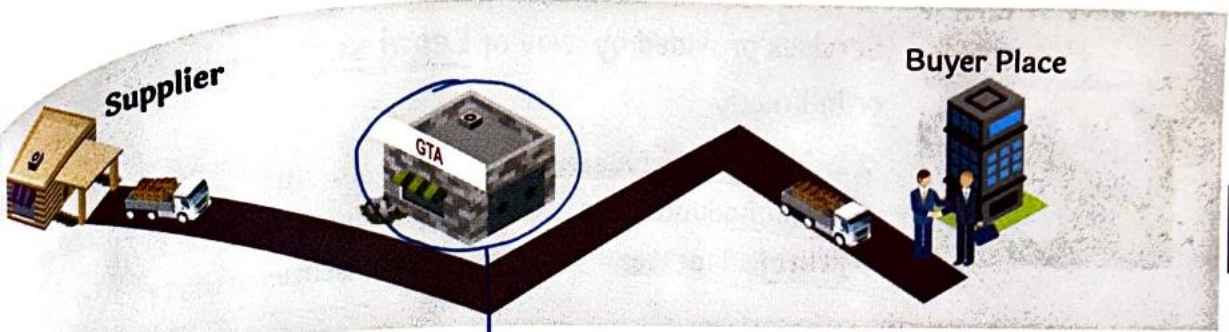
Note:-

- 1) If recipient is individual or HUF or any other unregistered person & not following notified categories, then exemption is available. (i.e. no GST is payable under FC or RCM)
- 2) Notified recipient **includes** Factories, Societies, Co-operative societies, registered Person under GST, Body corporates, PF, AOP, CTP

Option of conversion from F.C. to RCM

Conditions for GST rate to be applied [N/No. 06/2023]:- Once GTA exercises the option to itself pay GST on the services supplied by it under forward charge during a Financial Year will be continued unless the GTA files a declaration for the same in the 4th Qtr. of P.F.Y.

GTA Service



CH 4

Reverse Charge & ECO

GTA Service

Option I
If GTA does not opt to pay tax under Forward charge (F.C)

RCM is applicable

GST is payable by recipient
@ 5-1. Subject to following

If GTA service is supplied to any Reg. Person under GST

RCM is applicable & recipient is liable to pay tax

Exception: RCM is not applicable

- If GTA service is supplied to:
- 1) CG / SG / UT department
 - 2) Local Authorities
 - 3) Govt Agencies regis-tered under GST for TDS only u/s 51

If GTA service is supplied to an Un-reg. Person

If URP (recipient) is

- a.) Factory
- b.) Society
- c.) Co-operative society
- d.) Body corporate
- e.) Partnership Firm / LLP / AOP
- f.) CIP (casual Taxable Person)

notified URP person

In case of other un-registered Person (recipient)

- e.g. sole Proprietor (not having factory)
- 2) HUF etc.

RCM is not applicable & this service is Exempt

Option II
If GTA opt to pay tax under F.C

- 1) Take Reg. Under GST.
- 2) Pay GST @ 12-1.
- 3) Issue "Tax Invoice" with declaration of F.C
- 4) Use ITC of their Input / C.Goods / Input services.

Note: If GTA service is supplied to unregistered person not falling under notified category → Exempt

↓
- RCM is applicable
- such notified URP is liable to pay Tax @ 5-1.
- they need to take compulsory registration u/s 24

2. Legal Services

Reverse Charge

Services

Representation By Senior Advocate



Services provided by way of Legal services, directly or indirectly

100% Liability
Any business entity located in the territory (TT)

By

- an individual advocate including
- a senior advocate or
- firm of advocates

To

to any business entity (B.E.) located in the TT

Definitions

1) Legal Service:

- Encompasses advice, consultancy, or assistance in any branch of law.
 - Includes representational services before any court, tribunal, or authority.
- 2) **“Senior advocate:** If the Supreme Court or a High Court is of opinion in virtue of his ability [standing at the Bar or special knowledge or experience] he is deserving of such distinction.
- 3) **“Business Entity”** means any person carrying out business.

Analysis

RCM if all the following conditions are fulfilled

Forward Charge, if any of the conditions of RCM are not fulfilled

- 1) Only legal service supplied by Adv.
- 2) Legal service is supplied by Individual Adv., senior Adv. or firm of Advocate.
- 3) Recipient is a Business Entity. (BE)
- 4) B.E is in a Taxable Territory (India)

Other services by Advocate
If Supplier is not Adv. eg. CA, CMA, CS etc.
If recipient is other than B.E then - Exempt
BE is in non-taxable Territory (NTT)

Exemption

Exemption is available to legal service (no FC & RCM) if

- a) supplied to B.E. having aggregate turnover not exceeding the threshold in P.F.Y.
- b) Supplied to non-B.E., CG/S&G/LA etc.

Detail discuss in Exemption chapter

P3:- V Smart Academy has taken legal service from individual advocate Mr. X for ₹1,00,000. Specify who is liable to pay GST in this case. Would your answer differ if

- a) Legal service is taken from partnership firm of advocates.
- b) Legal service is taken from Advocate company. LLP
- c) V Smart Academy is located in Dubai

P4:- Devdas & Associates, a partnership firm of advocates providing legal services as follows.

- 1) Legal service to Kalidas Ltd. ₹1,00,000 (RCM applicable)
 - 2) Representational service in a court to V smart Academy ₹2,00,000 (RCM ✓)
 - 3) Advice on divorce as per law to Mr. Akash ₹50,000 Exempt
 - 4) Renting of immovable property ₹4,00,000
 - 5) Actuary Service to Insurance co. ₹3,00,000 Forward charge
- Determine the GST liability of Devdas & Associates, if GST rate is 18%.

F.C

Arbitral Tribunal Services

Reverse Charge



Services	100 % Liability
In respect of services provided to agreed to be provided	Business entity (B.E.) in Taxable territory (TT) is liable
<p>By Arbitral Tribunal</p> <p>To Business entity (B.E.)</p>	

Note:- Arbitral Tribunal is a private tribunal constituted by parties in disputes where one or more person (Arbitrator) are referred by the parties to resolve the dispute in themselves and by who's decision they agreed to bound

Exemption

Exemption is available to Arbitral Tribunal (no FC & RCM) if

- supplied to B.E. having threshold in P.F.Y.
- Supplied to non-B.E., CG/SG/LA etc.

Detail discussion in Exemption chapter

HW

P5:- Mohandas Ltd. & Lakhandas Ltd. are the builders who entered into a joint venture for construction of residential house for a particular project. They have appointed Mr. Vishal Bhattad as a arbitrator to resolve any dispute which may cause in their business. Mr. Vishal Bhattad as an arbitrator gave service to Mohandas Ltd. State who is liable to pay GST? → Mohandas Ltd

CH 4

Reverse Charge & ECO

4. Sponsorship Services

<u>Reverse Charge</u>	Services	100 % Liability
	<p>In relation to Sponsorship Service</p> <p>By <u>Any person</u></p> <p>To <u>Any body corporate or partnership firm located in TT</u> <i>including LLP</i></p> <p>Note:- Recipient is the person who sponsors an event i.e. who pays the other person</p>	<p>Body Corporate partnership firm taxable territory is liab</p>



Analysis	RCM if all the following conditions are fulfilled	Forward Charge, if any of the conditions RCM are not fulfilled
	<ol style="list-style-type: none"> 1) <i>Supply of sponsorship service</i> 2) <i>It is supplied by Any Person</i> 3) <i>Recipient must be Body Corporate or Partnership Firm</i> 4) <i>Recipient is located in T T.</i> 	<p><i>for other services like make up</i></p> <p><i>-</i></p> <p><i>Recipient is other Person eg. individual society, co-operative, trustee.</i></p> <p><i>→ Recipient is located in NT</i></p>

Special Discussion

Note:- RCM is applicable on sponsorship and not on advertisement service. In sponsorship, an entity pays money to be aligned with, and promoted through particular event (usually) by being a sponsor, the firm gets publicity as the event gets publicity, and also gets time and space (and profile) at the actual event.

Example

Vsmart Academy Pvt. Ltd. makes a payment to XYZ trust to fund XYZ's Dance event in Navratri. XYZ trust places a sign in the booth displaying the Vsmart Academy Pvt. Ltd.'s name and slogan, "Smart Decision for Smart education," which is an established part of the company's identity. *It is advertisement*

Determination of Taxability for Sponsorship Services *But sponsorship service is not advertisement*

S.No.	Supplier of Services	Recipient of Services	Forward / Reverse Charge	Who will pay tax to govt.
1	XYZ. Ltd. in India	PQR Ltd. in India	RCM	PQR Ltd
2	Mr. X [Individual]	ZQ [partnership firm in India]	RCM	ZQ and PQR
3	XYZ Ltd.	Mr. X [Individual]	FC	XYZ Ltd
4	XYZ Ltd	ABC Ltd. [USA]	FC	XYZ Ltd

Refer chart book

Government Services

Reverse Charge

Non applicability of RCM:

Exemption

Services	100 % Liability
<p>Any Service By</p> <ul style="list-style-type: none"> ⇒ Central Govt. (CG) ⇒ State Govt. (SG) ⇒ Union Territory (UT) ⇒ Local authority (LA) 	<p>To</p> <p>Business entity (B.E.) in taxable territory (TT)</p>
<p>Business entity in Taxable territory (TT) is liable</p>	
<p>If the following services are provided by Govt. or LA then F.C. is applicable, if taxable</p> <ol style="list-style-type: none"> 1) Renting of immovable property. (Subject to entry 5A) 2) Services by the Department of Posts and the Ministry of Railways (Indian Railways); 3) Services related to aircraft or vessel, whether within or outside port or airport premises. 4) Transport of goods or passengers. 	
<p>Exemption is available to Government service (no FC & RCM) if</p> <ol style="list-style-type: none"> a) supplied to B.E. having aggregate turnover not exceeding the threshold in P.F.Y. b) Value of supply is ₹5,000 or less. 	
<p style="text-align: right;">Detail discussion in Exemption chapter</p>	

5A. Renting of immovable property by Govt. or LA

Reverse Charge

Definition [Explanation]

Just Read
Analysis on the basis of combine reading of entry 5 & 5A

Services	100 % Liability
<p>Services supplied by way of Renting of Immovable Property</p> <p>By</p> <p>CG, SG, UT & LA [excluding the Ministry of Railways (Indian Railways)]</p>	<p>To</p> <p>Any Registered Person (RP) under CGST Act</p>
<p>Any registered person (RP) in taxable territory (TT)</p>	
<p>“Renting of immovable property” means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property.</p>	
<ol style="list-style-type: none"> a) If renting of immovable property to Un-registered person - F.C. is applicable as per above entry 5 & Govt. or LA is liable to pay tax b) If renting of immovable property to Registered person - RCM is applicable as per entry 5A & Registered person is liable to pay tax 	

Note: The provisions of reverse charge notification applies to the Central Government, State Government, Parliament, State Legislature, **Courts and Tribunals.**

CH 4 Reverse Charge & ECO

157

25X

15

X

Pending

5AA Renting of Residential Dwelling (RRD)

Reverse Charge	Services	100 % Liability
	Services supplied by way of Renting of residential dwelling	Any registered person
	<p style="text-align: center;"> RPT + URP By To </p> <p style="text-align: center;"> Any person a registered person </p>	
	<p>Note:- A "Residential Dwelling" is a place or property designed and used primarily for people to live in, such as a house, apartment, or other type of housing unit.</p>	
Non-applicability of RCM	<p>Following services are subject to forward charge (Subject to new entry 5AB)</p> <p>a) Renting of commercial building or complex to any person.</p> <p>b) RRD for commercial or office use to Unregistered person</p>	
Exemptions	<p>Exemption is available to RRD (no FC & RCM)</p> <p>a) RRD for residential use to Unregistered person</p> <p>b) RRD to registered person (individual) who is using in his personal capacity & not for business.</p>	

CH 4 Reverse Charge & ECO

Detail discussed in Exemption chapter

* * * New Entry

5 AB

Renting of Commercial Property

Service by way of "Renting of Immovable Property" other than residential dwelling

By

Any Un-registered Person

To

Any registered Person

100 % Liability

Registered Person Liable to pay Tax

Detail chart with RCM & Exemption
 Refer Chapter Exemption

Services by Director



Services	100 % Liability
<p>Services supplied By</p> <p><u>Director of a Company or Body Corporate</u></p>	<p>To</p> <p><u>Said Company or Body Corporate</u></p>
<p>Company or Body Corporate is liable</p>	
<p>Note:-</p> <ul style="list-style-type: none"> Whole time/ Managing/ Executive director:- are employees of the company. Independent Director:- one of the condition for being Independent director is the director should not have been an employee of the company. Non-Executive/part time director - Can't be called as employee of Company. Hence sitting fees, commission is taxable. 	

CH 4 Reverse Charge & ECO

Clarification on Director's remuneration (Circular no. 140/10/2020)

1 Remuneration paid by companies to the independent or those directors who are not the employees of the said company where TDS is deducted u/s 194J:-

- It is Outside the scope of Schedule III of the CGST Act & therefore taxable.
- The recipient of said services i.e. the Company is liable to discharge applicable GST on it under RCM.

2 The director who is **an employee** in the company, irrespective of name & designation, examine whether all the activities performed by the director are in the course of employer-employee relation (i.e. a "contract of service") or is there any element of "contract for service":-

i. The part of director's remunerations that is declared as Salaries in <u>books of company</u> & subjected to <u>TDS under Section 192</u> of IT Act:-	Covered under the scope of Schedule III of the CGST Act and salaries paid to company directors will not attract GST as the same is not taxable.
ii. Director's remuneration that is declared separately other than salaries in the Company's accounts and subjected to TDS under Section 194J of the IT Act as Fees for professional or Technical Services:-	To be treated as consideration for providing the services which are <u>outside the scope of Schedule III of the CGST Act</u> . Therefore, the recipient of the said services i.e. the Company is liable to discharge the applicable GST Under RCM.

P 6:- Mumtaz Ltd. a body corporate having 3 directors. All the 3 directors providing various services are as follows.

- a) Mr. A a whole time director getting monthly salary of ₹2,00,000 for his service → *(Para 1 sch III) Not a supply*
- b) Mr. B a non executive director getting sitting fees of ₹50,000 *supply & RCM is applicable*
- c) Mr. C a non executive director getting commission from co. of ₹2,00,000 for sales promotion. *Co. is liable to pay tax*

Clarification on services supplied by director in his personal capacity (Circular no. 201/13/2023)

Issue: Whether services supplied by director of a company in his personal capacity such as renting of immovable property to the company or body corporate are taxable under RCM?

Clarification: It is clarified that services supplied by a director of a company or body corporate to the company or body corporate in his private or personal capacity such as services supplied by way of renting of immovable property are **not taxable under RCM**. *in FC director is liable to pay tax*

However, if services supplied by him as or in the capacity of director of that company or body corporate shall be **taxable under RCM**.

FC only in GTA d 1 d 2 d R CM 2 d d d

7 Insurance Agent



Reverse Charge

Services

Services supplied
By Insurance Agent

To Any person carrying insurance business (Insurance Companies)

100% Liability
 Any person carrying insurance business located in taxable territory (TT) e.g. LIC or GIC

Note:- Definition of "Insurance Agent" (Insurance Act, 1938):
 > An "Insurance Agent" is licensed under Section 42.
 > They receive compensation (like commission).
 > This compensation is for activities like soliciting insurance, including renewals and revivals.

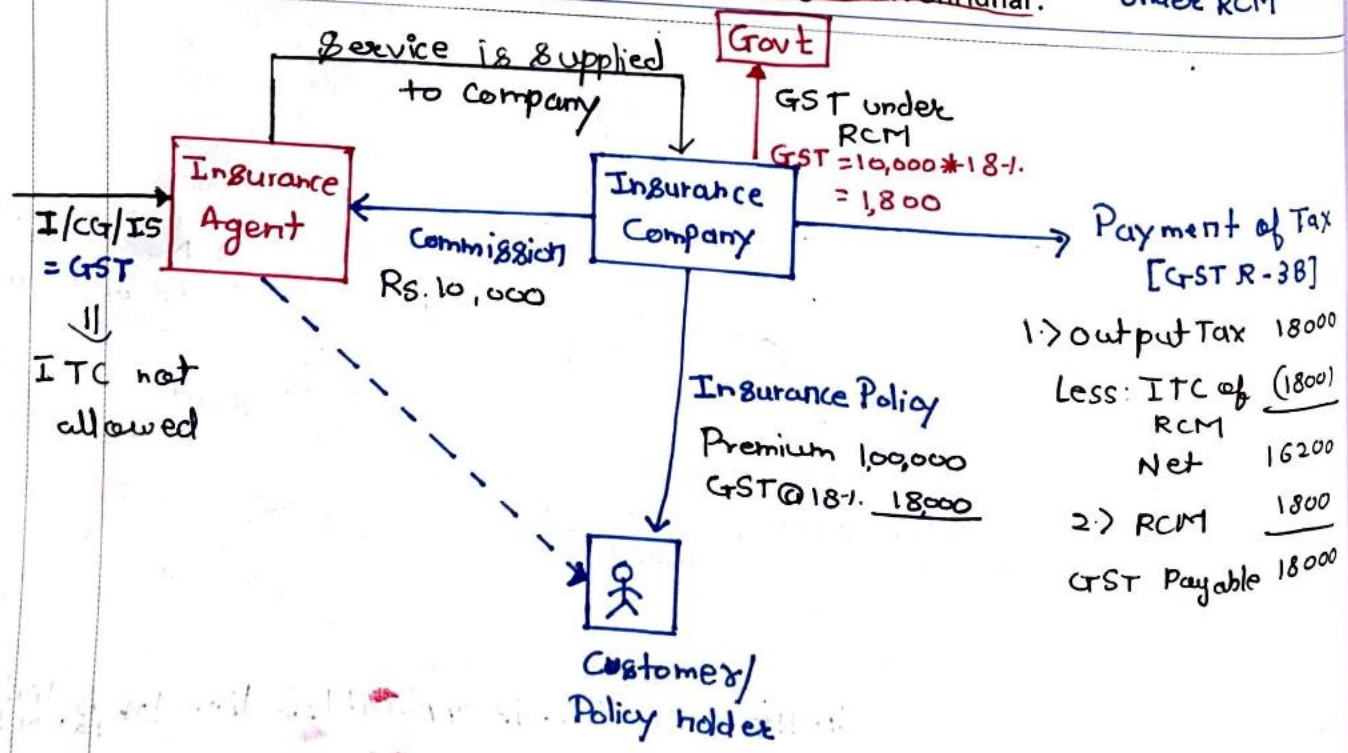
Non- Applicability of RCM

Many insurance companies (online website) who are selling their policies through ECO not being licensed as Insurance agent u/s 42 of Insurance Act, for them reverse charge shall not be applicable.

Analysis

RCM if all the following conditions are fulfilled	Forward Charge, if any of the conditions are not fulfilled
1) If Supplier is Insu. Agent	If Service is supplied to any person other than Insu. Co.
2) Recipient is Insurance Company	If Insu. Co. located in NTT.

P 7:- (1) Mr. Shridhar is a LIC Agent as well as actuary. He has provided following services to Insurance co. Determine who is liable to pay tax.
 a) Insurance auxiliary service as a insurance agent for which commission is charged of ₹2,00,000
 b) Actuary service for valuation of stock, for which fees is charged of ₹1,00,000
 (2) What would be the value for payment of GST by insurance co. if in above case, Company deducted 10% TDS on commission of insurance agent Mr. Shridhar. under RCM



CH 4 Reverse Charge & ECO

Recovery Agent

Reverse Charge

Services	100 % Liability
Services supplied By Recovery Agent To a Banking company or a Financial Institution or NBFC (Non Banking Financial Institution)	Banking company or financial Institution or NBFC located in taxable territory

Bank is liable under RCM



Tax Bank 2017



CH 4 Reverse Charge & ECO

Refer chart

Copyright services for Music, Art etc.

Reverse Charge

Services	100 % Liability
Supply of services by way of transfer or permitting the use or enjoyment of a copyright covered u/s 13(1)(a) of the Copyright Act, 1957 relating to original, dramatic, musical or artistic works By Music Composer, photographer, artist To A Music company, producer or the like, located in the TT	A music company, producer or the like, located in the taxable territory

Musical Lyrics of Song	Artistic Painting by Painter	Dramatic Acting by Actor
-------------------------------	-------------------------------------	---------------------------------



Analysis

RCM if all the following conditions are fulfilled 1) Copyright relating to 'original' dramatic, artistic or musical work 2) Supplier → music composer, photographer or artist 3) Recipient → music co. or producer or like 4) Recipient is in T.T	Forward Charge, if any of the cond's of RCM are not fulfilled If it is not related to original work In case of other recipient Recipient in N.T.T
---	---

9A Copyright service by Author

Reverse Charge

Services

Supply of services by way of

- ⇒ transfer or
- ⇒ permitting the use or enjoyment of a copyright
- ⇒ covered u/s 13(1)(a) of the Copyright Act, 1957
- ⇒ relating to original literary works

By

An Author

To

A Publisher located in the TT

100 % Liability

A Publisher located in the taxable territory

Literary



Books by Author

Option to pay under F.C.

* Reverse charge is not applicable in following cases i.e. Author will pay tax under forward charge:-

- (i) He has taken registration under the CGST Act & Filed a declaration, in the prescribed form, that he exercises the option
 - to pay CGST on the said service under forward charge in accordance with section 9(1) &
 - to comply with all the provisions as they apply to a person liable for payment of tax in relation to the supply of any goods and/or services and
 - that he shall not withdraw the said option within a period of 1 year from the date of exercising such option.
- (ii) He makes a declaration on the invoice issued by him in prescribed form to the publisher.

Note:- Thus, where the author is registered, and he make a declaration to pay the tax to the tax officer then publisher is not required to pay tax & Author will pay tax under forward charge.

Analysis

RCM if all the following conditions are fulfilled

- 1) Copyright relating to 'original' literary works
- 2) Supplier → Author
- 3) Recipient → Publisher
- 4) Recipient → in T.T

Forward Charge, if any of the cond's of RCM are not fulfilled

If it is not related to original work other than Author. other than publisher. recipient located in N.T.T

P 8:- Mr. Chetan Bhagat written a book 'Two-States' and gave publication right to 'Snow White Company' a publication Company. Determine who is liable to pay tax on royalty received by Mr. Chetan Bhagat on transfer of intellectual property. Can Mr. Chetan Bhagat pay tax under forward charge, Explain?

not very imp.

Services by the members of Overseeing Committee

Reverse Charge	Services	100 % Liability
	<p>Supply of Services</p> <p>By Members of Overseeing committee</p> <p>To Reserve Bank of India (RBI)</p>	<p>Reserve Bank of India (RBI)</p>
<p>Note:- Overseeing Committee formed by RBI which aimed to get resolution of all types of due loans would harm customers as well as banks</p>		

Service Provided by Direct Selling Agents (DSAs)

Reverse Charge	Services	100 % Liability
	<p>Services supplied</p> <p>By Individual Direct Selling Agents (DSAs) other than</p> <ul style="list-style-type: none"> a body corporate, partnership or LLP <p>To A banking company or a NBFC, located in the taxable territory.</p>	<p>A banking company or NBFC, located in the taxable territory.</p>
<p>A person who is prompting loan products of banks</p>		

Analysis	RCM if all the following conditions are fulfilled	Forward Charge, if any of the cond's of RCM are not fulfilled
	1) Supplier is Individual DSA	Supplier is Body corporate, Partnership Firm or LLP
	2) Recipient → Banking Co. and NBFC	If recipient is Financial Inst. or other
	3) Recipient is in T.T	Recipient is in N.T.T

Services provided by Business Facilitator

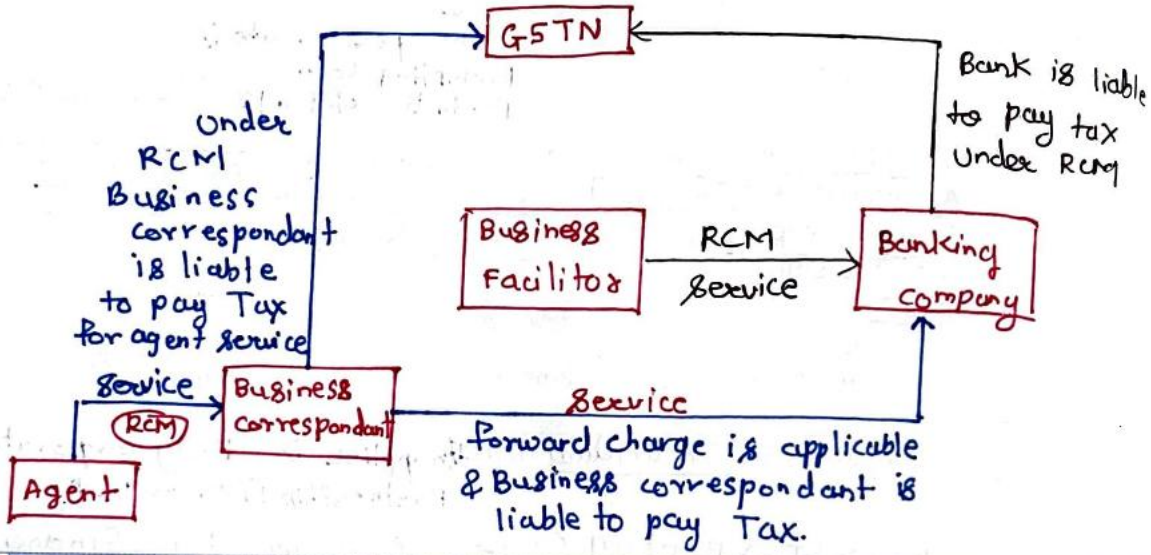
Reverse Charge	Services	100 % Liability
	<p>Services supplied</p> <p>By Business Facilitator</p> <p>To A banking company located in the taxable territory.</p>	<p>A banking company located in the taxable territory.</p>
<p>Note:- "Business facilitator or business correspondent" means an intermediary appointed under the business facilitator model or the business correspondent model by a banking company or an insurance company under the guidelines issued by the RBI;</p>		
<p>Comment: Services by Business facilitator is covered under RCM here and not Business correspondent.</p>		

Analysis	RCM if all the following conditions are fulfilled	Forward Charge, if any of the cond's of RCM are not fulfilled
	1) Supplier is Business Facilitator	Supplier is Business correspondent
	2) Recipient is Banking Co.	If recipient is other than Banking Co. eg. FI/NBFC
	3) Recipient is located in T.T	Recipient is located in N.T.T

CH 4 Reverse Charge & ECO

13 Service provided by Agent of Business Correspondent

Reverse Charge	Services	100 % Liability
	<p>Services supplied</p> <p>By <u>An agent of Business Correspondent (BC)</u></p> <p>To <u>A business correspondent, located in the TT</u></p>	<p>A <u>business correspondent, located in the TT</u></p>
	<p>Comment: <u>Services by an agent of business correspondent is covered under RCM</u> <u>not agent of business facilitator</u></p>	



14 Security services

Reverse Charge	Services	100 % Liability
	<p>Services provided by way of supply of security personnel provided</p> <p>By <u>any person other than a body corporate</u></p> <p>To <u>a Registered person (RP)</u></p>	<p>A registered person (RP), located in taxable territory</p>
	<p>Note:- Service must be supply of security personnel:- The entry cover the security service provided by way of supply of security personnel. So, it covers only supply of man power (man or woman) for security purpose, such as supply of security man at society/offices/ commercial spaces/ banks/ bouncers/ bodyguard, etc.</p>	

Non-Applicability of RCM	Based on Proviso	Based on interpretation
	<p>In following cases <u>F.C.</u> is applicable, if security service supplied to</p> <ul style="list-style-type: none"> i) <u>Central/State/UT Government departments / establishments</u> ↳ <u>Local authorities</u> ↳ <u>Governmental agencies</u> <u>registered for tax deduction u/s 51, not for taxable supply</u> ii) <u>a RP paying tax u/s 10 of the CGST Act i.e. composition scheme</u> 	<ul style="list-style-type: none"> i) <u>Dog sniffer, Investigation Service, Background check, security/IT enabled equipment security</u> ii) <u>Service is provided by body corporate</u> iii) <u>Service is supplied to unregistered person</u>

Analysis

RCM if all the following conditions are fulfilled	Forward Charge in any of the cond's of RCM not fulfilled
1) Service is supplied by way of supply of Security personnel	→ Service supplied by other way eg. dog sniffer, CCTV, investigation etc
2) Supplier → any person other than Body Corporate.	→ If supplier is B-C
3) Recipient → R.P in a T-T	→ If recipient is un-regis taxed person
Exception (provisio) 1.) Service supplied to Govt / LA / Govt Agencies & reg is allowed only for TDS 2.) Composition dealer u/s 10.	

CH 4

Reverse Charge & ECO

Renting of Motor Vehicle Refer chart Book.

GST Rates for Renting of motor vehicle Services

- ⇒ 5% (2.5% CGST + 2.5% SGST/UTGST or 5% IGST): When supplier of services has taken only the limited ITC (of input services in the same line of business) or
- ⇒ 12% Tax Rate (6% CGST + 6% SGST/UTGST or 12% IGST): When supply opts to pay GST at this rate and avails ITC on goods or services used for such services.

Reverse Charge

Services	100 % Liability
<p>provided by way of</p> <p>① ⇒ <u>renting of any motor vehicle</u></p> <p>③ ⇒ <u>designed to carry passengers</u></p> <p>where the <u>cost of fuel</u> is included in the consideration <u>charged from the service recipient,</u></p> <p>By</p> <p>⑤ <u>Any person other than a body corporate, (Not opting for 12% GST)</u></p> <p>To</p> <p><u>Anybody corporate located in the TT.</u></p>	<p><u>Any body corporate located in the taxable territory (TT).</u></p>

Note:- RCM shall be applicable only if all the below given conditions are satisfied:-

- Supplier is not a body corporate
- Supplier does not issue invoice charging GST @12%
- Service Recipient is a body corporate located in the taxable territory.

Clarification

Situations in which corporate recipients are liable to pay GST on renting of motor vehicles designed to carry passengers under RCM [Circular No. 177/09/2022]:

Issue: The question which arose for consideration is whether RCM is applicable

- a) Service of renting of motor vehicle designed to carry passengers or
- b) Service of transportation of passengers.

Discussion: There is a clear distinction between the two services which is as under

- A. The two services fall under two different headings in the Tariff.
- B.

B
only read

Services of renting of motor vehicles designed to carry passengers covers

- renting of motor vehicle
- for transport of passengers
- for a period of time
- where the renter defines how and when the vehicles will be operated, determining schedules, routes and other operational considerations.

Passenger transport service covers

passenger transport service over pre-determined routes and pre-determined schedules.

Clarification:

21/4 22/4
21/12/20

- a) RCM would apply on renting of vehicles if the body corporate use in the manner as it likes subject to agreement with the person providing vehicle on rent.
- b) RCM would not apply on transportation of passengers if body corporate provides said service for specific journeys or voyages and does not take vehicle on rent for any period of time.

16. Lending of securities

Reverse Charge

Services

Services of lending of securities under Securities Lending Scheme, 1997 of SEBI

100 % Liability

Lender

(i.e. a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the Scheme of SEBI)

By

To

Borrower

(i.e. a person who borrows the securities under the Scheme through an approved intermediary of SEBI).

Borrower i.e. a person who borrows securities

Above services are also notified for reverse charge under IGST Act (N/No. 10/2017).
 In addition to them, following service is also notified under IGST:-

Import of services

Reverse Charge

Services	100 % Liability
<p><u>Any service supplied</u></p> <p>By <u>Any person from a non taxable territory</u></p> <p>To <u>Any person other than NTOR</u></p>	<p><u>Any person located in taxable territory</u></p>

outside India

Non-applicability of RCM

only Recd

OIDAR services supplied by a person located in NTT to NTOR

Note:- "Non-taxable online recipient" means any unregistered person receiving online information and database access or retrieval services located in taxable territory.

Comment:- OIDAR services received by an unregistered person (NTOR) will be taxed under forward charge. RCM is not applicable as such person is NTOR.

Detailed Discussion in IGST Act



Recipient is liable to pay tax under RCM

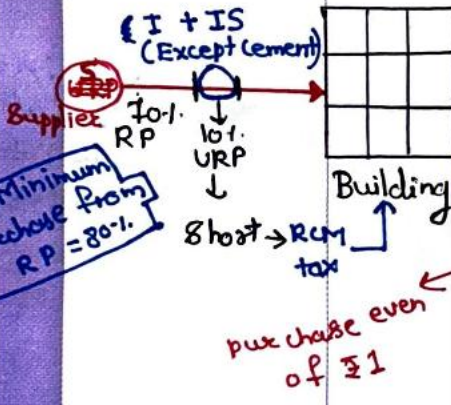
GST in real Estate & RCM under Sec 9(4)

Legal Provision **Sec 9(4) (CGST) RCM** - when supply of goods or services by URP to RP

The central tax in respect of the supply of specified category of goods or services or both by a supplier, who is not registered, (URP) to a specified class of registered persons shall be paid by such person on reverse charge basis as the recipient of such supply of goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

Notified Goods or services u/s 9(4) **N/N 07/2019 CT(R) dt 29/03/2019**

Reverse Charge	Services	100 % Liability
value of inputs and input services purchased from <u>registered supplier</u> is <u>less than 80%</u>	By <u>Purchase from URP</u> To <u>promoter (Builder)</u>	Person liable to tax is <u>promoter</u>
Note:- Reverse Charge is applicable only to the extent of shortfall to make it 80%		
	Services	100 % Liability
In case of <u>Cement</u>	By <u>Supplied by URP</u> To <u>promoter (Builder)</u>	Person liable to tax is <u>promoter</u>
	Services	100 % Liability
In case of <u>Capital Goods</u>	By <u>Supplied by URP</u> To <u>promoter</u>	Person liable to tax is <u>promoter</u>



Analysis

Construction of Affordable Houses	<ul style="list-style-type: none"> ➤ GST rate: 1%. ➤ Without Input Tax Credit (ITC). ➤ Criteria: House size 60 sqm in metros or 90 sqm in other metros, value ₹45 lakh.
Construction of Houses (Other than Affordable) and Commercial Apartments	<ul style="list-style-type: none"> ➤ GST rate: 5%. ➤ Without ITC. ➤ Conditions: Commercial apartments' carpet area 15% of total apartment area.
Conditions for Above Tax Rates	➤ 80% of inputs and input services (excluding specific items) must be purchased from registered suppliers.

Tax payable by ECO on notified services u/s 9(5) of CGST Act/ 5(5) of IGST Act

What is ECO?

- As per Sec 2(45) of the CGST Act, ECO means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce.
- It displays products as well as services that are actually supplied by some other person to the consumer, on their electronic portal.
- On placing the order for a particular product/ service, the actual supplier supplies the selected product/ service to the consumer. The price/ consideration for the product/ service is collected by the ECO from the consumer and is passed on to the actual supplier after the deduction of commission by the ECO.

Liability of ECO
Sec 9(5)

- The Govt. notified certain supplies on the recommendation of the Council, the tax on intra-State supplies of which shall be paid by the ECO if such services are supplied through it. *(also in tax state)*
- All the provisions of GST Acts shall apply to ECO as if he is the supplier liable for paying the tax for the supply of such services.

Liability to pay tax if ECO does not have presence in Taxable Territory(TT)

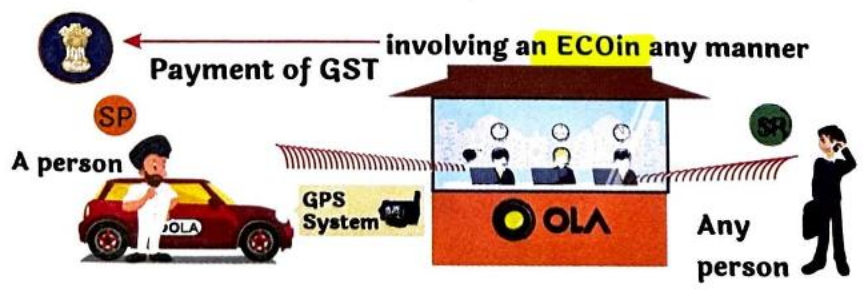
1. If ECO does not have a physical presence in the TT	Person representing such ECO for any purpose in the taxable territory shall be liable to pay tax
2. If ECO does not have a physical presence and also, does not have a representative in the TT	ECO shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

Notified ECO (N/n 17/2017)

Following are the services which are supplied through ECO:

- i) **Transportation of Passengers by Cab etc.:-**
 - a) Services by way of transportation of passengers by a radio-taxi, motorcab, maxicab, motorcycle, any other motor vehicle except omnibus.
 - b) Services by way of transportation of passengers by an omnibus except where the person supplying such service through electronic commerce operator is a company.

E-Commerce Operator



ii) **Renting of Accommodation by unregistered Hotels:-**

Services by way of providing accommodation in hotels, inns, guest houses, clubs, camps or other commercial places meant for residential or lodging purposes.
Exception (ie ECO is not liable):- Where the person supplying such service through electronic commerce operator is liable for registration u/s 22(1) of the CGST Act



iii) **Service by Unregistered Plumber, Housekeeper etc :**

Services by way of housekeeping, such as plumbing, carpentering etc.
Exception (i.e. ECO is not liable):- Where the person supplying such service through electronic commerce operator is liable for registration u/s 22(1) of the CGST Act



iv) **Restaurant Service**

Supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises.

Explanation:

Specified premises means premises providing hotel accommodation service having declared tariff of any unit of accommodation equals to or above ₹ 7500 per unit per day.



Author's note:- All above provisions are for CGST but for IGST- the similar provisions are given u/s 5 of IGST Act, 2017 for inter-state supply instead of intra-state supply.