CHAPTER 3 : REVERSE CHARGE & ECO

1) what do you mean by Reverse Charge Mechanism ?

→ It means, tax is payable to govt. by recipient instead of supplier

2) what is the object of Reverse charge ?

→

a) Many recipients are having small business or unorganised business. They do not follow proper GST compliances like return, registration, etc. This leads to loss of tax revenue of Govt.

b) Mostly recipient of these suppliers are organised sector like factories, companies, big business, etc. These recipient can handle GST compliances in better way also they ensure proper revenue collection and tracking.

c) It ensure steady revenue flow & prevent tax evasion.

d) Govt. notifies reverse charge after considering the area where lot of revenue leakage is happened or might happen.

Applicability of RCM :

Only for notified goods or services
(Inter or Intra)

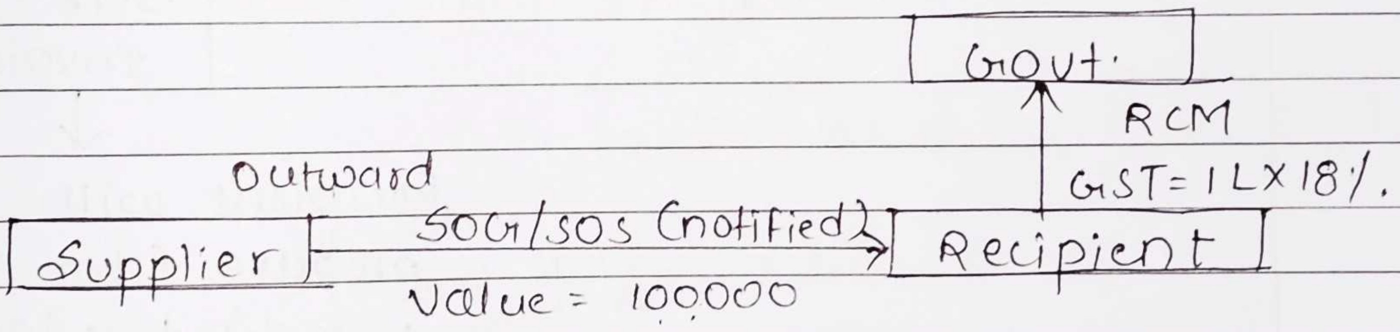
Liability to pay tax :

Recipient is liable to pay 100% tax on inward supply which is notified by Govt.

Supplier's Liability :

No liability.

It is an outward supply of supplier included in supplier's T.O. but GST is payable by recipient.



(supplier will not pay any tax)

Tax Invoice in case of RCM

Govt.

RCM = ₹18000

Supplier → SOG/SOS (notified) → Recipient

R.P.

Tax Invoice (made by supplier)

Value = 1,00,000
GST @ 18% = 18000
RCM = ✓

URP

Normal Invoice without tax
Value = 1,00,000

Self - Invoice

Recipient will prepare (for his record) tax invoice for such inward supply.

Registration Mechanism under RCM.

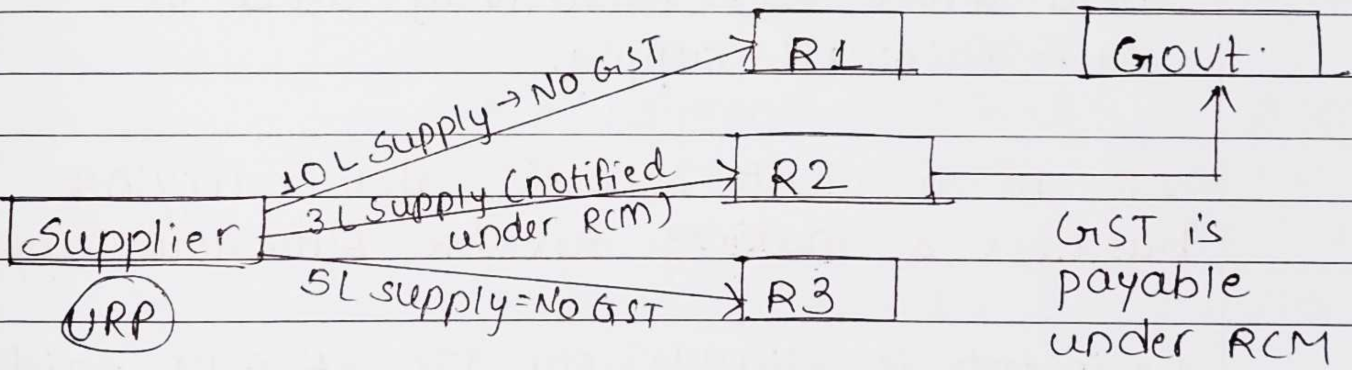
a) whether RCM applicability u/s 9(3) is based on supplier's registration ?

→ GST is payable by recipient for notified goods or services irrespective of the fact that supplier is registered or not.

b) whether GST is payable under RCM even if recipient is unregistered ?

→ YES, recipient needs to take compulsory registration u/s 24.

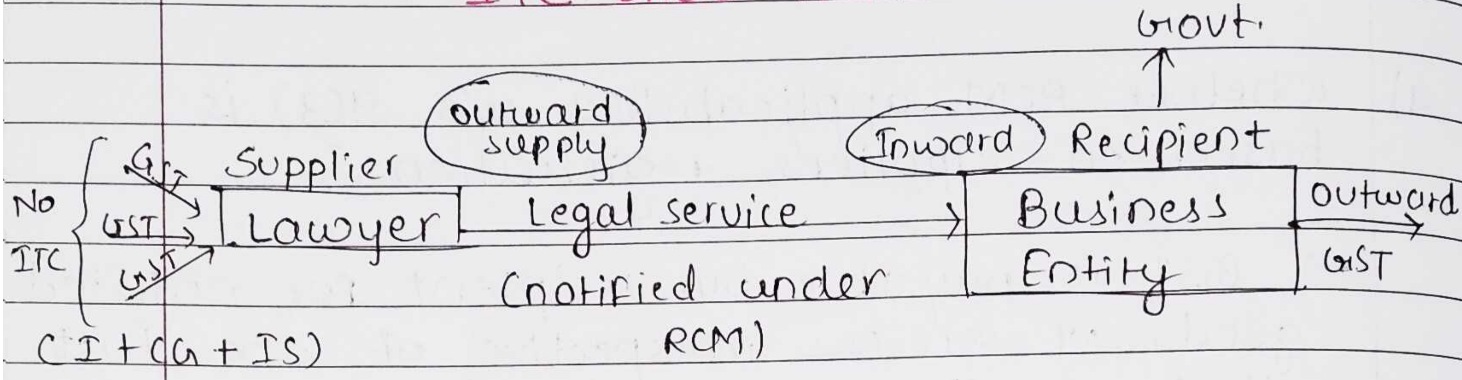
Threshold limit for RCM



If supplier is unregistered (T.O. below threshold) & make supply notified under RCM, then on such supply recipient mandatorily required to pay tax under RCM.

No threshold benefit is available for such transaction to recipient.

ITC under RCM.



ITC to supplier of Goods or Services notified under RCM.

Under section 17(3) of CGST Act, the outward supply of supplier subject to reverse charge is specially treated as exempt supply & supplier is not eligible for ITC on Input (I), capital Goods (CG) & Input services (IS) exclusively used in such outward supply.

ITC to recipient who is also carrying business & making taxable outward supply.

Recipient is eligible for ITC of GST paid under RCM on notified inward supply.

Payment of tax under RCM only through E-cash ledger.

Govt. — RCM = GST = 18,000

April

R.P.

V = 1,00000 → Inward (OS) — Outward supply

Notified supply

Value of supply 3,00,000

GST @ 18% 54000

↓

ITC

bal. 30000
RCM 18,000
payment

GSTR-3B
[20^{th} May]

Tax on outward supply		54,000
(–) ITC bal.	30,000	
RCM payment	18,000	(48000)
Net GST on outward		6000
RCM payment		18,000
Payment through E-cash ledger		24000

1) RP cannot use E-credit ledger (ITC balance ledger) for payment of tax under RCM. It is completely payable by the E-cash ledger (i.e. only in cash)

2) After payment of tax under RCM RP can avail / take ITC of such tax and he will utilise it for payment of output tax.

FCM
↓
Forward charge
↓
Supplier will pay the tax
[Also called Normal charge]

RCM
↓
Reverse charge
↓
Recipient will pay tax

If any supply notified under RCM but thereafter exempted by Govt. in some cases

In such cases no forward charge and reverse charge is applicable & no GST is payable

Sectors of Reverse Charge

- Supply of Goods
  - ↓ Not in Syllabus of Inter
- Supply of Services
  - ↓ Applicable in Inter
  - ↓ Sectors of RCM for service :

Transport | Legal | Sponsorship | Govt.

Director | Agents | Copyright | Immovable Property

Security service | Renting of Motor vehicle | Miscellaneous

Steps for thinking RCM :

① Supplier —— ② Notified goods —— ③ Recipient

- If ①, ② & ③ cumulatively fulfilled
  - ↓ RCM
- If any of the condition not fulfilled
  - ↓ FCM
- Exceptions
  - ↓ FCM
- Exemptions
  - ↓ No GST under FCM or RCM

① GTA Service [Transport Sector]

Supplier	Service	Recipient
GTA	Transportation of goods by road	Notified person

GTA ↓ Person

1) Transporting goods by road &
2) Issue consignment note [LR/Bilty]

GST = 5% under RCM

Notified person ↓

- Every registered person under GST
- Unregistered Person
  - → Factory
  - → Societies
  - → Co-operative society
  - → Body corporate
  - → Partnership firm / LLP / AOP
  - → Casual Taxable Person (CTP)

RCM is applicable & need to take compulsory registration u/s 24

Exception to above RCM

↓

If GTA excessed option to pay tax under forward charge @12% and gives declaration in Invoice for forward charge [In such case ITC allowed]

↓

GST is payable under FCM

Note: If this option is once exercised, then GTA has to pay tax only under FCM for all transactions unless it shifts to RCM by filing declaration

Exemptions:

↓

1) If GTA service is provided to
   - → CG / SG / UT
   - → local authority
   - → Govt. agencies

   registered under GST for deduction of TDS u/s 51 (not making other taxable supplies)

2) GTA provides services to non-notified person i.e. unregistered individual, HUF, etc

3) Individual truck owner not issuing consignment note (not a GTA)

↓

In above cases, no GST is payable under FCM and RCM.

② Legal Sector.

1) Legal service by Advocate

Supplier —legal service→ Recipient

Supplier:
→ Individual Advocate
→ Senior Advocate
→ Firm of Advocates

Recipient:
Business entity (BE) in a Taxable Territory (TT)
(100% tax liability on recipient)

↓

Definition of legal service

- Advice
- Consultancy
- Assistance

in branch of law

&

representation service in any court, tribunal or authority

↓

Exceptions
→ NO

Exemptions :
1) legal service supplied to B.E. by advocate where agg. T.O. of B.E. i.e. recipient is below threshold in P.F.Y
2) If legal service supplied by an advocate to no business entity & govt. (detail discussion exemption chp)

↓

In above cases, no GST is payable under FCM or RCM.

NOTE : If legal service provided by CA/CS/CMA or any tax consultant who is not an advocate → Tax is payable under FCM.

2) Arbitral Tribunal Services (Arbitrator)

Supplier —Any service→ Recipient

Supplier: Arbitral Tribunal (AT)

Recipient: B.E. in a T.T

Exceptions
→ No

Exemptions:
1) AT provides service to BE whose agg. T.O. in PFY does not exceed threshold limit
2) AT provides services to non BE or Govt.
↓
No GST under FCM or RCM

In above 2 cases, option to pay tax under FCM is not available
→ only RCM is applicable.

P. 57) Legal Provision:

1) If transportation of goods by road is supplied by GTA to notified person then u/s 9(3) notified person is liable to pay tax under reverse charge.
2) Notified person includes body corporate whether registered or not

Discussion & Conclusion:

In given case, GTA has provided services to ABC Ltd. (a body corporate). Hence, under reverse charge, ABC Ltd. is liable to pay tax.

Assumption:

We assume that GTA has not opted for forward charge @12%.

p.58)

Legal Provision :

1) If transportation of goods by road is supplied by GTA to notified person then u/s 9(3) notified person is liable to pay tax under reverse charge.
2) Notified person includes any registered person under GST
3) If GTA provides service to non-notified person e.g. Individual, HUF then exemption is available and no GST is payable under Forward charge or Reverse charge.

Discussion & conclusion :

In given case GTA of Maharashtra has provided transportation of goods service to Mr. B

a) If Mr. B is registered under GST then under reverse charge Mr. B is liable to pay tax
b) If Mr. B is not registered under GST then service is exempted & no GST is payable.

Nature of supply = Inter-state supply

Assumption :

We assume that GTA has not opted for forward charge @ 12%.

P.59)

Legal Provision:

1) If legal service is provided by an individual advocate, senior advocate or firm of advocate to a business entity in a taxable territory then under reverse charge business entity is liable to pay tax.
2) Above provision is not applicable to advocate company, hence in such case forward charge is applicable.

Discussion & conclusion:

In given case, service is provided by an individual advocate Mr. A to Vsmart Academy (business entity), hence under reverse charge Vsmart Academy is liable to pay tax.

a) No, even if legal service is taken from partnership firm of advocate, reverse charge is applicable & Vsmart academy is liable to pay tax.

b) Yes, if legal charge is provided by advocate company then under forward charge, the advocate company is liable to pay tax.

c) Yes, reverse charge is applicable only if recipient is located in a taxable territory. Therefore, in this case, under forward charge, Mr. A is liable to pay tax.
[But if Mr. A fulfill all conditions of export then he can claim zero rate benefit]

Assumption: We assume that agg. T.O. of Vsmart Academy in PFY exceeds threshold p.60) Determination of tax liability of Devdas & Associates

Particulars	Taxable value	Remarks
1) Legal service to K Ltd.	Nil	As per sec. 9 (3) if legal service is provided by partnership of advocate to business entity in a T.T. then under reverse charge the tax is payable by business entity i.e. K Ltd.
2) Representation service to vsmart Academy	Nil	Legal service includes representational service in a court and under reverse charge vsmart academy is liable to pay tax.
3) Advice on divorce to Mr. Akash	Exempt	If legal service provided by PF of advocate to non business entity then it is exempted from GST
4) Renting of IP	4,00000	It is taxable under forward charge

5) Actuary service	3,00,000	It is taxable under forward charge
Taxable value	7,00,000	
GST@18%	1,26,000	

Assumption: In case 1 & 2, we assume that agg. T.O. of Kaliday Ltd. & vsmart academy in PFY exceeds threshold.

Sponsorship Service

Supplier	Service	Recipient
Any person other than body corporate	Sponsorship service	Any body corporate or P.F. in a TT

Government Sector (entry 5)

Supplier	Service	Recipient
CG / SG / UT and local authority	Any service	Business entity in T.T.

Exception:

In following FCM is applicable :

1) Renting of IP by Govt / LA
2) Services by the dept. of post & indian railway
3) Services related to Aircraft or vessels whether within or outside port or airport premises
4) Transport of goods or passengers

Exemption:

1) Services supplied by Govt / LA to BE where agg. T.O. of such BE does not exceeds threshold in PFY
2) If value of supply is ₹5000 or less
3) other exemptions (refer exemption chp)

↓

NO GST payable under FCM & RCM.

Entry 5A

Supplier	Service	Recipient
CG/SG/UT/ and LA (Excluding Indian railway)	Renting of immovable property	Registered person under GST (100% tax liability)

Combine chart of Entry 5 & Entry 5A

Services supplied by Govt/LA

(Part 1)
↓
Any service (other than part 2 & 3) supplied by Govt. to BE
↓
Taxable under RCM & BE is liable to pay tax

(Part 2)
↓
Exceptions:
1) services supplied by Dept. of post & Indian Railway
2) Aircraft/vessels
----
3) Transport of goods or passengers
↓
FCM is applicable & Govt/LA is liable to pay tax

(Part 3)
↓
Renting of immovable property

- Service to URP
  ↓
  Under Entry 5 above - FCM is applicable & Govt/LA is liable to pay tax
- Service to RP
  ↓
  Entry 5A
  ↓
  RCM is applicable & RP is liable to pay tax

IMP note: If any service provided by Indian Railway (including renting of IP)
→ only FCM is applicable & Indian railway is liable to pay tax.

Entry 5AA Immovable Property Sector

Supplier	Service	Recipient
Any person (RP + URP)	Renting of Residential dwelling (RRD)	Registered Person

Residential dwelling → Rehta hua ghar aur rehne layak banaya hua ghar

Exception:
→ NO

Note: If RRD to URP for commercial use → No, exemption and GST is payable under FCM.

Exemption:
1) If renting of residential dwelling to unregistered person for residence.
2) Other exemption (detail discussion in exemption chapter)
↓
No GST under FCM or RCM

Entry 5 AB

Supplier	Service	Recipient
Any URP	Renting of any immovable property other than residential dwelling	Any RP other than a person opted for composition levy (CL)

Notes : 1] If RP provides renting of IP (other than RRD) then FCM is applicable.
2] If recipient is under composition levy then FCM is applicable.

Director's Services

Entry-6

Supplier	Service	Recipient
Director of company or body corporate	Any services	Company or body corporate in a TT

↓

Analysis

If director provides service to company in the course of employment where TDS is deducted u/s 192 of IT Act

↓

As per Para 1 of Sch. III it is in the course of employment & hence not treated as supply.

If there is no GST then question of RCM does not arise

If director provides services to co. (e.g. sitting fees, prof. service) where TDS is deducted u/s 194J of IT Act

↓

It is treated as supply of services & GST is payable under RCM by co. or body corporate (recipient)

If any service is provided by director to company in his personal capacity e.g. renting of IP, etc.

↓

RCM is not applicable & under FCM director is liable to pay tax.

Bhumi

Agents Sector

Entry 7

Supplier	Service	Recipient
Insurance Agent	Any service as agent	Insurance co. in a T.T. (100% tax liability)

Entry 8 Recovery Agent

Supplier	Service	Recipient
Recovery Agent	Any service of recovery	→ Banking co. → NBFC → Financial Institution in a TT

Entry 11 Direct Selling Agent (DSA)
(Promoting loan products of Bank)

Supplier	Service	Recipient
Individual DSA, other than body corporate or Partnership Firm	Any service	→ Banking co. → NBFC

Note: If service is provided by body corporate or P.F. to banks as DSA then FCM is applicable.

Entry 12 Business Facilitator

They are NGO, retired teacher's self help group appointed by banking sector to support various banking services like spending awareness, helping to fill loan form

Supplier	Service	Recipient
Business Facilitator	Any service	Banking co. in a TT (100% tax liability)

Entry 13 'Agent's of Business correspondent'

It is a big institution helps banks for end to end services like opening accounts, depositing or withdrawing cash, etc.

Supplier	Service	Recipient
Agents	Any service	Business Correspondent

Combined chart for Entry 12 & 13

Govt. ← FCM

Business Facilitator —Service→ Banking company

RCM Business correspondent —Service→ Banking company

RCM ↑ Service — Agent

Tax is payable under FCM & business correspondent is liable to pay tax

Copyright Sector

Entry 9 & 9A

Entry 9

Supplier	Service	Recipient
1) Music composer 2) Photo-grapher 3) Artist	Transfer of copyrights (original work) relating to → dramatic → musical or → artistic work	1) Music co. 2) Producer or like in a TT ↓ 100% tax liability

Entry 9A

Supplier	Service	Recipient
An author	Transfer of copyright original literary work	Publisher in TT ↓ 100% tax liability on publisher ↓

But author can opt to pay tax under FCM if following conditions fulfilled:

1) Author has taken registration under GST
2) Filed a declaration to GST officer that he exercises the option
   - → to pay tax under FCM
   - → to comply all provisions of this Act
   - → shall not withdraw the said option at least for 1 year
3) He also have to make declaration in invoice for FCM

Security services

Entry 14

Supplier	Service	Recipient
Any person other than body corporate	supply of security personnel service	Registered person in a TT

Exceptions :

1) If security services provided
→ CG/SG/UT or local authority
→ Govt. agencies
registered only for purpose of deducting TDS

2) If security services provided to registered person who has opted composition levy u/s 10

↓

In above 2 cases FCM is applicable

Exemptions
→ NO

FCM on basis of interpretation
(where RCM is not applicable)

1) If supplier of security services is body corporate
2) Security services other than supply of personnel e.g. CCTV security, dog sniffer, etc.
3) Recipient is URP

Renting of Motor Vehicle

Entry is

Supplier	Service	Recipient
Any person other than body corporate	→ Renting of MV → Design to carry passenger → where cost fuel is included in a consideration	Any body corporate in a TT
GST rate 5% under RCM		

Exception:

1) If supplier opt for FCM where applicable rate of GST @12% (with ITC)

↓

In such case FCM applicable

Exemption:

→ No

Applicability of FCM on the basis of interpretation (where RCM is not applicable)

1) In case of passenger transport service
2) If supplier is body corporate
3) If cost fuel is not included
4) Recipient is other than body corporate

Miscellaneous Sector

Entry 10 Members of overseeing committee

Supplier	Service	Recipient
Members of overseeing committee	Any service	RBI

Entry 16 Lending of securities

Supplier	Service	Recipient
lender	services of lending of securities under SEBI scheme	Borrower (100% tax liability)

Import of service

(only for knowledge)

Supplier	Service	Recipient
Any person outside India		Any person in India (100% tax liability)

Electronic Commerce Operator

Meaning:

Person who

owns or operate or Manages

$\underbrace{\text{owns or operate or Manages}}$

digital electronic facility for electronic commerce

ECO notified for payment of GST u/s 9(5)

- → It is applicable only for notified services for intra state supply
- → Notified services are supplied through ECO
  - → ECO is liable to pay GST
    ↓
- → If ECO does not have physical presence in India
  - → Tax payable by person representing such ECO
- → If ECO does not have representative in India
  - → It has to appoint person in India for payment of GST

Other ECO

↓

If any goods or services supplied through ECO (other than sec. 9(5))

↓

Sec. 52 is applicable & TCS is deductible

* special discussion on "Restaurant located in specified premises"

→ Agar koi restaurant - aise hotel mei hai jaha room rent above ₹1500 per day per unit

OR

→ Reg. Hotel, etc. filed a declaration declaring his premises as specified premises

OR

→ Hotel, etc applying for registration then file declaration within 15 days of getting acknowledge of registration declaring his premises as specified premises.

Sec. 9(4) RCM

$\boxed{\text{Supplier}}$ URP $\xrightarrow{\text{Notified services}}$ $\boxed{\text{Recipient}}$ RP

↓

under RCM recipient is liable to pay tax

Notified services : Refer concept Book

Notified services u/s 9(5)

Cab & Restaurant

1. a) Transport of passengers by
   - radio taxi
   - motor cab
   - maxi cab
   - motorcycle or
   - any motor vehicle

   except omnibus

   b) Transport of passengers by omnibus except supplier is a company

   If above a & b services supplied

4. Supply of restaurant service other than restaurant located in
   * Speuified premises

   If above service supplied through ECO, then ECO is liable to pay tax

In above cases, whenever service is supplied through ECO then only ECO is liable to pay tax irrespective of fact that supplier is registered or not.

Hotel Accomodation & House Keeping

2. Services by way accomodation (room rent) in hotels, inns, guest house, club, lodge, camp site, etc.
3. Services by way of housekeeping such as plumbing, carpentary, etc.

- If supplier is URP

  Services supplied through ECO is liable to pay tax

- If supplier is RP

  Only supplier is liable to pay tax even though services supplied through ECO