

Time, Value & Place of Supply

Lesson 17

KEY CONCEPTS

■ Taxable Event ■ Forward Charge Mechanism ■ Reverse Charge Mechanism ■ Time of Supply ■ Value of Supply ■ Place of Supply

Learning Objectives

To understand:

- Various concepts relating to supply of goods and services
- The time when supply is deemed to have been made in case of forward charge, reverse charge, continuous supply and vouchers
- The conditions for applicability of transaction value and inclusions and exclusions therefrom to arrive at the taxable value
- The methods of valuation where the transaction value is not applicable
- The principles for determining place of supply

Lesson Outline

- Concepts of Time of Supply
- Concepts of Value of Supply
- Concepts of Place of Supply
- Lesson Round-Up
- Test Yourself
- List of Further Readings

REGULATORY FRAMEWORK**1. Central Goods and Services Tax Act, 2017**

Section	Deals with
Section 12	Time of Supply of Goods
Section 13	Time of Supply of Services
Section 14	Change in rate of tax in respect of supply of goods or Services
Section 15	Value of Supply

2. Integrated Goods and Services Tax Act, 2017

Section	Deals with
Section 10	Place of supply of goods other than supply of goods imported into, or exported from India
Section 11	Place of supply of goods imported into, or exported from India
Section 12	Place of supply of services where location of supplier and recipient is in India
Section 13	Place of supply of services where location of supplier or location of recipient is outside India

SUPPLY

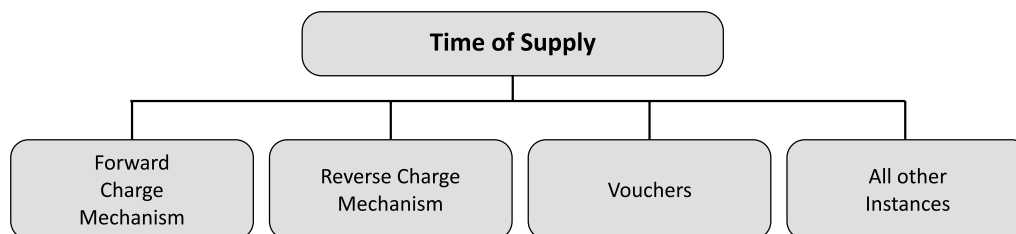
The concept of Supply has been extensively discussed in Chapter 16 which may be referred to for details. Briefly, it encompasses various transactions such as sales, barter transfer, exchange, license, rental, lease and disposal within its purview. If a person undertakes any of these transactions during the course or furtherance of business for consideration.

Taxable event means an event or situation which gives rise to tax liability.

Taxable event under GST is Supply of Goods or Services or both for Consideration.

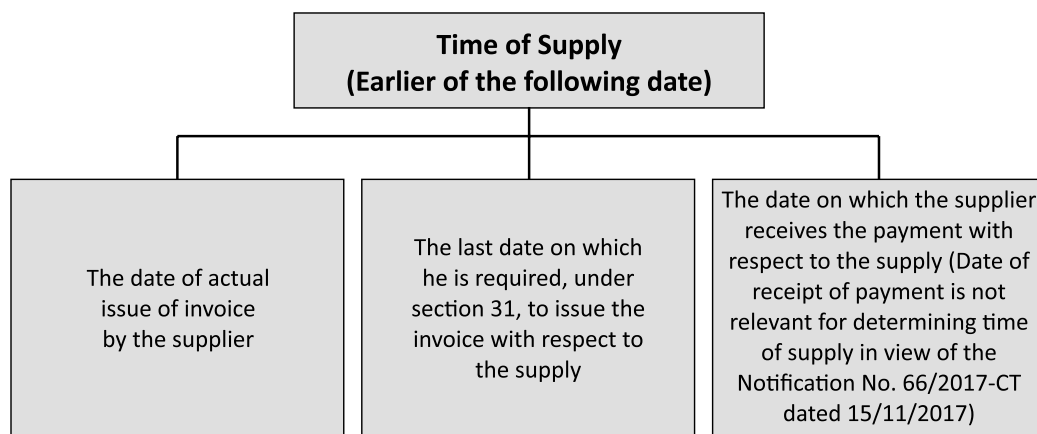
TIME OF SUPPLY

Time of supply means the point in time when goods have been deemed to be supplied or services have been deemed to be provided. The time of supply enables us to determine the rate of tax, value, and due dates for payment of taxes. Under GST, the liability to pay tax arises at the time of supply. CGST Act, 2017 states provisions to determine time of supply of goods under section 12 and time of supply of services under section 13 of the Act. The provisions relating to the time of supply of goods and services are broadly centered around the following categories, as explained by the diagram below:



TIME OF SUPPLY OF GOODS [SECTION 12 OF CGST ACT, 2017]

Section 12(1): The liability to pay tax on goods shall arise **at the time of supply**, as determined in accordance with the provisions of this section.

Time of supply in case of Forward Charge Mechanism [Section 12(2)]

Provided that where the supplier of taxable goods receives an amount **up to one thousand rupees** in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice in respect of such excess amount.

Explanation 1. – For the purposes of clauses (a) and (b), “supply” shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.

Explanation 2. – For the purposes of clause (b), “the date on which the supplier receives the payment” shall be the date on which the payment is entered in his books of account or the date on which the payment is credited to his bank account, whichever is earlier.

The due date of the invoice can be deciphered from Section 31(1) of the Act which mentions that the Invoice must be issued.

S. No.	Description	Invoice must be issued
1.	Where the supply involves movement of the goods	On/before the removal of the goods
2.	Where the supply doesn't involve the movement of the goods	On/before the delivery of the goods to the recipient
3.	In case of a continuous supply of goods	Before or at the time of issuance of periodical statement/receipt of periodical payment
4.	Goods supplied on “approval for sale/return basis	Before or at the time of supply or 6 months from the date of removal, whichever is earlier

Wherever, the date of receipt of payment is relevant in determining time of supply of goods, such date would be considered to be the earlier of;

- Date of credit in the entity's bank account, as reflected in the bank statement
- Date on which the payment is recorded in the books of accounts of the supplier.

Note: Date of receipt of Payment is not relevant for determining time of supply in case of goods as Notification No. 66/ 2017-CT dated 15-11-2017 has prescribed the time of supply for goods as specified in section 12(2)(a) of the CGST Act, 2017 i.e. Date of issue of Invoice or the last date for issuance of invoice as per Section 31 CGST Act.

1. Tax to be paid on specified actionable claims at the time of receipt of payment for such supplies by the suppliers

Notification No. 66/2017 CT dated 15.11.2017 was earlier issued to exempt all registered persons from the requirement of payment of tax at the time of receipt of advances in case of supply of goods and provides for payment of tax in such cases at the time of supply as specified in section 12(2)(a).

With effect from 01.10.2023, said notification has been amended to **exclude registered persons making supply of specified actionable claims** from the said exemption, so that in case of specified actionable claims, the tax can be paid at the time of receipt of payment for such supplies by the suppliers.

[Notification No. 50/2023 CT dated 29.09.2023]

Further, it has been provided, if there is an excess payment received, up to INR 1000/-; the supplier can choose to take the date of the invoice issued with respect to such excess amount, as the time of supply of goods for such excess value.

Illustration:

Antra Ltd. supplied goods to Mantra Ltd., under a contract for the goods to be delivered to the factory of Antra Ltd. The goods were removed from the factory of Antra Ltd. on 9th September, 2025 and the goods were delivered to the factory of Mantra on 16th September, 2025.

The invoice was issued on 18th September, 2025 and the payment was credited to Antra's account on 20th October, 2025 although the entry in the books was made on 19th September, 2025 when the cheque was received.

Please advise on the Time of Supply.

Solution: In the above case, the relevant dates are as under:

- Date of issue of invoice: 18th September, 2025.
- Due date for issue of invoice: 9th September, 2025 (as the supply involved movement of goods).
- Date of receipt of payment: 19th September, 2025 (earlier of the entry in the books and the credit in the bank account) [Date of payment not relevant in terms of Notification No. 66/2017 - CT dated 15.11.2017]

Hence, the time of supply will be 9th September, 2025.

Illustration: An order is placed on Shyam & Co. on 18th August for supply of a consignment of customized shoes. Shyam & Co. gets the consignment ready and informs the customer and issues the invoice on 3rd December. The customer collects the consignment from the premises of Shyam & Co. on 7th December and electronically transfers the payment on the same date, which is entered in the accounts on the next day, 8th December.

What is the time of supply of the shoes for the purpose of payment of tax?

Solution: As per *Notification No. 66/2017 CT dated 15.11.2017*, a registered person (excluding composition supplier) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a), i.e. date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31.

In this case, the invoice is issued before the removal of the goods and is thus, within the time limit prescribed under section 31(1). Therefore, the time of supply for the purpose of payment of tax is the date of issue of invoice, which is 3rd December.

CASE LAW

In Re: Karnataka State Electronics Development Corporation Ltd. 2020 (35) G.S.T.L. 428 (A.A.R. - GST - Kar.)

Whether the street lighting activity under the Energy Performance is to be considered as supply of goods or a supply of services

Facts of the Case:

The applicant (KEONICS), a Karnataka State Government Entity, is engaged into providing street lighting services, under the Energy Performance Contract (ESCO contract) to the Thane Municipal Corporation (TMC), Thane for a period of 7 years. The Applicant has to operate and maintain 12,000 street lighting fixtures & respective feeder panels i.e. installation of LED fixtures, smart electric panels for automation, metering & comprehensive maintenance. The role of the applicant is as under:

- (a) Removal of the existing street lights and handing over the same to TMC.
- (b) Installation of LED street lights on existing street light poles.
- (c) Installation of new smart feeder electrical panels compatible with LED fixtures at its own cost.
- (d) Operation & maintenance of the said LED street lights during the tenure of the contract.

The street light poles and the old street lights will continue to remain under the ownership of TMC. The applicant does not have any control over the electrical poles & can't object to or damage any other installations on the poles during the supply. Further the applicant is required to maintain minimum standard of operation, which requires for maintenance of minimum LUX level on road. The applicant, remains to be owner of the newly installed LED lights; is responsible for functioning of the said lights; has to replace, if required, at free of cost; shall surrender all the LED lights & system installed at no cost to TMC, at the end of the contract.

Questions Asked

- (i) Whether the street lighting activity under the Energy Performance Contract dated 5-12-2016 is to be considered as Supply of goods or a Supply of Services under the CGST/KGST Act, 2017? Accordingly, whether the transaction can be sub-classified as a 'Pure Supply of Service' or 'Pure Supply of goods' or 'Composite Supply of goods and services being a works contract'?
- (ii) What is the rate of tax applicable on this transaction? Whether the applicant is entitled to the benefit of exemption under Entry 3 or 3A of Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017, as amended? If not, what is the applicable rate of tax?
- (iii) If the transaction is treated as supply of services, what is the time of supply of such services? Whether KEONICS is liable to tax only once the energy saved is certified by the energy auditor? Whether amount credited in joint ESCROW account can be termed as 'receipt' especially because the said amount is not under control of KEONICS until the conditions are met?

- (iv) Without prejudice to above submissions, if the transaction is treated as a supply of goods, what is the time of supply of such supply? Whether KEONICS would be liable to tax only at the time when the possession and ownership in goods are vested to TMC at the end of tenure? What would be the value of the aforesaid taxable supply given the fact that it is based on energy savings which can be computed only when the energy auditor certifies the workings submitted by KEONICS?

Discussion

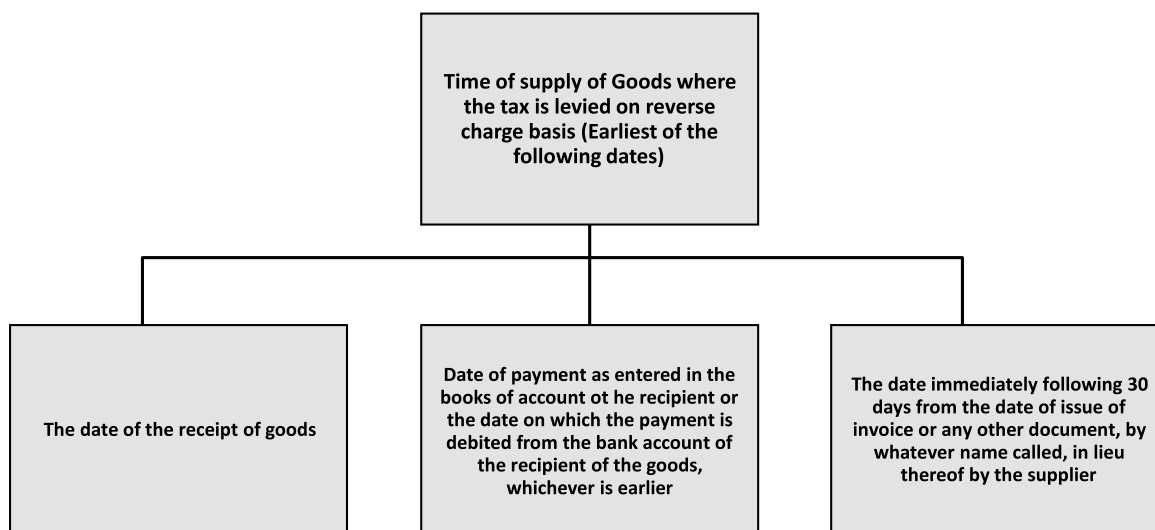
The impugned contract, in the instant case, is a composite supply where the principal supply is supply of goods. It is an accepted fact that the consideration is received on monthly basis; invoice is raised on energy savings; value of such invoice is equal to 90% of the energy savings. It is pertinent to mention here that the energy savings are directly related to the functioning and quality of the LED street lights etc., i.e. the goods supplied by the applicant. Therefore, the applicant receives the consideration, throughout the contract period i.e., 7 years, on a monthly basis, on the energy savings. Thus, the monthly consideration includes the value attributable to the supply of the goods also. The time of supply of goods in terms of Section 12(2)(a) of CGST Act, 2017 is the date of issue of invoice by the supplier. Further, in terms of explanation 1 to the aforesaid Section 12(2), supply shall be deemed to have been made to the extent it is covered by the invoice. Thus, the time of supply in the instant case is the date of invoice.

Ruling

- (1) The street lighting activity under the Energy Performance Contract dated 5-12-2016 amounts to composite supply where the principal supply is that of supply of goods.
- (2) The rate of tax applicable on this transaction is 12% (CGST-6% & SGST-6%), in terms of Sl. No. 226 of Schedule II to the Notification No. 1/2017-Central Tax (Rate), dated 28-6-2017, as amended. Further, the applicant is not entitled to the benefit of exemption under Entry 3 or 3A of Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017, as amended, as the impugned supply is not that of pure services.
- (3) The instant transaction amounts to a composite supply, with supply of goods being principal supply and hence the impugned question is redundant.
- (4) The time of supply is the date of invoice and the consideration is equal to the value of the invoice, the GST rate being 12%.

Time of supply in case of Reverse Charge Mechanism [Section 12(3)]

Under reverse charge mechanism, the recipient of supply is liable to pay the tax.



Provided that where it is not possible to determine the time of supply in above mentioned clauses, the time of supply shall be the date of entry in the books of account of the recipient of supply.

Reverse charge in case of goods may arise either under Section 9(3) or Section 9(4) of the CGST Act. Section 9(3) empowers the issuance of notification by the Government under which the tax will be paid by the recipient of goods as per reverse charge mechanism. Notification no. 4/2017- Central Tax (Rate) dated 28.06.2017 as amended from time to time provides the list of goods which will be subject to reverse charge mechanism subject to the category of supplier and recipient specified therein. These goods include cashew nuts (not shelled or peeled), bidi wrapper leaves (tendu), tobacco leaves, raw cotton, silk yarn, supply of lottery etc. The Government has also extended the reverse charge mechanism for real estate developers under section 9(4) under certain situations.

Time of supply in case of Vouchers [Section 12 (4)]

It is a common trade practice for the businesses to issue vouchers which can be redeemed by the purchaser or bearer against the purchase of goods / services. Vouchers are instruments that can be exchanged as payment for goods/services, of the designated value therein. Hence, per definition, these are instruments, that the potential suppliers, are obliged to accept as consideration in lieu of the goods/services so supplied, in part or full. These vouchers set out clearly, the terms & conditions of use, validity, goods/services covered, identity of the potential suppliers etc.

Clauses	Situation	Time of Supply
(a)	Where the supply is identifiable at the time of the issue of the voucher, the date of issue of the voucher would be construed as the time of supply	The date of issuance of the voucher
(b)	Where the supply is not identifiable at the time of issue of the voucher, the date of redemption of the voucher would be construed as the time of supply	The date of redemption of voucher

Illustration

Mr. A, an agriculturist supplies raw cotton (under reverse charge) to Mr. B who manufactures cotton shirts. The date wise turnout of events is given below:

01.04.2025- Mr. B approaches Mr. A and places an order for 1 ton of cotton
10.05.2025- Mr. B receives the goods

15.05.2025- Mr. A issues an invoice

20.05.2025- Mr. B makes a payment by cheque and accordingly records it in his books of accounts.

25.05.2025- The payment gets debited from Mr. B' s bank account

Solution:

In this case, the time of supply shall be the earlier of the following dates:

- The date of receipt of goods i.e. 10.05.2025
- The date of payment as recorded in the books of Mr. B i.e., 20.05.2025 or the date when the payment gets debited in the books of the recipient i.e. 25.05.2025 whichever is earlier
- The date immediately following thirty days from the date of issue of invoice, i.e. 15.05.2025 + 30 days + 1 day = 15.06.2025

Therefore, the time of supply will be 10.05.2025.

Illustration:

ABC Ltd., enters in to an arrangement with “Hush Puppies”, buys the vouchers, these vouchers were issued on 14th December, 2025. The Company then distributes these vouchers with denomination INR 4,000/- to all its employees on 24th December, 2025 valid until 31st January, 2026, so that they can use these vouchers for buying shoes of their choice. The employees make the most of it and redeem these vouchers on the New Year’s, i.e., on 1st January, 2026.

Solution:

In this case, the supply is identifiable at the point of issue of the voucher and hence the time of supply would be construed as 14th December, 2025.

Illustration:

Nisha buys a voucher from Shoppers Stop for INR 10,000 and gifts it to Tarun on 14th February. The voucher was valid until 29th February. Tarun redeems the vouchers at the nearby Shoppers Stop store on 29th February.

Solution:

In this case, the supply was not identifiable at the point of issue of the voucher as Tarun was open to purchase anything from Shoppers Stop, therefore the time of supply would be construed as the date of redemption of the voucher, that is 29th February.

CASE LAW**In Re: Premier Sales Promotion Pvt. Ltd.****Facts of the Case:**

The applicant is mainly involved in the business of providing Marketing Services. The nature of services provided to each customer depends on the requirement and depends on the tailored agreement with each customer.

During the course of business, the applicant receives orders for supply of e-vouchers wherein the applicant sources e-vouchers for such customers as per the order received and acts as an intermediary for buying and supplying of e-vouchers.

Types of Transactions undertaken by the applicant:**(a) Supply of Gift Vouchers**

In this scenario, the applicant receives orders for supply of Gift Vouchers.

- (i) For example, the Hong Kong and Shanghai Banking Corporation Ltd. has given a Work Order for supply of Amazon Gift Vouchers of various denominations.
- (ii) The applicant therefore enters into an agreement with Amazon for supply of e-vouchers.
- (iii) Once the order is received, the applicant places an order with Amazon and buys the e-vouchers for an agreed consideration and in turn supplies the e-vouchers purchased from Amazon to HSBC for an agreed consideration.

(b) Supply of Cash Back Vouchers:

In this scenario, the applicant receives an order from Customer “A” stating that it needs e-Cash Back Vouchers of specified denominations to be distributed to final consumer “B” of its goods, wherein the final consumer “B” who buys the goods of the Customer A will receive these vouchers and scratch the card. The final consumer B has to feed these details into specified website by virtue of which he will receive the Cash Back in respect of goods brought by him from Customer A.

(c) Supply of e-Vouchers with multiple options:

In this scenario, the applicant receives an order from Customer A with multiple options given to its Final Consumer B. For Example, the Final Consumer B is entitled to receive a Voucher say for Rs. 500/- with multiple options, *i.e.*, the Final Consumer can redeem the Voucher either for payment of his taxi bill, or to receive a Specified Saloon Service or to buy a Movie Ticket.

Questions Asked

The applicant is a Private Limited Company registered under Goods and Services Act, 2017. The applicant has sought advance ruling in respect of the following questions:

- (i) Whether the vouchers themselves, or the act of supplying them is taxable, and at what stage, for each of the three categories of transactions undertaken by the applicant?
- (ii) If the answer to the above question is in the affirmative, what would be the rate of tax at which this would be taxable, *i.e.* which category would this be taxed under?

Discussion

It is observed on application of Place of Supply principle to the three types of vouchers issued by the applicant, that in case of Gift Vouchers, the applicant is supplying the vouchers which are issued by third parties to his customers, who in turn issue the same to their customers, who will redeem them and the third party who has issued the voucher would consider them to provide deduction in the amount payable by the claimant. In the instant case neither the applicant nor their customer is aware of the transaction or the purpose for which the voucher would be redeemed. Hence the time of supply would be governed by the clause (a) of sub-section (5) of Section 12 of the CGST Act.

In case of Cash Back Vouchers, the applicant is not aware of the date of redemption and these vouchers are redeemed by way of cash back and are not identifiable with any particular goods/services and hence the time of supply would be governed by the clause (a) of sub-section (5) of Section 12 of the CGST Act.

In the case of Multiple Option Vouchers, the applicant is not aware for what purpose and when the voucher would be redeemed, hence the time of supply would be governed by the clause (a) sub-section (5) of Section 12 of the CGST Act.

Ruling

- (i) Whether the vouchers themselves, or the act of supplying them is taxable, and at what stage, for each of the three categories of transactions undertaken by the applicant?

Answer: The supply of Vouchers is taxable as goods and the time of supply in all three cases would be governed by Section 12(5) of the CGST Act, 2017.

- (ii) If the answer to the above question is in the affirmative, what would be the rate of tax at which this would be taxable, *i.e.*, which category would this be taxed under?

Answer: 18% GST as per Entry No. 453 of Schedule 3 of Notification No. 1/2017-Central Tax (Rate), dated 28-6-2017.

Time of supply in all other instances [Section 12(5)]

In all other instances, the time of supply as per Section 12(5) is fixed as under:

Clauses	Situation	Time of Supply
(a)	Where a periodic return has to be filed	The date on which such return is required to be filed
(b)	In any other case	Date on which GST is paid

Time of Supply for recovery of interest, late fee, etc. [Section 12(6)]

The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.

Illustration:

Shiva Supplies goods to Ramesh for Rs. 4,00,000 on 01.03.2025 on one month credit. It is also specified in the invoice that if the recipient fails to make payment within one month, then interest @Rs. 4,000 shall be charged for every delay of one month or part thereof. Ramesh makes the payment of Rs. 4,00,000 on 22.04.2025. However, in respect of interest, he requests Shiva for complete waiver, but Shiva agrees for waiving only 50% of Rs. 4,000. Consequently, Ramesh makes payment of Rs. 2,000 as interest on 30.04.2025.

Determine the time of supply of goods and time of supply in relation to value of supply by way of interest.

Solution:

(1) Time of supply of goods {Section 12(2) of the CGST Act}

Date of invoice as well as date on which invoice is supposed to be issued as per section 31 of the CGST Act is 01.03.2025.

Date of receipt of payment is 22.04.2023 Whichever is earlier

Thus, the time of supply of goods shall be 01.03. 2025

(2) Time of supply in relation to value of supply by way of interest {Section 12(6) of the CGST Act}

It shall be 30.04. 2025 *i.e.* the date of receipt of the interest amounting to Rs. 2,000.

Time of supply of Services [Section 13 of CGST Act, 2017]

Section 13 covers the time of supply for services, under Forward Charge Mechanism, Reverse Charge Mechanism, Vouchers and all other instances.

Time of supply of Services in case of Forward Charge Mechanism [Section 13(2)]

- (a) In cases where the invoice **has been issued on time**, as per Section 31, earlier of the
- date of invoice
- or
- the date of receipt of payment,

- (b) In cases where the invoice **has not been issued on time**, per Section 31, earlier of the
- date of provision of service
- or
- the date of receipt of payment,
- (c) Date of receipt of payment would be the earlier of the of the following in a case where the provisions of clause (a) or clause (b) do not apply:
- date of credit in the bank account
- or
- the date of entry in the books of account, whichever is earlier.

Time line for issuing invoice under section 31

- (d) Section 31 mandates that the time limit for issue of invoice is that the invoice must be issued either before the provision of service, or within 30 days from the date of supply of service (45 days for Banking, Financial services and Insurance (BFSI) companies & Non-Banking Financial Companies (NBFC's).
- (e) In case of insurance companies/banking companies/financial institutions including NBFCs/telecom companies/notified supplier of services making taxable supplies between distinct person as specified in section 25, invoice may be issued before or at the time of recording such supply in the books of account or before the expiry of the quarter during which the supply was made.
- (f) Additionally, where the supply involves continuous supply of services, the invoice must be issued on/ before the due date of payment (where the contract specifies the date) OR on/ before the date of actual receipt of payment (where the due date is not ascertainable from the Contract) OR on/before the date of completion of milestone event where the payment is linked to completion of a milestone event.

Illustration:

Determine the time of supply from the following particulars:

15th October, 2025	The marriage hall was fixed and the advance of INR 25,000 was paid (amount agreed was INR 1,00,000)
20th October, 2025	Invoice issued for INR 25,000
30th November, 2025	The marriage ceremony took place in the hall
14th December, 2025	The invoice was issued for balance INR 75,000 indicating & adjusting the advance paid earlier
31st December, 2025	The balance payment was received

Solution:

In the above case, the invoice was issued within the prescribed time (that is within 30 days of the event) and hence the time of supply would be the earlier of:

- a) Date of invoice: which is 14th December, and
- b) The date of receipt of payment: which is 31st December

Therefore, for the amount of INR 75,000, the time of supply would be 14th December. For the advance of INR 25,000, the date of payment precedes the invoice and hence the time of supply for that amount would be 15th October.

As per proviso to section 13(2), if there is an excess payment received, up to INR 1000/-; the supplier can choose to take the date of the invoice issued with respect to such excess amount, as the time of supply of services for such excess value.

Illustration:

Bharti Airtel Ltd. issued an invoice of ₹4,500 to Orion Pvt. Ltd. for the month of June, 2025 on 1st July, 2025. The company paid ₹5,000 against this bill on 8th July, 2025.

Here, Time of supply for ₹4,500 shall be 1st July, 2025 or; 8th July, 2025 whichever is earlier i.e. 1st July, 2025 {Being earlier of date of issue of invoice or date of receipt of payment as the invoice is issued within 30 days from the date of provision of service (section 13(2) of the CGST Act)}

However, for advance/ excess amount of ₹500 received on 8th July, 2025, time of supply as per proviso to section 13(2) of the CGST Act, at the option of Bharti Airtel shall be date of issue of subsequent invoice when this advance will be adjusted i.e. 1st August, 2025.

Time of supply of Services in case of Reverse Charge Mechanism [Section 13(3)]

The time of supply of services under the reverse charge mechanism would be the earliest of:

- a) Date of payment, which is the earlier of the date of debit in the bank account as reflected in the bank statement and the date of recording the payment in the books of account, by the recipient.
- b) the date immediately following sixty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier, in cases where invoice is required to be issued by the supplier; or
- c) the date of issue of invoice by the recipient, in cases where invoice is to be issued by the recipient

where it is not possible to determine the time of supply under clause (a) or clause (b) or clause (c)], the time of supply shall be the date of entry in the books of account of the recipient of supply

In case of transactions between 'associated enterprises' where the supplier of service is located outside India, the date of recording the supply in the books of the recipient or the date of payment whichever is earlier, will be the time of supply.

Illustration:

Mr. A provides legal services as an advocate to Mr. B which fall under reverse charge basis. 10.04.2025

The services are provided to Mr. B

12.04.2025 – Mr. A issues an invoice to Mr. B

10.07.2025 – The payment is made by Mr. B through a cheque and recorded in his books of accounts

15.07.2025 – The payment gets debited from Mr. B's bank account

In this case, the time of supply shall be earlier of the following dates:

- The date of payment i.e. 10.07.2025 (earlier of 10.07.2025 and 15.07.2025)
- The date immediately following sixty days from the date of issue of invoice i.e. 12.06.2025 (12.04.2025 + 60 days+ 1 day).

Therefore, the time of supply shall be 12.06.2025.

NOTE: Date of issue of Invoice is not directly considered as the invoice is issue by the Supplier and not by the recipient of supply.

Time of supply of Services in case of Vouchers [Section 13(4)]

The term, “vouchers” has been explained earlier in the chapter. The time of supply of vouchers that are exchangeable for services, is as under:

- a) If the supply is identifiable at the point of issue, the date of issue of voucher
- b) The date of redemption of voucher in all other cases.

Illustration:

M/s ABC Dry Cleaners issues vouchers of Rs. 40,000 to M/s XYZ on 22.11.2025. M/s XYZ distributes the vouchers amongst its employees who shall get it redeemed in due course of time.

Determine the time of supply of vouchers.

Solution:

In above case, the time of supply shall be 22.11.2025 for the supply of vouchers made by M/s ABC Dry Cleaners to M/s XYZ because the vouchers are identifiable with particular supply of dry-cleaning service. Tax liability can be determined at the time of issue of vouchers.

Time of supply of Services in case of all other instances [Section 13(5)]

In all other instances, the time of supply as per Section 13(5) is fixed as under:

- a) Due-date for filing periodic returns or
- b) In other cases, the date of payment of GST.

Illustration:

Mr. Tony is unregistered under GST. During Financial Year 2023-24 his turnover was ₹30,00,000. GST officers, therefore, issued a Show Cause Notice (SCN) on him contending that since his aggregate turnover during his financial year exceeded ₹20,00,000, he is liable to be registered under GST and; also demanded a substantial amount of GST. The exact date of receipts of the amounts on which GST was charged by the officer were not known. In such case, time of supply cannot be ascertained as per section 13(2)/(3)/(4) and therefore, the same shall be determined as per section 13(5) of the CGST Act. Accordingly, as per clause (b) it shall be date of making payment OF GST as he is not supposed to furnish return under GST as he is unregistered under GST.

Time of Supply for recovery of interest, late fee, etc. [Section 13(6)]

The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.

Illustration:

BA Telecommunications Ltd. charges Rs. 100 as late fees from the customer on account of non-payment of bill on due date for the month of February 2025. The customer paid such late fee on 05.04.2025.

Determine the time of supply of late fees.

Solution:

The time of supply of such late fees will be the date on which BA Telecommunications Ltd. receives the amount of late fees from the customer which is 05.04.2025.

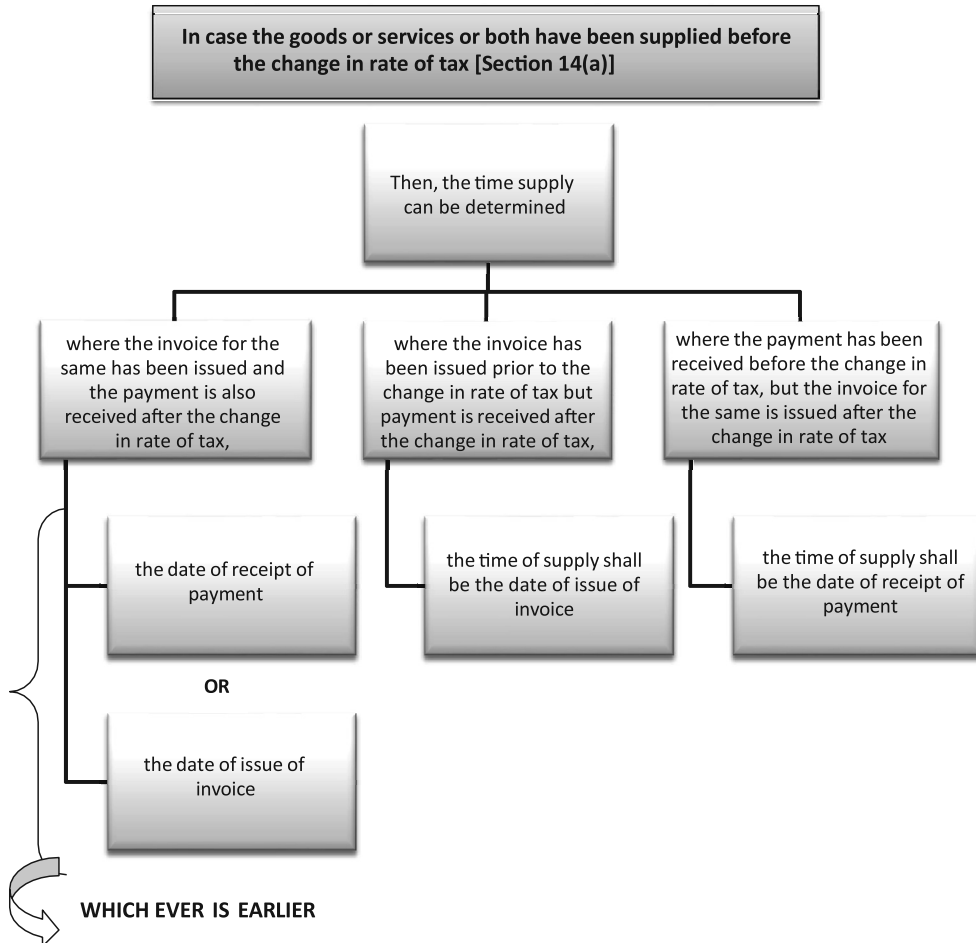
TIME OF SUPPLY IN CASE OF CHANGE IN RATE OF TAX [SECTION 14 OF CGST ACT, 2017]

Section 14 of the CGST Act, 2017 defines the time of supply, where there is a change in the rate of tax in respect of goods or services or both.

Section 14(a): In case the goods or services or both have been supplied **before** the change in rate of tax, the time of supply can be determined as follows:

1. where the invoice for the same has been issued and the payment is also received **after** the change in rate of tax, the time of supply shall be the date of receipt of payment or the date of issue of invoice, whichever is earlier; or
2. where the invoice has been issued **prior** to the change in rate of tax but payment is received after the change in rate of tax, the time of supply shall be the date of issue of invoice; or
4. Explanation: “the date of receipt of payment” shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.

Example:
 The rate of GST on one particular product had decreased from 18% to 12% w.e.f. 01.06.2025.
 What is the tax rate applicable when services provided and invoice issued before change in rate in April 2025, but payment received after change in rate in June 2025?
 Then the old rate of 18% shall be applicable as services are provided prior to 01.06.2025.



Section 14(b): In case the goods or services or both have been supplied **after** the change in rate of tax, the time of supply can be determined as follows:

1. where the payment is received **after** the change in rate of tax but the invoice has been issued **prior** to the change in rate of tax, the time of supply shall be the date of receipt of payment; or
2. where the invoice has been issued and payment is received **before** the change in rate of tax, the time of supply shall be the date of receipt of payment or date of issue of invoice, whichever is earlier; or
3. where the invoice has been issued **after** the change in rate of tax but the payment is received **before** the change in rate of tax, the time of supply shall be the date of issue of invoice.

Provided that the date of receipt of payment shall be the date of credit in the bank account if such credit in the bank account is after four working days from the date of change in the rate of tax.

Example:

The rate of GST on one particular product had decreased from 18% to 12% w.e.f. 01.06.2025. What is the tax rate applicable when goods are supplied and invoice issued after change in rate in June 2025, but full advance payment was already received in April 2025?

In this case the new rate of 12% shall be applicable as goods are supplied and invoice issued after 01.06.2025.

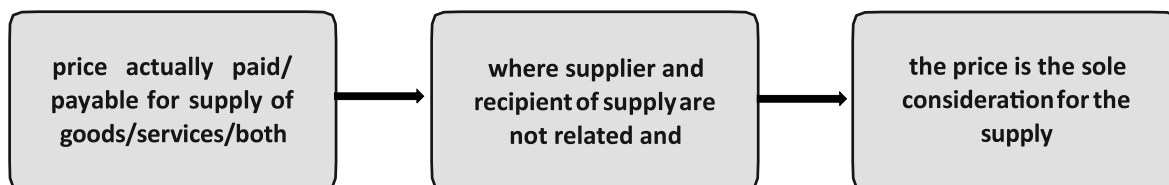
VALUE OF TAXABLE SUPPLY [SECTION 15 OF CGST ACT, 2017]

Value of taxable supply of goods or services or both is base for computing the value of GST payable. Value of supply and rate of applicable tax are pre-requisites to calculate the tax liability. In this section, we will study the facets of valuation, transaction value, inclusions and exclusions there from. Section 20 of the ICGST Act, 2017 and Section 21 of UTGST Act, 2017 provide, amongst other things, that provisions of the CGST Act relating to value of supply shall apply with necessary changes, in relation to integrated tax or union territory tax as they apply in relation to central tax as if they are enacted under IGST Act.

Section 15 of the CGST Act when read in conjunction with Chapter IV: Determination of Value of Supply of the CGST rules, states that the value of taxable supply under GST is the transaction value. Transaction value is defined as the price actually paid or payable for the said supply of goods or services or both, where the supplier and the recipient of the supply are not related, and the price is the sole consideration for the supply.

Section 15 is equally applicable to inter-State supplies under IGST.

Transaction value means



The concept of transaction value places trust on the assessee and accepts the price as agreed between the supplier and recipient under open market conditions. The supplier and the recipient should not be related to each other, and the agreed price should be the sole consideration of supply.

Illustration:

Mr. X residing in Noida, purchase 40,000 Markers @ Rs. 20 each from Anika & Stationary, wholesalers at Delhi. Mr. X's sister working as Manager in Anika & Stationary. Open Market Value of Marker is Rs. 23. Anika & Stationary additionally charges Rs. 15,000 for transporting markers to Mr. X's business place.

Solution: The transaction Value includes ancillary expenses borne by Anika & Stationary in regard of supply till the time of delivery of goods to the recipient. The transaction value will be Rs. 8,00,000 $(40,000 \times 20) + 15,000 = 8,15,000$.

Mr. X and Anika & Stationary Wholesaler are not related persons as Mr. X's sister is an employee in Anika & Stationary, whereas Mr. X's sister and Anika & Stationary are not to be considered as related persons. Therefore, the transaction value taken as value of supply.

Inclusions in determination of Value of Supply [Section 15(2)]

Section 15(2) of the CGST Act, 2017, lists few elements which have been mandated to be included in the transaction value, if not already included.

- (a) any taxes, duties, cess, fees and charges levied under any law for the time being in force other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier;

The taxes, fee, etc. leviable under legislations other than GST are sought to be included in the transaction value for the purpose of charging GST.

- (b) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;

It sought to include all such expenses which the supplier was contractually liable to incur but incurred by the recipient.

- (c) incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;

It further obliges the supplier to include all such expenses incurred until the delivery of supply of goods or services or both which may be in the nature of freight, packing expenses, commission, etc. provided such expenses are incurred by the supplier.

- (d) interest or late fee or penalty for delayed payment of any consideration for any supply; and

It is a common trade practice to charge penalty for delayed payment by the recipient. In such cases, the penalty so charged has been sought to be included in the value and charged to GST.

- (e) subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments;

Explanation. – For the purposes of this sub-section, the amount of subsidy shall be included in the value of supply of the supplier who receives the subsidy.

Lastly, the subsidies received by the supplier are sought to be included in the value. However, the subsidies granted by Central Government and State Government have been excluded.

Clarification by the Government on the inclusion of penal interest in the value

Situation - 1: X sells a mobile phone to Y. The cost of mobile phone is Rs. 40,000/-. However, X gives Y an option to pay in installments, Rs. 11,000/- every month before 10th day of the following month, over next four months $(Rs. 11,000/- \times 4 = Rs. 44,000/-)$. Further, as per the contract, if there is any delay in payment by Y

beyond the scheduled date, Y would be liable to pay additional/penal interest amounting to Rs. 500/- per month for the delay. In some instances, X is charging Y Rs. 40,000/- for the mobile and is separately issuing another invoice for providing the services of extending loans to Y, the consideration for which is the interest of 2.5% per month and an additional/penal interest amounting to Rs. 500/- per month for each delay in payment.

Clarification: As per the provisions of sub-clause (d) of sub-section (2) of section 15 of the CGST Act, the amount of penal interest is to be included in the value of supply. The transaction between X and Y is for supply of taxable goods i.e. mobile phone. Accordingly, the penal interest would be taxable as it would be included in the value of the mobile, irrespective of the manner of invoicing.

Situation - 2: X sells a mobile phone to Y. The cost of mobile phone is Rs. 40,000/-. Y has the option to avail a loan at interest of 2.5% per month for purchasing the mobile from M/s. ABC Ltd. The terms of the loan from M/s. ABC Ltd. allows Y a period of four months to repay the loan and an additional/penal interest @ 1.25% per month for any delay in payment.

Clarification: The additional/penal interest is charged for a transaction between Y and X, and the same is getting covered under Sl. No. 27 of notification No. 12/2017-Central Tax (Rate), dated 28-6-2017. Accordingly, in this case the 'penal interest' charged thereon on a transaction between Y and X would not be subject to GST, as the same would be covered under notification No. 12/2017-Central Tax (Rate), dated 28-6-2017. The value of supply of mobile by X to Y would be Rs. 40,000/- for the purpose of levy of GST (Rate), dated 28-6-2017. The value of supply of mobile by X to Y would be Rs. 40,000/- for the purpose of levy of GST.

Clarification on GST on incentive paid by MeitY to acquiring banks under Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions: *the incentives paid by MeitY to acquiring banks under the Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions, the Government pays the acquiring banks an incentive as a percentage of value of RuPay Debit card transactions and low value BHIM-UPI transactions up to Rs.2000/- are in the nature of subsidy and thus not taxable. The incentive is in the nature of a subsidy directly linked to the price of the service and the same does not form part of the taxable value of the transaction in view of the provisions of section 2(31) and section 15 of the CGST Act, 2017 [Circular No. 190/02/2023- January 13, 2023]*

Exclusions in determination of Value of Supply [Section 15(3)]

Discounts that are allowed as deduction from the value of supply can be of the following two types:

- (a) Any discount which is given before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply; and
- (b) any discount given after the supply has been affected, if –
 - such discount was known and agreed at the time of supply, that is, established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and
 - input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

In effect, section 15(3) strengthens the concept of transaction value wherein it permits the supplier to reduce the element of discount, if any, given in the price originally agreed between the parties. The only condition to such exclusion is that the discount should be either given on the face of the invoice or at least agreed between the parties prior to the incidence of supply.

Where the value cannot be determined under the above provisions [Section 15(4)]

Finally, section 15(4) of the CGST Act, 2017, provides that where the value of the supply of goods or services or both cannot be determined under section 15(1), the same shall be determined in accordance with the rules as may be prescribed.

Illustration:

Mr. Rama Swami a manufacturer provides the following particulars:

Price of the machine	2,00,000
Packing charges	20,000
Designing charges	40,000
Transit insurance	2,000
Freight outward	16,000
Cash discount to customer	2%

Compute the value of machine when Rama Swami has to deliver machine to factory of recipient.

Solution:

Also, assume that the buyer has paid cash and availed cash discount.

Price of the machine	2,00,000
<i>Add:</i> Packing charges	20,000
<i>Add:</i> Designing charges	40,000
<i>Add:</i> Transit insurance	2,000
<i>Add:</i> Freight outward	16,000
<i>Less</i> [Cash discount to customer 2,00,000* 2%]	(4,000)
Total value	2,74,000

Illustration:

ABC Institute provides coaching for engineering entrance examinations. The monthly fee charged by the Institute from a student is Rs.30,000. The Institute is known for its commitment to provide education to underprivileged children. It trains 10 students every year for entrance examinations free of cost.

The Institute has received Rs.6,00,000 as coaching fees during a month. An NGO working in the area of education for underprivileged children, has given a subsidy of Rs. 20,000 (in lumpsum) during the month to the Institute as it is serving the cause of underprivileged children.

Determine the value of supply of education services made by ABC Institute during the month.

Solution:

As per section 15(2)(e), the value of a supply includes subsidies directly linked to the price, excluding subsidies provided by the State Governments and the Central Government.

In the given case, though the subsidy is given by a non-Government body, the same is not includible in the value as it is given in lumpsum and not directly linked to the price of the supply being valued. Therefore, the value of supply made by ABC Institute during the month is Rs. 6,00,000.

Illustration:

Tasty Bakery Products Ltd sells biscuits and cakes through its dealers, to whom it charges the list price minus standard discount and pays GST accordingly. When goods remain unsold with the dealers, it offered additional discounts on the stock as an incentive to push the sales, without any prior agreement between them for offering such additional discount.

Can this additional discount be reduced from the price at which the goods were sold, and concomitant tax adjustments made?

Solution:

The discounts were not known or agreed for at the time of supply of goods to the dealers. Therefore, in terms of section 15(3), such discounts cannot be reduced from the price on which tax had been paid.

VALUATION RULES- CGST RULES, 2017**Rule 27: Value of supply of goods or services where the consideration is not wholly in money**

Where the supply of goods or services is for a consideration not wholly in money, the value of the supply shall-

- (a) be the open market value of such supply;
- (b) if the open market value is not available under clause (a), be the sum total of consideration in money and any such further amount in money as is equivalent to the consideration not in money, if such amount is known at the time of supply;
- (c) if the value of supply is not determinable under clause (a) or clause (b), be the value of supply of goods or services or both of like kind and quality;
- (d) if the value is not determinable under clause (a) or clause (b) or clause (c), be the sum total of consideration in money and such further amount in money that is equivalent to consideration not in money as determined by the application of rule 30 or rule 31 in that order.

For example:

1. Where a new phone is supplied for twenty thousand rupees along with the exchange of an old phone and if the price of the new phone without exchange is twenty-four thousand rupees, the open market value of the new phone is twenty-four thousand rupees.
2. Where a laptop is supplied for forty thousand rupees along with the barter of a printer that is manufactured by the recipient and the value of the printer known at the time of supply is four thousand rupees but the open market value of the laptop is not known, the value of the supply of the laptop is forty-four thousand rupees.

Analysis: Where, the consideration for a supply is not wholly in money [which means there is portion of consideration payable in kind], open market value of the underlying goods or services shall be the value for the purpose of calculating tax liability. However, where, open market value is also not available, then one may monetize the consideration which is in kind and add in the consideration in money to arrive at the value of supply. In case, the methodologies cannot be applied, then, one may find the value of goods or services of like kind or quality and adopt such value. In any of the above methodologies are not applicable, Rule 30 and Rule 31 be applied to arrive at the value of additional consideration not in money to finally arrive at the value of supply.

Rule 28: Value of supply of goods or services or both between distinct or related persons, other than through an agent

The value of the supply of goods or services or both between distinct persons as specified in sub-section (4) and (5) of section 25 or where the supplier and recipient are related, other than where the supply is made through an agent, shall-

- (a) be the open market value of such supply;
- (b) if the open market value is not available, be the value of supply of goods or services of like kind and quality;
- (c) if the value is not determinable under clause (a) or (b), be the value as determined by the application of rule 30 or rule 31, in that order:

Provided that where the goods are intended for further supply as such by the recipient, the value shall, at the option of the supplier, be an amount equivalent to ninety percent of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person:

Provided further that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the goods or services.

Notwithstanding anything contained in sub-rule (1), the value of supply of services by a supplier to a recipient who is a related person [located in India], by way of providing corporate guarantee to any banking company or financial institution on behalf of the said recipient, shall be deemed to be one per cent of the amount of such guarantee offered [per annum], or the actual consideration, whichever is higher.

Provided that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the value of said supply of services.

Analysis: Where the supplier and recipient are related or distinct, the statute book refuses to accept the transaction value as there is every possibility of collusion to reduce the value. Thus, **Rule 28** provides for adoption of open market value of the same supply or if not available, open market value of the goods of like kind and quality. Where the recipient intends to make further supply of goods or services, the provision permits the supplier to value the goods at 90% of the price intended to be charged by the recipient while making further supply. It is also provided that where the recipient is eligible to avail full input tax credit, the value, whatever, is declared by the supplier, shall be accepted as the correct value.

Illustration:

M/s XYZ an event management company for organizing large scale events like marriages, birthday parties etc. owned by Mr. Sharma. Another Event organizer M/s ABC Ltd. in Gurugram contracts with M/s XYZ to arrange a celebrity concert charging Rs. 16,00,000. The company sub-contract the same work to M/s Well Events Management Company which were also controlled and managed by Mr. Sharma for Rs. 12,00,000. M/s Well Events Management Company charges Rs. 12,40,000 from market for the same work.

Answer: M/s. XYZ and M/s Well Events Management Company are managed and controlled by Mr. Sharma so both the businesses will be considered as related persons. The value of service will be the open Market Value being Rs. 12,40,000 rather than sub-contract price of Rs. 12,00,000.

Taxability and valuation of personal guarantee by Directors and corporate guarantee by related person, for the company [Rule 28 amended]

Following issues arose for consideration were:

- (i) the taxability and valuation of activity of providing personal bank guarantee by Directors to banks for securing credit facilities for the company without consideration, and

- (ii) the taxability and valuation of the activity of providing corporate guarantee by a related person to banks/financial institutions for another related person, as well as by a holding company in order to secure credit facilities for its subsidiary company, without consideration.

In this regard, **Circular No. 204/16/2023 GST dated 27.10.2023** clarified the following:

Clarification on issues pertaining to taxability of personal guarantee and corporate guarantee in GST-reg.

Representations have been received from the trade and field formations seeking clarification on certain issues with respect to taxability of activity of providing personal bank guarantee by Directors to banks for securing credit facilities for the company. Similarly, clarifications are being sought with respect to taxability and valuation of the activity of providing corporate guarantee by a related person to banks/ financial institutions for another related person, as well as by a holding company in order to secure credit facilities for its subsidiary company.

In order to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”), hereby clarifies the issues as under:

S. No.	Issue	Clarification
1.	Whether the activity of providing personal guarantee by the Director of a company to the bank/ financial institutions for sanctioning of credit facilities to the said company without any consideration will be treated as a supply of service or not and whether the same will attract GST or not.	<p>As per Explanation (a) to section 15 of CGST Act, the director and the company are to be treated as related persons. As per clause (c) of sub-section (1) of section 7 of the CGST Act, 2017, read with S. No. 2 of Schedule I of CGST Act, supply of goods or services or both between related persons, when made in the course or furtherance of business, shall be treated as supply even if made without consideration. Accordingly, the activity of providing personal guarantee by the Director to the banks/ financial institutions for securing credit facilities for their companies is to be treated as a supply of service, even when made without consideration.</p> <p>Rule 28 of Central Goods and Services Tax Rules, 2017 (hereinafter referred to as “CGST Rules”) prescribes the method for determining the value of the supply of goods or services or both between related parties, other than where the supply is made through an agent. In terms of Rule 28 of CGST Rules, the taxable value of such supply of service shall be the open market value of such supply.</p> <p>RBI has provided guidelines for obtaining personal guarantee of promoters, directors and other managerial personnel of the borrowing concerns vide Para 2.2.9 of its Circular No. RBI/2021-22/121 dated 9th November, 2021, which is reproduced below:</p>

“2.2.9 Guidelines relating to obtaining of personal guarantees of promoters, directors, other managerial personnel, and shareholders of borrowing concerns

Banks should take personal guarantees of promoters, directors, other managerial personnel or major shareholders for the credit facilities granted to corporates, public or private, only when absolutely warranted after a careful examination of the circumstances of the case and not as a matter of course. In order to identify the circumstances under which the guarantee may or may not be considered necessary, banks should be guided by the following broad considerations:

.....

C. Worth of the guarantors, payment of guarantee commission, etc

*Where personal guarantees of directors are warranted, they should bear reasonable proportion to the estimated worth of the person. **The system of obtaining guarantees should not be used by the directors and other managerial personnel as a source of income from the company. Banks should obtain an undertaking from the borrowing company as well as the guarantors that no consideration whether by way of commission, brokerage fees or any other form, would be paid by the former or received by the latter, directly or indirectly. This requirement should be incorporated in the bank’s terms and conditions for sanctioning of credit limits. During the periodic inspections, the bank’s inspectors should verify that this stipulation has been complied with. There may, however, be exceptional cases where payment of remuneration may be permitted e.g. where assisted concerns are not doing well and the existing guarantors are no longer connected with the management but continuance of their guarantees is considered essential because the new management’s guarantee is either not available or is found inadequate.***

.....”

Accordingly, as per mandate provided by RBI in terms of Para 2.2.9 (C) of RBI’s Circular No. RBI/2021-22/121 dated 9th November, 2021, no consideration by way of commission, brokerage fees or any other form, can be paid to the director by the company, directly or indirectly, in lieu of providing personal guarantee to the bank for borrowing credit limits. As such, when no

		<p>consideration can be paid for the said transaction by the company to the director in any form, directly or indirectly, as per RBI mandate, there is no question of such supply/ transaction having any open market value. Accordingly, the open market value of the said transaction/ supply may be treated as zero and therefore, taxable value of such supply may be treated as zero. In such a scenario, no tax is payable on such supply of service by the director to the company.</p> <p>There may, however, be cases where the director, who had provided the guarantee, is no longer connected with the management but continuance of his guarantee is considered essential because the new management's guarantee is either not available or is found inadequate, or there may be other exceptional cases where the promoters, existing directors, other managerial personnel, and shareholders of borrowing concerns are paid remuneration/ consideration in any manner, directly or indirectly. In all these cases, the taxable value of such supply of service shall be the remuneration/ consideration provided to such a person/ guarantor by the company, directly or indirectly.</p>
2.	<p>Whether the activity of providing corporate guarantee by a person on behalf of another related person, or by the holding company for sanction of credit facilities to its subsidiary company, to the bank/ financial institutions, even when made without any consideration will be treated as a taxable supply of service or not, and if taxable, what would be the valuation of such supply of services.</p>	<p>Where the corporate guarantee is provided by a company to the bank/financial institutions for providing credit facilities to the other company, where both the companies are related, the activity is to be treated as a supply of service between related parties as per provisions of Schedule I of CGST Act, even when made without any consideration.</p> <p>Similarly, where the corporate guarantee is provided by a holding company, for its subsidiary company, those two entities also fall under the category of 'related persons'. Hence the activity of providing corporate guarantee by a holding company to the bank/financial institutions for securing credit facilities for its subsidiary company, even when made without any consideration, is also to be treated as a supply of service by holding company to the subsidiary company, being a related person, as per provisions of Schedule I of CGST Act.</p> <p>In respect of such supply of services by a person to another related person or by a holding company to a subsidiary company, in form of providing corporate guarantee on their behalf to a bank/ financial institution, the taxable value will be determined as per rule 28 of CGST Rules.</p>

	<p>Considering different practices being followed by the field formations and taxpayers in determining such taxable value, in order to provide uniformity in practices and ease of implementation, sub-rule (2) has been inserted in rule 28 of CGST Rules vide Notification No. 52/2023 dated 26.10.2023, for determining the taxable value of such supply of services between related persons in respect of providing corporate guarantee. Accordingly, consequent to insertion of the said sub-rule in rule 28 of CGST Rules, in all such cases of supply of services by a related person to another person, or by a holding company to a subsidiary company, in the form of providing corporate guarantee on their behalf to a bank/ financial institution, the taxable value of such supply of services, will henceforth be determined as per the provisions of the sub-rule (2) of Rule 28 of CGST Rules, irrespective of whether full ITC is available to the recipient of services or not.</p> <p>It is clarified that the sub-rule (2) of Rule 28 shall not apply in respect of the activity of providing personal guarantee by the Director to the banks/ financial institutions for securing credit facilities for their companies and the same shall be valued in the manner provided in S. No. (1) above.</p>
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Rule 29: Value of supply of goods made or received through an agent

The value of supply of goods between the principal and his agent shall,

- (a) be the open market value of the goods being supplied, or at the option of the supplier, be ninety percent (90%) of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person, where the goods are intended for further supply by the said recipient.

Illustration:

A is principal and supplies groundnuts to his agent and the agent is supplying groundnuts of like kind and quality in subsequent supplies at a price of Rs. 5,000 per quintal on the day of the supply.

Another independent supplier is supplying groundnuts of like kind and quality to the said agent at the price of Rs. 4,550 per quintal.

Determine the value of supply of groundnuts.

Solution:

The value of the supply made by the principal shall be Rs. 4,550 per quintal or where he exercises the option, the value shall be 90 per cent of Rs. 5,000 i.e., Rs. 4,500 per quintal.

- (b) where the value of a supply is not determinable under clause (a), the same shall be determined by the application of rule 30 or rule 31 in that order.

Rule 30: Value of supply of goods or services or both based on cost

Where the value of a supply of goods or services or both is not determinable by any of the preceding rules of this Chapter, the value shall be one hundred and ten percent of the cost of production or manufacture or the cost of acquisition of such goods or the cost of provision of such services.

Rule 31: Residual method for determination of value of supply of goods or services or both

Where the value of supply of goods or services or both cannot be determined under rules 27 to 30, the same shall be determined using reasonable means consistent with the principles and the general provisions of section 15 and the provisions of this Chapter:

Provided that in the case of supply of services, the supplier may opt for this rule, ignoring rule 30.

Rule 31A: Value of supply in case of lottery, betting, gambling and horse racing

1. Notwithstanding anything contained in the provisions of this Chapter, the value in respect of supplies specified below shall be determined in the manner provided hereinafter.
2. The value of supply of lottery shall be deemed to be 100/128 of the face value of ticket or of the price as notified in the Official Gazette by the Organising State, whichever is higher.

Explanation:- For the purposes of this sub-rule, the expression “Organising State” has the same meaning as assigned to it in clause (f) of sub-rule (1) of rule 2 of the Lotteries (Regulation) Rules, 2010.

3. The value of supply of actionable claim in the form of chance to win in betting, gambling or horse racing in a race club shall be 100% of the face value of the bet or the amount paid into the totalisator.

With effect from 01.10.2023, supply of online money gaming, supply of online gaming other than online money gaming and supply of actionable claims in casinos have been notified under section 15(5) for prescribing the manner of determination of the value of these supplies under the CGST Rules.

[Notification No. 49/2023 CT dated 29.09.2023]

Method for determination of value of supply in case of online gaming including online money gaming and value of supply of actionable claims in case of casino prescribed [Rule 31B and rule 31C inserted]

As discussed earlier actionable claims of online money gaming, horse racing and casinos have been brought under the purview of supply by amending Schedule III of the CGST Act, 2017. Value of horse racing is already being determined under rule 31A

With effect from 01.10.2023, the method of determination of value of these actionable claims is prescribed by new rules 31B and 31C inserted as follows:

(i) Value of supply in case of online gaming including online money gaming [Rule 31B]

The value of supply of online gaming, including supply of actionable claims involved in online money gaming, shall be the total amount paid or payable to or deposited with the supplier by way of money or money's worth, including virtual digital assets, by or on behalf of the player:

However, any amount returned or refunded by the supplier to the player for any reasons whatsoever, including player not using the amount paid or deposited with the supplier for participating in any event, shall not be deductible from the value of supply of online money gaming.

(ii) Value of supply of actionable claims in case of casino [Rule 31C]

The value of supply of actionable claims in casino shall be the total amount paid or payable by or on behalf of the player for –

- (i) purchase of the tokens, chips, coins or tickets, by whatever name called, for use in casino; or
- (ii) participating in any event, including game, scheme, competition or any other activity or process, in the casino, in cases where the token, chips, coins or tickets, by whatever name called, are not required:

However, any amount returned/refunded by the casino to the player on return of token, coins, chips, or tickets, as the case may be, or otherwise, shall not be deductible from the value of the supply of actionable claims in casino.

Explanation- For the purpose of rule 31B and rule 31C, any amount received by the player by winning any event, including game, scheme, competition or any other activity or process, which is used for playing by the said player in a further event without withdrawing, shall not be considered as the amount paid to or deposited with the supplier by or on behalf of the said player.

[Effective from 01.10.2023]

[Notification No. 45/2023 CT dated 06.09.2023 and Notification No. 51/2023 CT dated 29.

Rule 32: Determination of value in respect of certain supplies

Notwithstanding anything contained in the provisions of this Chapter, the value in respect of supplies specified below shall, at the option of the supplier, be determined in the manner provided hereinafter.

1. The value of supply of services in relation to the purchase or sale of foreign currency, including money changing, shall be determined by the supplier of services in the following manner, namely: -
 - (a) for a currency, when exchanged from, or to, Indian Rupees, the value shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India reference rate for that currency at that time, multiplied by the total units of currency:

Value = Difference in the buying rate or the selling rate and Reserve Bank of India reference rate for that currency at that time x Total units of currency

Provided that in case where the Reserve Bank of India reference rate for a currency is not available, the value shall be one per cent (1%) of the gross amount of Indian Rupees provided or received by the person changing the money:

Provided further that in case where neither of the currencies exchanged is Indian Rupees, the value shall be equal to one per cent (1%) of the lesser of the two amounts the person changing the money would have received by converting any of the two currencies into Indian Rupee on that day at the reference rate provided by the Reserve Bank of India (RBI).

Provided also that a person supplying the services may exercise the option to ascertain the value in terms of clause (b) for a financial year and such option shall not be withdrawn during the remaining part of that financial year.

- (b) at the option of the supplier of services, the value in relation to the supply of foreign currency, including money changing, shall be deemed to be:

(i) one per cent of the gross amount of currency exchanged for an amount up to one lakh rupees , subject to a minimum amount of two hundred and fifty rupees;	Up to 1,00,000: 1% of the gross amount of currency exchanged or Rs. 250 whichever is higher
(ii) one thousand rupees and half of a per cent of the gross amount of currency exchanged for an amount exceeding one lakh rupees and up to ten lakh rupees; and	Exceeding Rs. 1,00,000 and up to Rs. 10,00,000: Rs. 1,000 + 0.5 % of the gross amount of currency exchanged
(iii) five thousand and five hundred rupees and one tenth of a per cent of the gross amount of currency exchanged for an amount exceeding ten lakh rupees , subject to maximum amount of sixty thousand rupees.	Above Rs. 10,00,000: Rs. 5,500 + 0.1 % of the gross amount of currency exchanged or Rs. 60,000 whichever is lower

2. The value of the supply of services in relation to booking of tickets for travel by air provided by an air travel agent shall be deemed to be an amount calculated at the rate of five percent (5%) of the basic fare in the case of domestic bookings, and at the rate of ten per cent (10%) of the basic fare in the case of international bookings of passage for travel by air.

Explanation. - For the purposes of this sub-rule, the expression “basic fare” means that part of the air fare on which commission is normally paid to the air travel agent by the airlines.

3. The value of supply of services in relation to life insurance business shall be, -
- the gross premium charged from a policy holder reduced by the amount allocated for investment, or savings on behalf of the policy holder, if such an amount is intimated to the policy holder at the time of supply of service;
 - in case of single premium annuity policies other than (a) ten per cent of single premium charged from the policy holder; or
 - in all other cases, twenty-five per cent of the premium charged from the policy holder in the first year and twelve and a half per cent of the premium charged from the policy holder in subsequent years:

Provided that nothing contained in this sub-rule shall apply where the entire premium paid by the policy holder is only towards the risk cover in life insurance.

4. Where a taxable supply is provided by a person dealing in buying and selling of second hand goods i.e., used goods as such or after such minor processing which does not change the nature of the goods and where no input tax credit has been availed on the purchase of such goods, the value of supply shall be the difference between the selling price and the purchase price and where the value of such supply is negative, it shall be ignored:

Provided that the purchase value of goods repossessed from a defaulting borrower, who is not registered, for the purpose of recovery of a loan or debt shall be deemed to be the purchase price of such goods by the defaulting borrower reduced by five percentage points for every quarter or part thereof, between the date of purchase and the date of disposal by the person making such repossession.

5. The value of a token, or a voucher, or a coupon, or a stamp (other than postage stamp) which is redeemable against a supply of goods or services or both shall be equal to the money value of the goods or services or both redeemable against such token, voucher, coupon, or stamp.

6. The value of taxable services provided by such class of service providers as may be notified by the Government, on the recommendations of the Council, as referred to in paragraph 2 of Schedule I of the said Act between distinct persons as referred to in section 25, where input tax credit is available, shall be deemed to be NIL.

Illustration:

Mr. X is planning to visit California, USA to meet his cousin and want some foreign currency (i.e. US\$) for his travel. He converted US\$500 from the authorised money changer @ 82 per US\$ and receive Rs. 41,000. RBI reference rate for US\$ is 82.50 for that day. Compute the value of taxable supply.

Solution:

As per RBI reference rate the amount should have been $500 \times 82.50 = 41,250$.

Thus, the difference of Rs. 250 (i.e. Rs. 41,250 - Rs.41,000) will be treated as taxable value of the service in relation to exchange of money.

If the RBI reference rate for a currency is not available, the value shall be 1% of the gross amount of Indian rupees provided by the person changing the money. Thus, it shall be 1% of Rs. 41,000= Rs. 410

Rule 33: Value of supply of services in case of pure agent

Notwithstanding anything contained in the provisions of this Chapter, the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely, -

- (i) the supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorization by such recipient;
- (ii) the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and
- (iii) the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.

Explanation - For the purposes of this rule, the expression “pure agent” means a person who,

- (a) enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;
- (b) neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply;
- (c) does not use for his own interest such goods or services so procured; and
- (d) receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.

For example: Corporate services Firm M/s ABC is engaged to handle the legal work pertaining to the incorporation of Company XYZ Pvt. Ltd. Other than its service fees, M/s ABC also recovers from XYZ Pvt. Ltd. registration fee and approval fee for the name of the company paid to the Registrar of Companies. The fees charged by the Registrar of Companies for the registration and approval of the name are compulsorily levied on XYZ Pvt. Ltd. M/s ABC is merely acting as a pure agent in the payment of those fees. Therefore, A's recovery of such expenses is a disbursement and not part of the value of supply made by M/s ABC to XYZ Pvt. Ltd.

Rule 34: Rate of exchange of currency, other than Indian rupees, for determination of value

- (1) The rate of exchange for determination of value of taxable goods shall be the applicable rate of exchange as notified by the Board under section 14 of the Customs Act, 1962 for the date of time of supply of such goods in terms of section 12 of the Act.
- (2) The rate of exchange for determination of value of taxable services shall be the applicable rate of exchange determined as per the generally accepted accounting principles for the date of time of supply of such services in terms of section 13 of the Act.

Rule 35: Value of supply inclusive of integrated tax, Central tax, State tax, Union territory tax

Where the value of supply is inclusive of integrated tax or, as the case may be, central tax, State tax, Union territory tax, the tax amount shall be determined in the following manner, namely, –

$$\text{Tax amount} = \frac{\text{Value inclusive of taxes} \times \text{Tax Rate in \% of IGST / CGST / SGST / UTGST}}{(100 + \text{sum of tax rates})}$$

Illustration:

A Practicing Chartered Accountant charges ₹1,18,000 including GST @ 18% from his client. Here, GST shall be computed as follows as per Rule 35 of the CGST Rules –

$$\text{GST} = ₹1,18,000 \times 18/118$$

Explanation - For the purposes of the provisions of this Chapter, the expressions,

- (a) “open market value” of a supply of goods or services or both means the full value in money, excluding the Integrated tax, Central tax, State tax, Union territory tax and the cess payable by a person in a transaction, where the supplier and the recipient of the supply are not related and the price is the sole consideration, to obtain such supply at the same time when the supply being valued is made;
- (b) “Supply of goods or services or both of like kind and quality” means any other supply of goods or services or both made under similar circumstances that, in respect of the characteristics, quality, quantity, functional components, materials, and the reputation of the goods or services or both first mentioned, is the same as, or closely or substantially resembles, that supply of goods or services or both.

Illustration:

Nisha Enterprises had made supplies of INR 7,50,000 to Tee Kay Services. There was a tax levied by Municipal Authorities on such sale of INR 75,000/-. CGST and SGST chargeable on the supply was 37,500/-. Packing charges, not included in the price above amounted to INR 15,000.

Nisha Enterprises received a subsidy of INR 30,000/- from an NGO on the sale of such goods, and the price mentioned above is after taking in to account the subsidy.

Discount offered is @ 1% and that's mentioned on the Invoice. Determine the Value of Supply.

	Price Charged	7,50,000
<i>Add:</i>	Tax charged by Municipal Authorities	75,000
	Packing Charges	15,000
	Subsidy from NGO	30,000
	Total after all inclusions	8,70,000
<i>Less:</i>	Discount @ 1%	7,500

Therefore, Assessable Value: 8,62,500

Notes

1. CGST and SGST is not included in the determination of value of supply, rather taxed post determination on the same.
2. Subsidy since received from a non-governmental body is added back to determine the value of supply.
3. Discount on basic price is an exclusion.

PLACE OF SUPPLY

While determining the nature of supply i.e. whether it is inter-State or intra-State, the basic factor is the 'place of supply'. As such, the expression 'place of supply' has not been defined in Act, however, the collective reading of various provision makes us understand the purpose and relevance thereof in the GST law. The prime purpose of Place of Supply is to further the cause of determining whether a supply is intra-State or inter-State and consequentially to determine whether IGST to be charged or CGST+SGST or UTGST to be charged.

Place of Supply is also relevant for the authorities to determine which State/ Union Territory will get the tax revenue. We have read earlier that GST is a consumption-based tax unlike the previous tax regime which was origin based. The state which consumes or deemed to have consumed goods and/ or services in a particular transaction is called as a 'place of supply' and becomes entitled to receive the tax charged on such transaction.

Place of Supply also determines the eligibility of the recipient to input tax credit as the location of the recipient of supply has to be in the state which has been reported by the supplier as 'Place of Supply' for such supply.

Thus, we have understood the importance of the expression 'place of supply'. Now, the GST law has sufficiently prescribed rules to determine 'place of supply' separately for goods and services. IGST Act contains such provisions. Section 10 and 11 of the IGST Act prescribes such rules for goods and Section 12 and 13 prescribes such rules for services.

Place of Supply of Goods other than supply of goods imported into, or exported from India [Section 10 of IGST Act, 2017]

Section 10 prescribes the provisions for determining the place of supply of goods in domestic transactions.

A. Where the Place of Supply can be determined

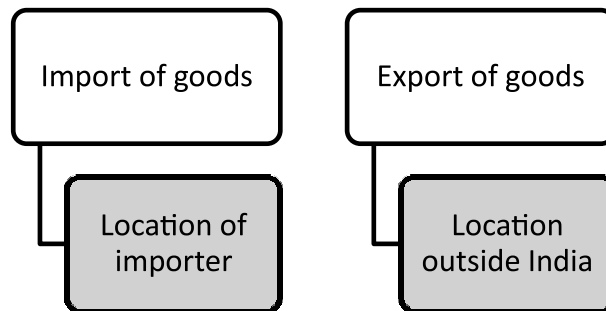
Sr. No.	Situation	Place of Supply of Goods
a	Supply involves movement of goods whether by the supplier or the recipient or by any other person,	Location of the goods at the time at which the movement of goods terminates for delivery to the recipient. Example: Mr. X of Mumbai sells refrigerators to M/s Y of Ahmedabad and the refrigerators are transported to the premises of M/s Y located in Ahmedabad.

Sr. No.	Situation	Place of Supply of Goods
		<p>The place of supply would be Gujarat as the movement of refrigerators terminated in Ahmedabad, Gujarat. Accordingly, since the location of supplier (Maharashtra) and the Place of Supply (Gujarat) are in different states, IGST would be charged, being inter-State supply.</p>
b	<p>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,</p>	<p>Place of Supply of such goods shall be the principal place of business of third party.</p> <p>Example:</p> <p>A having registered place of business at Pune, placed an order on B Ltd. in New Delhi, for delivering a parcel to C who is in Ludhiana.</p> <p>This being a 'Bill to Ship to' transaction covered under section 10(1)(b) of the IGST Act, [for transaction between B Ltd. and A] the Place of Supply would be Maharashtra as the principal place of business of A is in Pune, Maharashtra. Since the location of supplier (New Delhi) and Place of Supply (Maharashtra) are different, IGST would be charged.</p> <p>However, the place of supply for a second leg of the transaction i.e. between A and C would be Ludhiana, Panjab as the movement of goods terminates at Ludhiana, Panjab. Here, since the location of supplier (Pune, Maharashtra) and Place of Supply (Ludhiana, Panjab) are in the different states, IGST would be charged.</p>
c	<p>Where the supply does not involve movement of goods, whether by the supplier or the recipient,</p>	<p>Location of such goods at the time of delivery to the recipient.</p> <p>Example:</p> <p>Srinivasan from Bangalore travelled to Chennai for a vacation and purchased few essential toiletries from B Bazar at Chennai.</p> <p>In this case, the Place of Supply would be Tamil Nadu as the transaction does not involve movement and the goods have been made available to Srinivasan in Chennai, Tamil Nadu. Since the location of supplier and Place of Supply are same, CGST + SGST would be charged, being an intra-State supply.</p>

Sr. No.	Situation	Place of Supply of Goods
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), be the 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;”.
d	Where the goods are assembled or installed at site,	Place of such assembly or installation. Example: Surya Narayan from Mumbai ordered a machine to be installed in his factory at Jamshedpur. The supplier, from Kolkata, sourced the parts from various states across the country after which the machine was successfully installed at the factory of Surya Narayan at Jamshedpur. In this case, the Place of Supply would be Jamshedpur (Jharkhand) as the place of installation is at Jharkhand. Since the location of the supplier (West Bengal) and the Place of Supply (Jharkhand) are different, IGST would be charged.
e	Supply on board a conveyance including a vessel, an aircraft, a train or a motor vehicle,	Location where goods are taken on board. Example: Air Asia flight from Delhi to Chennai sells gift items to in-flight passengers which were taken on board at Delhi Airport. The Place of Supply of such gift items between Indigo and the passengers would be Delhi.

B. Where the Place of Supply cannot be determined

Sr. No.	Situation	Place of Supply of Goods
a	Where the Place of Supply cannot be determined	To be determined in such a manner as may be prescribed.

Place of Supply in case of import into, export from India [Section 11 of IGST Act, 2017]**Examples:**

1. A Ltd. of Vadodara, Gujarat supplies steel structures to Mahmud Rehman of Bangladesh. The goods were transported through land customs station in West Bengal and consigned to Dhaka. In this case, the place of supply is Bangladesh and accordingly IGST would be charged on such supply.
2. T Ltd. of Nasik supplies dyeing chemicals to L Ltd. of Mumbai but on the directions of L. Ltd. Consigns the goods directly to its customer Rama Co. in Sri Lanka. In this case, [for the first leg of transaction as between T Ltd. and L Ltd., place of supply is Maharashtra being a principal place of business of L Ltd. However, for the second leg of transaction as between L Ltd. and Rama Co., the place of supply is Sri Lanka being the location outside India.
3. A Ltd. Located in Jaipur imported goods from G Inc. of Germany and the goods entered India through Chennai Port. and finally transported to Jaipur. In this case, the place of supply is Rajasthan being the location of the importer.

Place of Supply of Services [Section 12 & 13 of IGST Act, 2017]

Section 12 covers the situation where both Location of Supplier and Location of Recipient are located in India.

Services	Place of Supply	
	Recipient is Registered	Recipient is Unregistered
Section 12(2): General Principle (All services, except the services specified in sub-section (30 to (14).	Location of recipient. Example: A Ltd, located in Alleppy, provides M&A services to B Ltd located in Delhi. In this case Place of Supply would be Delhi.	Where the address of the recipient exists on records- Location of recipient. Where the address of the recipient does not exist on records - Location of supplier.

Section 12(3): Service in relation to an immovable property –

- (a) Where service is 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
- (b) 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) Accommodation in any immovable property for organising 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).

Place of supply would be the location where the immovable property or boat or vessel, as the case may be, is located or intended to be located:

If the location of the immovable property or boat or vessel is located or intended to be located outside India, the place of supply shall be the location of the recipient.

If the immovable property or boat or vessel, as the case may be, is located at more than one state or union territory, place of supply shall be all such states/ union territories to the extent of the value as attributed to each such state / union territory as per contract or agreement entered into in this regard or in the absence of such contract or agreement, as per Rules.

Example:

Mr. Ram Kumar is a Company Secretary registered at Mumbai and travels to Bangalore for business purpose and stays at a hotel there.

In this case, the place of supply would be Karnataka i.e. place of immovable property.

Clarification on Place of Supply of Online Services supplied by the suppliers of services to unregistered recipients. Circular No 242/36/2024

For recording of correct place of supply on the invoices by the suppliers in respect of online services provided by them, either themselves or through electronic commerce operators, to unregistered recipients due to wrong interpretation of provisions of section 12(2)(b) of Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as "IGST Act") read with rule 46 of Central Goods and Services Rules, 2017 (hereinafter referred to as "CGST Rules").

It has also been mentioned that though in such cases of taxable online supplies of services to unregistered recipients, registered suppliers are required to mention State name of the recipient on the invoice, irrespective of the value of such supply, and declare place of supply of such services as the State of the recipient as per the provisions of clause (i) of section 12(2)(b) of IGST Act but many suppliers are not recording the State name

of the unregistered recipient on the invoice and are declaring place of supply of such services as the location of the supplier as per clause (ii) of section 12(2)(b) of IGST Act. Wrong declaration of place of supply, resulting in flow of revenue in respect of the said supply to the wrong State.

It is thereby clarified that to ensure correct declaration of place of supply by the suppliers of such services to unregistered recipients or determining place of supply of the said services, provisions of section 12(2)(b)(i) of IGST Act will be applicable as per which the place of supply shall be the location of the recipient.

Illustration:

Mr. X is civil contractor is located in different States in India providing services to Mr. Y for his factories and offices located around the world. Determine the place of supply and the nature of GST payable in the following cases:

<i>Location of supplier</i>	<i>Location of receiver of services</i>	<i>Location of immovable properties</i>
(1) Delhi	Punjab	Orissa
(2) Haryana	Punjab	West Bengal
(3) Delhi	Uttar Pradesh	Italy
(4) Delhi	Rajasthan	Delhi
(5) Delhi	France	Canada

Solution:

<i>Place of Supply</i>	<i>Nature of GST</i>
(1) Orissa	IGST
(2) West Bengal	IGST
(3) Uttar Pradesh (Location of the recipient of services)	IGST
(4) Delhi	CGST & Delhi GST
(5) France (Location of the recipient of services)	Zero rated supply as it is export of services

Section 12(4): Beauty treatment, fitness, restaurant and catering services, personal grooming, health service including cosmetic and plastic surgery.

Place of actual performance of service.

Example:

Rajaram resident of Bhopal engaged a cosmetic surgeon, resident of Delhi for plastic surgery. The surgery was conducted in a private hospital located in Mumbai.

In this case, the place of supply would be Maharashtra.

<p>Section 12(5): Training & Performance Appraisal.</p>	<p>Registered Person - Location of registered person.</p> <p>Example:</p> <p>XYZ Consultants (registered at Bangalore) provides training to its client's employees at Mumbai. The clients are registered at Chennai.</p> <p>In this case, if the client (recipient) is registered, the place of supply would be the location of recipient, that is Chennai (Tamil Nadu) and consequently IGST would be charged as the location of Supplier (State of Karnataka) and the Place of Supply (State of Tamil Nadu) are different. (Training & Performance Appraisal Services).</p>	<p>Person other than registered Person - Location of actual performance.</p> <p>Example:</p> <p>If the client was unregistered, the place of supply would have been Mumbai/ Maharashtra [location of the recipient] and again IGST would be charged. (Training & Performance Appraisal Services).</p>
<p>Section 12(6): Admission to cultural, artistic, sporting, scientific, educational, entertainment event, amusement park or any other place and services ancillary thereto.</p>	<p>Place where the event is actually held or where the park or such other place is located.</p> <p>Example:</p> <p>Radha is a resident of Mumbai and travelled to Bangalore for a vacation and booked tickets for an event at the water park.</p> <p>In this case, the place of supply would be Bangalore/Karnataka (Admission to events).</p>	
<p>Section 12(7):</p> <p>(a) Organization 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</p>	<p>Location of such person.</p>	<ul style="list-style-type: none"> ● Location where the event is actually held. ● Location of recipient if the event is held outside India.
<p>(b) Ancillary to organisation of any of the events or Services referred to in clause (a), or assigning of sponsorship of such events.</p>		

Section 12(8):	<p>Services of Transportation of Goods including by way of mail or courier: When given to registered person, place of supply shall be location of recipient of supply. And; when given to an unregistered person it shall be location where the goods are handed over for their transportation.</p> <p>Example:</p> <ol style="list-style-type: none"> 1. LMN & Co., transport agency of Punjab provides services of transportation of goods to PQR Pvt. Ltd. registered in Haryana to transport goods from Ludhiana to Delhi. Here, place of supply shall be Haryana being the location of recipient of supply as the services of transportation of goods is provided to registered person under GST. 2. DTDC Courier Company in Gujarat provides services to Mr. Bhanu of Rajasthan (unregistered under GST) to send his courier from Bhopal Madhya Pradesh (MP) to his friend at Noida. He sent this when he was on vacation at MP. Here, place of supply is Bhopal, being the location where the goods are handed over for their transportation.
<p><i>Explanation:</i> Where the event is held in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such event, place of supply shall be determined for respective value assigned to each State or Union territory on proportionate basis.</p>	
<p>Example</p> <p>Mr. X based in Ahmedabad, solicits the services of an event management company based in New Delhi, for a business conference at a palace in Udaipur.</p> <p>In this case, if Mr. X is registered, the place of supply would be Ahmedabad (Gujarat) and IGST would be charged, but if he is unregistered the place of supply would be Udaipur (Rajasthan) and IGST would be charged.</p>	

Nature of supply of Services	Status of Recipient	
	Registered person	Unregistered person
Section 12(9): Transportation of passengers.	<p>Location of recipient.</p> <p>Example:</p> <p>Tarun books a round trip for Ahmedabad – Pune – Bangaluru – Pune – Ahmedabad, with a stopover at Bangalore. The tickets are booked with a Bangalore based airline.</p>	<p>Place where the passenger embarks on the conveyance for a continuous journey.</p> <p>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 place of supply of such service shall be</p>

Nature of supply of Services	Status of Recipient	
	Registered person	Unregistered person
	In this case, this would be treated as a continuous journey with a stopover. For the first leg, the place of supply would be Ahmedabad and since the Location of Supplier (BLR) and the Place of Supply (AHM) are different, IGST would be charged. For the second leg of the journey, the place of supply would be Bangalore, and since the Location of Supplier (BLR) and the place of supply are same, CGST + IGST would be charged. (Passenger Transportation Services).	<ul style="list-style-type: none"> • Where the recipient is registered - the location of recipient. • Where the recipient is not registered – address of the recipient ton record and where no address is on record, the location of the supplier. • 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.
Section 12(10): On board a conveyance including a vessel, an aircraft, a train or a motor vehicle.	Location of first, scheduled point of departure of that conveyance for the journey. Example: Indigo Flight SG2123 from Delhi to Pune took meals from XYZ catering company at Delhi for onboard serving to its passengers. In this case the place of supply is Delhi.	
Section 12(11): Telecommunication services including data transfer, broad casting, cable and direct to home television services to any person shall,-		
(a) fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna,	Place of such installation;	
(b) mobile connection for telecommunication and internet services provided on post- paid basis,	Location of billing address of recipient of services on the record of the supplier of services;	

Nature of supply of Services	Status of Recipient	
	Registered person	Unregistered person
<p>(c) mobile connection for telecommunication, internet service and direct to home television services are provided on pre-payment basis through a voucher or any other means,</p> <p>(i) through a selling agent or a re-seller or a distributor of subscriber identity module card or recharge voucher,</p> <p>(ii) by any person to the final subscriber.</p>	<p>Address of selling agent, or re-seller or distributor as per the record of the supplier at the time of supply; or</p> <p>The location where such pre-payment is received or such vouchers are sold;</p>	
<p>(d) In other cases,</p>	<p>The address of recipient as per records of the supplier of services and where the such address is not available- Place of supplier of services will be the place of supply.</p> <p>If such pre-paid service is availed or the recharge is made through internet banking or other electronic mode of payment, the location of the recipient of services on the record of the supplier of services shall be the place of supply of such services.</p>	
<p><i>Explanation:</i> Where leased circuit is installed in more than one state/union territory and a consolidated amount is charged for supply of services relating to such circuit place of supply shall be determined for respective value assigned to each state or union territory on proportionate basis as per contract.</p>		
<p>Section 12(12): Banking & other financial services including Stock broking services to any person</p>	<p>If address exists on records of supplier - Location of recipient.</p> <p>In other cases - Location of supplier.</p> <p>Example:</p> <p>Priya, an unregistered person, from New Delhi, has an account with a Bank at New Delhi. She is on a vacation in Nainital, and visits a bank for getting a Demand Draft made.</p> <p>In this case, since the address of the recipient will be available in the records of the supplier, the place of supply would be New Delhi.</p>	

Nature of supply of Services	Status of Recipient	
	Registered person	Unregistered person
	In case she went to a branch at Nainital for availing currency exchange services which isn't linked to her account in New Delhi, the address of the recipient would not be available in the records of the supplier, and hence the place of supply would be Nainital.	
Section 12(13): Insurance services	<p>Location of recipient.</p> <p>Example:</p> <p>XYZ Limited having its Head Office in Mumbai took general insurance from Bajaj Allianz for its factory located in Coimbatore. The insurance company issued invoice in favour of XYZ Limited, Mumbai.</p> <p>In this case, the place of supply is Maharashtra.</p>	Location of recipient of services as on the records of the supplier.
Section 12(14): advertisement services to the Central Government, a State Government, a statutory body or a local authority meant for the States or Union territories identified in the contract or agreement.	<p>Place of supply shall be taken as being in each of such States or Union territories and the value of such supplies specific to each State or Union territory shall be in proportion to the amount attributable to services provided by way of dissemination in the respective States or Union territories as may be 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.</p> <p>Example:</p> <p>Central Government issued an advertisement in the Hindu newspaper for publishing in its editions printed at Chandigarh, Delhi, Chennai and Ahmedabad. The total contract price is Rs. 20,00,000 for all 4 editions. The Hindu Newspaper charge uniform rate for all its editions.</p> <p>In this case, the place of supply would be Chandigarh, Delhi, Tamilnadu and Gujarat and the value shall be Rs. 5,00,000 for each such place.</p>	

Section 13 determines the place of supply where either the location of supplier or location of recipient is outside India

Nature of Supply of Services	Place of Supply
Section 13(2) - General scenario [where the situation does not fall in any of the cases spelt in Section 13(3) to Section 13(12)]	<p>Location of recipient.</p> <p>However, place of supply shall be the location of supplier, if location of recipient is not available.</p> <p>Example: A Ltd. located in Bhopal procured IPR from L Inc of Germany. In this case, the place of supply shall be India, being a place where recipient is located.</p>

Section 13(3) – Services involving actual performance	
Where, service is in relation to goods required to be made physically available by the recipient of services to the supplier of services, or to a person acting on behalf of the supplier of services in order to provide the services	<p>Location of actual performance.</p> <p>Example:</p> <p>ATL Inc. of USA contracted with L Ltd. of Kochi to digitize old manuscripts lying in their library in USA. L. Ltd. deputed its personal in USA and carried out the contracted work.</p> <p>In this case, Place of Supply is USA.</p>
such services are provided from a remote location by way of electronic means.	<p>Location of goods at the time of supply of services.</p> <p>Example:</p> <p>Wipro has awarded contract to Lousi Inc. of France to modify certain specialized software installed in its systems at its facility in Mysore. Lousi Inc. completed the task through electronic means.</p> <p>In this case Place of Supply is India.</p>
The above stated rules shall not be applicable in the case of services supplied in respect of goods which are temporarily imported into India for repairs or for any other treatment or process and are exported after such repairs or treatment or process without being put to any use in India, other than that which is required for such repairs or treatment or process.	
Where, service is in relation to an individual, represented either as the recipient of services or a person acting on behalf of the recipient, which requires physical presence of the recipient or the person acting on his behalf, with the supplier for the supply of services.	<p>Location of actual performance.</p> <p>Example:</p> <p>Priyanka Desai hired a beautician from France for special make-up. Payments were made in USD. The beautician came to Mumbai and completed the task.</p> <p>In this case, the Place of Supply is Mumbai/India.</p>
Section 13(4) Services in relation to Immovable Property	
Services in relation to Immovable Property, including services supplied in this regard by experts and estate agents, supply of accommodation by a hotel, inn, guest house, club or campsite, by whatever name called, grant of rights to use immovable property, services for carrying out or co- ordination of construction work, including that of architects or interior decorators.	<p>Location of immovable property.</p> <p>Example:</p> <p>L&T Ltd. got a contract to construct a gas based thermal power plant in Bangladesh. It hired a German company Marine Ventures to complete soil testing and geological surveys at the project site in Bangladesh. Payments were made in INR.</p> <p>In this case, the Place of Supply is Bangladesh.</p>
Section 13(5) Admission to, organization of a cultural, artistic, sporting, scientific, educational or entertainment event, or a celebration, conference, fair, exhibition or similar events, and of services ancillary to such admission or organization	<p>Location where event is actually held.</p> <p>Example:</p> <p>Toyota from Japan has booked a stall in International Trade Fair to be held in New Delhi. Payment of stall fee is payable in USD.</p> <p>In this case, Place of Supply is India.</p>

<p>Section 13(6) Services covered under Section 13(3), Section 13(4) and Section 13(5) provided at multiple locations and one or more location falls in taxable territory:</p>	<p>Location in the taxable territory.</p> <p>Example:</p> <p>M&M has entered into a contract with James and Co. of Canada to avail training of its employees located in Mumbai and Dhaka.</p> <p>In this case, the Place of Supply shall be Mumbai.</p>
<p>Section 13(7) - Services mentioned in section 13(3), section 13(4) and section 13(5) as provided at previous page multi locations involving more than one State/ UT.</p>	<p>Each such State/ union territory to the extent of value attributed/ pro-rated to each such State/ union territory in terms of the contract or agreement entered into in this regard in each State/UT or, in the absence of such contract or agreement, on such other basis as may be prescribed.</p>
<p>Section 13(8) -</p> <ul style="list-style-type: none"> - Banking company, or a financial institution, or a non-banking financial company to account holders, - intermediary services - hiring of means of transport including yacht but excluding aircraft or vessel, up to a period of one month. 	<p>Location of supplier.</p> <p>Example:</p> <ol style="list-style-type: none"> a. Radhey Shyam resident of Germany availed a home loan from Axis Bank Branch at Chennai. Place of Supply is Chennai. b. Raman Ltd., Delhi based company, acting as Recruitment Agent of foreign universities, facilitating recruitment of prospering students in foreign academy or university and get specified fee from such universities for providing such services.
	<p>In this case, the Place of Supply would be location of supplier of such services i.e. India.</p> <ol style="list-style-type: none"> c. Tyota, Japan set up a stall during International Trade Fair at Delhi and hired three tempo travellers for a period of 45 days. Payment to be made in USD. <p>In this case, the Place of Supply is India.</p>
<p>Section 13(9) - Goods transport other than mail/courier. <i>Omitted</i> vide The Finance Act 2023 dated 31.03.2023 notified through Notification No. 28/2023 – CT dated 31.07.2023, w.e.f. 01.10.2023.</p>	
<p>Section 13(10) Passenger transport services.</p>	<p>Location where the passenger embarks on the conveyance for a continuous journey.</p> <p>Example:</p> <p>Mohammad Hafiz took a train ticket from Kolkata to Dhaka. Payment is made in INR.</p> <p>In this case, the Place of Supply is West Bengal/ India.</p>

<p>Section 13(11) Services on board a conveyance during the course of a passenger transport operation, including services intended to be wholly or substantially consumed while on board,</p>	<p>First scheduled point of departure of that conveyance for the journey.</p> <p>Example:</p> <p>Emirates took meals from TAJ SATS for its flight departing from Mumbai International Airport to the destination in USA. Such meals were consumed during the flight.</p> <p>Place of Supply is Maharashtra/ India.</p>
<p>Section 13 (12) on line information and database excess or retrieval services shall be the:</p>	<p>Location of recipient of services.</p> <p>Person receiving such services shall be deemed to be located in the taxable territory, if any two of the following non-contradictory conditions are satisfied, namely:-</p> <ul style="list-style-type: none"> (a) the location of address presented by the recipient of services through internet is in the taxable territory; (b) the credit card or debit card or store value card or charge card or smart card or any other card by which the recipient of services settles payment has been issued in the taxable territory; (c) the billing address of the recipient of services is in the taxable territory; (d) the internet protocol address of the device used by the recipient of services is in the taxable territory; (e) the bank of the recipient of services in which the account used for payment is maintained is in the taxable territory; (f) the country code of the subscriber identity module card used by the recipient of services is of taxable territory; (g) the location of the fixed land line through which the service is received by the recipient is in the taxable territory. <p>Example:</p> <p>Harpreet Kaur downloaded a software from the website of a German company through its Indian IP address and paid USD 100 from its bank account in Patiala, Panjab.</p> <p>In this case, the Place of Supply is Panjab/ India.</p>

Section 13(13): In order to prevent double taxation or no-taxation of the supply of a service or for the uniform application of rules the Government shall have the power to notify any description of service or circumstance in which the Place of Supply shall be the place of effective use and enjoyment of a service.

Clarifications issued by the Government regarding determination of Place of Supply in certain cases

1. Clarification on Place of Supply when specified research and development services related to pharmaceutical sector by a person located in taxable territory to a person located in the non-taxable territory.

S. No.	Nature of Supply	General Description of Supply	Place of Supply
1.	Integrated discovery and development	This process involves discovery and development of molecules by pharmaceutical sector for medicinal use. The steps include designing of compound, evaluation of the drug metabolism, biological activity, manufacture of target compounds, stability study and long-term toxicology impact.	<p>Location of recipient of services subject to the fulfillment of the following conditions:</p> <p>(i) Supply of services from the taxable territory are provided as per a contract between the service provider located in taxable territory and service recipient located in non-taxable territory.</p> <p>(ii) Such supply of services fulfills all other conditions in the definition of export of services, except that the supplier of service and the recipient of service are not merely establishments of a distinct person.</p>
2.	Integrated development		
3.	Evaluation of the efficacy of new chemical/ biological entities in animal models of disease	This is in vivo research (i.e. within the animal) and involves development of customized animal model diseases and administration of novel chemical in doses to animals to evaluate the gene and protein expression in response to disease. In nutshell, this process tries to discover if a novel chemical entity that can reduce or modify the severity of diseases. The novel chemical is supplied by the service recipient located in non-taxable territory.	
4.	Evaluation of biological activity of novel chemical/ biological entities in in-vitro assays	This is in vitro research (i.e. outside the animal). An assay is first developed and then the novel chemical is supplied by the service recipient located in non-taxable territory and is evaluated in the assay under optimized conditions.	
5.	Drug metabolism and pharmacokinetics of new chemical entities	This process involves investigation whether a new compound synthesized by supplier can be developed as new drug to treat human diseases in respect of solubility, stability in body fluids, stability in liver tissue and its toxic effect on body tissues. Promising compounds are further evaluated in animal experiments using rat and mice.	

6.	Safety Assessment/ Toxicology	Safety assessment involves evaluation of new chemical entities in laboratory research animal models to support filing of investigational new drug and new drug application. Toxicology team analyses the potential toxicity of a drug to enable fast and effective drug development.	
7.	Stability Studies	Stability studies are conducted to support formulation, development, safety and efficacy of a new drug. It is also done to ascertain the quality and shelf life of the drug in their intended packaging configuration.	
8.	Bio-equivalence and Bio-availability Studies	Bio-equivalence is a term in pharmacokinetics used to assess the expected in vivo biological equivalence of two proprietary preparations of a drug. If two products are said to be bioequivalent it means that they would be expected to be, for all intents and purposes, the same. Bio-availability is a measurement of the rate and extent to which a therapeutically active chemical is absorbed from a drug product into the systemic circulation and becomes available at the site of action.	
9.	Clinical trials	The drugs that are developed for human consumption would undergo human testing to confirm its utility and safety before being registered for marketing. The clinical trials help in collection of information related to drugs profile in human body such as absorption, distribution, metabolism,	
10.	Bio analytical studies	Bio analysis is a sub-discipline of analytical chemistry covering the quantitative measurement of drugs and their metabolites, and biological molecules in unnatural locations or concentrations and macromolecules, proteins, DNA, large molecule drugs and metabolites in biological systems.	

2. B2B maintenance, repair and overhaul services of aircrafts or aircraft engines/components/parts:

S. No.	Description of Services or circumstances	Place of Supply
1.	Supply of maintenance, repair or overhaul service in respect of aircrafts, aircraft engines and other aircraft components or parts supplied to a person for use in the course or furtherance of business.	Location of the recipient of service.

3. Services provided by Ports –

Various services are being provided by the port authorities to its clients in relation to cargo handling. Some of such services are in respect of arrival of wagons at port, haulage of wagons inside port area up-to place of unloading, siding of wagons inside the port, unloading of wagons, movement of unloaded cargo to plot and staking hereof, movement of unloaded cargo to berth, shipment/loading on vessel etc.

Doubts were raised about determination of place of supply for such services i.e. whether the same would be determined in terms of the general rule as contained in sub-section (2) of Section 12 or sub-section (2) of Section 13 of the IGST Act, or be treated as in relation to immovable property as per sub-section (3) of Section 12 of the IGST Act.

It is clarified that such services are ancillary to or related to cargo handling services and are not related to immovable property. Accordingly, the place of supply of such services will be determined as per the provisions contained in sub-section (2) of Section 12 or sub-section (2) of Section 13 of the IGST Act, as the case may be, depending upon the terms of the contract between the supplier and recipient of such services.

4. Services rendered on goods temporarily imported in India

Doubts have been raised about the place of supply in case of supply of various services on unpolished diamonds such as cutting and polishing activity which have been temporarily imported into India and are not put to any use in India?

Place of supply in case of performance-based services is to be determined as per the provisions contained in clause (a) of sub-section (3) of Section 13 of the IGST Act and generally the place of services is where the services are actually performed. But an exception has been carved out in case of services supplied in respect of goods which are temporarily imported into India for repairs or for any other treatment or process and are exported after such repairs or treatment or process without being put to any use in India, other than that which is required for such repairs or treatment or process.

In view of the above, it is clarified that in case of cutting and polishing activity on unpolished diamonds which are temporarily imported into India are not put to any use in India, the place of supply would be determined as per the provisions contained in sub-section (2) of Section 13 of the IGST Act.

5. Place of Supply in case of software/design services related to Electronics Semi-conductor and Design Manufacturing (ESDM) industry

A number of companies that are part of the growing Electronics Semiconductor and Design Manufacturing (ESDM) industry in India are engaged in the process of developing software and designing integrated circuits electronically for customers located overseas. The client/customer electronically provides Indian development and design companies with design requirements and Intellectual Property blocks (“IP blocks”, reusable units of software logic and design layouts that can be combined to form newer designs). Based on these, the Indian company digitally integrates the various IP blocks to develop the software and the silicon or hardware design. These designs are communicated abroad (in industry standard electronic formats) either to the customer or (on behalf of the customer) a manufacturing facility for the manufacture of hardware based on such designs.

In addition, the software developed is also integrated upon or customized to this hardware. On some occasions, samples of such prototype hardware are then provided back to the Indian development and design companies to test and validate the software and design that has been developed to ensure that it is error free.

The clarification was sought on whether provision of hardware prototypes and samples and testing thereon lends these services the character of performance-based services in respect of “goods required to be made physically available by the recipient to the provider”.

In contracts where service provider is involved in a composite supply of software development and design

for integrated circuits electronically, testing of software on sample prototype hardware is often an ancillary supply, whereas, chip design/software development is the principal supply of the service provider. The service provider is not involved in software testing alone as a separate service. The testing of software/design is aimed at improving the quality of software/design and is an ancillary activity. The entire activity needs to be viewed as one supply and accordingly treated for the purposes of taxation. Artificial vivisection of the contract of a composite supply is not provided in law. These cases are fact based and each case should be examined for the nature of supply contracted.

It was accordingly clarified that the place of supply of software/design by supplier located in taxable territory to service recipient located in non-taxable territory by using sample prototype hardware / test kits in a composite supply, where such testing is an ancillary supply, is the location of the service recipient as per Section 13(2) of the IGST Act. Provisions of Section 13(3)(a) of IGST Act do not apply separately for determining the place of supply for ancillary supply in such cases.

CBIC gives clarification on certain issues on place of supply in respect of advertising sector vide Circular No. 203/15/2023 dated 27.10.2023

Advertising companies are often involved in procuring space on hoardings/ billboards erected and mounted on buildings/land, in different States, from various suppliers (“vendors”) for providing advertisement services to its corporate clients. There may be variety of arrangements between the advertising company and its vendors as below:

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 place of supply of services provided by the vendor to the advertising company** in such case?

Clarification:

The hoarding/structure erected on the land should be considered as immovable structure or fixture as it has been embedded in earth. Further, place of supply of any service provided by way of supply (sale) of space on an immovable property or grant of rights to use an immovable property shall be governed by the provisions of section 12(3)(a) of IGST Act. As per section 12(3)(a) of IGST Act, the place of supply 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 shall be the location at which the immovable property is located. Therefore, the place of supply of service provided by way of supply of sale of space on hoarding/ structure for advertising or for grant of rights to use the hoarding/ structure for advertising in this case would be the location where such hoarding/ structure is located.

Issue:

There may be another case where the advertising company wants to display its advertisement on hoardings/ bill boards at a specific location availing the services of a vendor. The responsibility of arranging the hoardings/ bill boards lies with the vendor who may himself 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 displayed and the advertising company is not occupying the space or the structure.**

In this case, what will be **the place of supply of such services provided by the vendor to the advertising company?**

Clarification:

As the service is being provided by the vendor to the advertising company and there is no supply (sale) of space/ supply (sale) of rights to use the space on hoarding/structure (immovable property) by the vendor to the advertising company for display of their advertisement on the said display board/structure, the said service does not amount to sale of advertising space or supply by way of grant of rights to use immovable property. Accordingly, the place of supply of the same shall not be covered under section 12(3)(a) of IGST Act. Vendor is in fact providing advertisement services by providing visibility to an advertising company's advertisement for a specific period of time on his structure possessed/taken on rent by him at the specified location. Therefore, such services provided by the Vendor to advertising company are purely in the nature of advertisement services in respect of which Place of Supply shall be determined in terms of Section 12(2) of IGST Act.

Section 14. Special provision for payment of tax by a supplier of online information and database access or retrieval services. -

- (1) On supply of online information and database access or retrieval services by any person located in a non-taxable territory and received by a non-taxable online recipient, the supplier of services located in a non-taxable territory shall be the person liable for paying integrated tax on such supply of services:

Provided that in the case of supply of online information and database access or retrieval services by any person located in a non-taxable territory and received by a non-taxable online recipient, an intermediary located in the non-taxable territory, who arranges or facilitates the supply of such services, shall be deemed to be the recipient of such services from the supplier of services in non-taxable territory and supplying such services to the non-taxable online recipient except when such intermediary satisfies the following conditions, namely:-

- (a) the invoice or customer's bill or receipt issued or made available by such intermediary taking part in the supply clearly identifies the service in question and its supplier in non-taxable territory;
 - (b) the intermediary involved in the supply does not authorise the charge to the customer or take part in its charge which is that the intermediary neither collects or processes payment in any manner nor is responsible for the payment between the non-taxable online recipient and the supplier of such services;
 - (c) the intermediary involved in the supply does not authorise delivery; and
 - (d) the general terms and conditions of the supply are not set by the intermediary involved in the supply but by the supplier of services.
- (2) The supplier of online information and database access or retrieval services referred to in sub-section (1) shall, for payment of integrated tax, take a single registration under the Simplified Registration Scheme to be notified by the Government:

Provided that any person located in the taxable territory representing such supplier for any purpose in the taxable territory shall get registered and pay integrated tax on behalf of the supplier:

Provided further that if such supplier does not have a physical presence or does not have a representative for any purpose in the taxable territory, he may appoint a person in the taxable territory for the purpose of paying integrated tax and such person shall be liable for payment of such tax.

- 14A.(1) A supplier of online money gaming as defined in clause (80B) of section 2 of the Central Goods and Service Tax Act, 2017, not located in the taxable territory, shall in respect of the supply of online money gaming by him to a person in the taxable territory, be liable to pay integrated tax on such supply.
- (2) For the purposes of complying with provisions of sub section (1), the supplier of online money gaming shall obtain a single registration under the Simplified Registration Scheme referred to in sub-section (2) of section 14 of this Act:

Provided that any person located in the taxable territory representing such supplier for any purpose in the taxable territory shall get registered and pay the integrated tax on behalf of the supplier:

Provided further that if such supplier does not have a physical presence or does not have a representative for any purpose in the taxable territory, he shall appoint a person in the taxable territory for the purpose of paying integrated tax and such person

shall be liable for payment of such tax.

- (3) In case of failure to comply with provisions of sub section (1) or sub section (2) by the supplier of the online money gaming or a person appointed by such supplier or both, notwithstanding anything contained in section 69A of the Information Technology Act, 2000, any information generated, transmitted, received or hosted in any computer resource used for supply of online money gaming by such supplier shall be liable to be blocked for access by the public in such manner as specified in the said Act.”.

LESSON ROUND-UP

- Point of taxation means the point in time when goods have been deemed to be supplied or services have been deemed to be provided.
- Vouchers are instruments that can be exchanged as payment for goods/services, of the designated value therein.
- Section 31 mandates that the time limit for issue of invoice is that the invoice must be issued either before the provision of service, or within 30 days from the date of supply of service (45 days for BFSI companies & NBFCs).
- Section 15 of the CGST Act, 2017 when read in conjunction with Determination of Value of Supply of the CGST rules, states that the value of taxable supply under GST is the transaction value.
- The term “person” also includes legal persons and persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.
- Place of supply is important to determine the nature of sale (inter-state, intra-state, import or export) and the State where state component of GST will accrue.

TEST YOURSELF

(These are meant for re-capitulation only. Answers to these questions are not to be submitted for evaluation.)

Multiple Choice Questions (MCQs)

1. PQR Consultants, registered at Delhi provides GST training to employees of Pankaj & Co. of Noida, UP at their filed location in the state of Manipur. Pankaj & Co. is unregistered under GST Act. In this case, which is the place of supply?
 - a) Uttar Pradesh
 - b) Delhi
 - c) Manipur
 - d) None of the Above

2. Which section of CGST Act 2017 deals with Time of supply of goods?
 - a) Section 11 of IGST Act
 - b) Section 12 of IGST Act
 - c) Section 11 of CGST Act
 - d) Section 12 of CGST Act
3. Which of the following discounts shall be excluded to determine the value of supply?
 - a) Staggered discount
 - b) post supply discounts established at the time of supply
 - c) volume discounts established before the time of supply
 - d) All of the Above
4. Mr. Dhairya having a registered place of business in Jaipur, placed an order to HAM Ltd. in New Delhi, for delivering a parcel to Mr. Lucky who is at Kanpur. What will be the place of supply in the present case?
 - a) Jaipur
 - b) New Delhi
 - c) Kanpur
 - d) None of the Above
5. What will be the value of goods, if consideration paid is not wholly in money and open market value of such goods are also known?
 - a) Actual value paid in money
 - b) Open market value of such goods
 - c) 90% of open market value of such goods
 - d) None of the Above

Answers: 1 (c), 2 (b), 3 (d), 4 (a), 5 (b)

Descriptive Questions

1. When Invoice will be issued in given cases;
 - a) Supply involves movement of goods
 - b) Supply does not involve movement of goods
 - c) Continuous Supply of goods
 - d) supply on approval for sale/return basis
2. Mr. Foreigner is planning to visit USA to meet his Friend and want some foreign currency (i.e. US \$) for his travel. He converted US\$ 12000 from the authorized money changer @ 90 per US\$ and receive Rs. 10.80 lacs. RBI reference rate for US\$ is 90.50 for that day. Compute the value of taxable supply.

