

PLACE OF SUPPLY.

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- Transitional provision

PLACE OF SUPPLY

- Nature of supply (Local or Interstate supply) will depend on place of supply and location of supplier.
- Place of supply is different for goods and services.

Determination of nature of Supply

Supply of goods where the location of supplier and the place of supply are in :

- (a) two different States.
- (b) Two different Union territories.
- (c) a State and a Union territory

Shall be considered as a supply of goods in the course of inter State trade and commerce.

Supply of goods imported into the territory of India till they cross the custom frontier of India shall be treated to be a supply of goods in the course of inter State trade and commerce.

- **Supply of services where the location of supplier and the place of supply are in :**
 - (a) two different States.
 - (b) Two different Union territories.
 - (c) a State and a Union territory
- **Shall be treated as a supply of service in the course of interstate trade and commerce.**

Supply of services imported into the territory of India shall be treated to be a supply of services in the course of inter State trade and commerce.

Determination of nature of Supply

Supply of goods or services or both:-

- (a) When the supplier is located in India and the place of supply is outside India.
- (b) To or by SEZ developer or by a SEZ unit or
- (c) In the taxable territory not being an intra-State supply and not covered elsewhere shall be treated to be a supply of goods or services

Shall be treated to be a supply of goods or services or both in the inter State trade or commerce.

Location of Supplier

(a) Where a supply is made from a place of business for which the registration has been obtained, the location of such place of business.

(b) If supply is made from a place other than the place of business for which the registration has been obtained(a fixed establishment else where), the location of such fixed establishment.

(c) Where a supply is made from more than one establishment, whether the place of business or fixed establishment , the location of the establishment most directly concerned with the provision of the supply : and

(d) In absence of such places, the location of the usual place of residence of the supplier.

PLACE OF SUPPLY

- Goods
 - Import into India
 - Location of the Importer
 - Export from India.
 - Location out side India
- Other Goods
 - Supply involves movement of goods: Place of termination of movement **for delivery** to the recipient.

Goods

Sl no.	Scenario	Place of Supply	Remarks
1	Import of goods from overseas supplier and clear the goods in one State but kept the goods in a warehouse located in other states.	Location of importer.	If importer located in both the States ,which State will be place of supply ?
2.	In case where packaging equipment is delivered at factory gate to a customer who in turns take it to other State.	Location where movement of goods will be terminated'	Supply is completed at factory gate but place of supply will be the place where movement will be terminate- How do supplier will know the same?
3.	A of WB supplied goods to B of Tamil Nadu. A loaded goods on transport as instructed by B, while the goods in transit B supplied the goods to C at Odisha and instruct the transport to deliver the goods to C at Odisha.	For A, deemed location of supply will be Tamil Nadu and for B the same will be Odisha	IGST is required to be discharged by A and will mention billing and shipping address Tamil Nadu. B will also discharge IGST and will mention billing and shipping address Odisha.

PLACE OF SUPPLY (Contd.)

- Other Goods
 - Movement of goods as per direction of third party : Principal place of business of third party
 - Supply does not involve movement of goods: Location of goods at the time of delivery.
 - Goods assembled and installed at site: Location of site
 - Goods are supplied on board a conveyance: Location at which such goods are taken on board.

Goods

Sl no.	Scenario	Place of Supply	Remarks
1	Customer located in Delhi placed an order on supplier located in Mumbai to supply the goods to its Pune factory.	Although movement of goods terminated in Maharashtra, it will be considered deemed supply to Delhi.	Supplier of Maharashtra will levy IGST on its customer located in Maharashtra although the movement of goods confined in the same country.
2	A private cruise owned by a Keralite, registered at Kochi departs from Kochi for Goa with a halt at Mumbai. Passengers have option to buy food from the stall inside the cruise. Foods for the stall are being refilled at Mumbai. Mr & Mrs X boarded the cruise from Kochi, purchase food from the stall after it starts its sailing from Mumbai.	Place of supply Maharashtra, Location of supplier Kerala.	Cruise company will levy IGST on the food bill.

PLACE OF SUPPLY (Contd.)

- Service

Location of Supplier or location of recipient out side India :-

(a) Location of the recipient of service (other than specified services).

(b) If location of recipient is not available then location of service provider.

Supply of service in respect of goods (other than temporary import) or person where physical presence is required :-

Place of performance and if the performance is from a remote location then location of goods or person

Supply of service directly in relation to an immovable property :

Location of immovable property

Supply of services by way of admission to or organizing an event:- .

Location of event.

- If supply of aforesaid services are with respect to multiple locations and one of such locations is within the taxable territory then place of supply shall be the location in the taxable territory.
- If supply of aforesaid services are with respect to multiple States/Union territories then place of supply shall be in each such States/Union territories with proportionate valuation of service.
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PLACE OF SUPPLY OF SERVICES

Sl no.	Scenario	Place of Supply	Remarks
1	An event management firm organises fashion show for a textile company. Both the event management firm and textile company are located in Maharashtra but fashion shows are undertaken at London, Hong kong. Bangkok and in Chennai	Tamilnadu since one of such shows has conducted at taxable territory.	Full consideration for organisation of fashion show will be deemed to be for supply of service in taxable territory although majority of supply has taken place in non taxable territory.
2.	ITC Ltd, having HO at Kolkata booked flight ticket from Jet Airways in Kolkata for its employee in Delhi who will board the flight from Mumbai	Location of recipient for registered person	ITC Ltd is a registered entity having principal place of business in Kolkata and location of supplier Jet Airways also in Kolkata. Hence local supply
3	Verification of stock/fixed assets located in Kochi of a client who is registered in Maharashtra	Location of asset	Every time nature of service needs to be examined at the time of raising invoice.

PLACE OF SUPPLY (Contd.)

- Service

Location of supplier of service will be place of supply for following services :-

- Service supplied by banking company/FI/NBFC to account (interest bearing) holders.
- Intermediary services
- Temporary (not more than one month) hiring of vehicles including yacht but excluding vessel and aircraft.

Service pertaining to transportation of goods (other than mail/courier) :-

Place of destination of such goods.

Service pertaining to transportation of passengers:-

Place of embarkment on the conveyance for common journey.

Service provided on board a conveyance during transportation of passenger :-

Location of first scheduled point of departure

PLACE OF SUPPLY OF SERVICES

Sl no.	Scenario	Place of Supply	Remarks
4.	A appoints B, a contractor for maintenance of his factory at Karnataka. Both A and B are located in Maharashtra	Location of immovable property.	Interstate supply of service by B to A although both B and A are located in the same State.
5.	A private cruise own by Keralite, registered at Kochi departs from Kochi for Goa with a halt at Mumbai. Ticket price includes food and beverage to be served inside the cruise. Mr & Mrs X boarded the cruise from Mumbai and enjoy the hospitality provided on board.	Location of first place of Departure.	Place of supply Kerala, location of supplier Kerala, service renders to Mr.& Mrs. X will be local supply subject to Kerala SGST/CGST.
6	An exporter approached a logistic company for shipment of his cargo to Dubai from JNPT. Logistic service provider who has his own vessel raise invoice on the exporter for freight and documentation charges in one invoice.	Dubai, destination of cargo.	It is a composite supply i.e freight service and service pertaining to export documentation. As the principal supply is freight service and destination of cargo is Dubai, supply will be considered as export.

PLACE OF SUPPLY (Contd.)

- Service

- **On line information and data retrieval service:-**

- Location of service recipient

- Rule for determination of location :-

- Person deemed to be located in taxable territory if any two of the following conditions are satisfied :-

- (a) Location address of the recipient in taxable territory
 - (b) Payment settlement (debit card/credit card) in taxable territory.
 - (c) Billing address of the recipient in taxable territory
 - (d) IP address of the device used by the recipient in taxable territory.
 - (e) Bank of the recipient used for payment is in taxable territory.
 - (f) Company card of the subscriber identity used by recipient in taxable territory.
 - (g) The location of fixed landline through which the service is received is in taxable territory.

PLACE OF SUPPLY OF SERVICES

Sl no.	Scenario	Place of Supply	Remarks
1	Your friend a German citizen visits you in Mumbai during summer vacation. He decided to download a paid movie in your computer and pay for it by using his Corporate credit card issued to him by his German employer.	Location of service recipient.	Place of supply will be outside the taxable territory since out of two conditions only one is satisfied to make the supply within the taxable territory.

PLACE OF SUPPLY (Contd)

- Service

- Provider of service and recipient of service located in India**

- Location of service recipient who is registered else address on record of the recipient (except scheduled service). If there is no address on record, location of supplier.

Location of performance of service under following situations :-

- (a) Restaurant and catering service.
 - (b) Personal grooming, fitness, beauty treatment, health service.
 - (c) Cosmetic and plastic surgery

- Training and performance appraisal**

- For registered recipient location of the said person and for others location of the venue

- Organization of an event for :-**

- Registered person, location of that person
 - Others, location of event unless the location of event is out side India. If out side India, then location of recipient.

PLACE OF SUPPLY OF SERVICES

Sl no.	Scenario	Place of Supply	Remarks
1	<p>AB & Co. of Delhi took registration for six of its staffs in a training to be conducted at Navi Mumbai by ICAI Navi Mumbai Branch.</p> <p>Scenario-1: AB & Co. is registered under GST</p> <p>Scenario-2 : AB & Co. is not registered under GST</p>	<p>Scenario-1: Delhi</p> <p>Scenario-2: Maharashtra</p>	<p>Under Scenario-1: Location of service provider Maharashtra and Place of supply Delhi so it will be interstate supply.</p> <p>Under Scenario-2: Location of service provider and place of supply both are in Maharashtra so it will be intra state supply.</p>
2	<p>SB & Co, a firm registered in Maharashtra, sent a team of employees to Delhi for a client work and the team have a lunch at restaurant in Delhi and the restaurant is URD</p>	<p>Place of Supply is Delhi.</p>	<p>Location of supplier of service and place of supply is in Delhi. Local supply provided by unregistered dealer will SB& Co liable to pay tax under RCM ?</p>

PLACE OF SUPPLY (Contd)

- Service

Transportation of goods including mail or courier to:

- (a) Registered Person : Location of such person
- (b) Others : Place of loading

Passenger transportation service to:

- (a) Registered Person : Location of such person.
- (b) Others: Place of embarkment for continuous journey.

Tele communication service by :

- (a) Way of fixed line, leased circuit, internet leased circuit, DTHS etc.-Place of installation of facility.
- (b) Way of mobile connection for telecommunication and internet service provided on post paid basis- Billing address on record.
- (c) Way of mobile connection for telecommunication and internet services provided on pre paid basis through selling agent, distributor etc.- Location of selling agent/distributor on record else the place of receipt of payment or place where voucher is sold.
- (d) Way of other means: address of the recipient as per record.

PLACE OF SUPPLY (Contd)

- Service

Banking and other financial services:

(a) Location of service recipient. whose address is on record

(b) Others : Location of supplier of service.

Insurance service:

(a) Registered Person : Location of such person.

(b) Others: Location of service recipient as per record of the service provider.

Advertisement service to CG, SG, UT, Statutory body or local body,

Location as identified in contract.

PLACE OF SUPPLY OF SERVICES

Sl no.	Scenario	Place of Supply	Remarks
9	<p>Company A located in Mumbai provides document storage service across India for its customer located in Mumbai.</p> <p>Documents are preserved in warehouses at respective States</p>	<p>Location of recipient.</p>	<p>It is a composite supply of services consist of letting of space and take care of documents to be stored. From the facts it appears expectation of customer is to keep the documents in safe custody and not to take space to keep documents. Therefore dominant intention is supply of custodian service and as per place of supply rule location of recipient will be the place of supply and not the location of immovable property.</p>

IMPORT AND EXPORT

- High sea
- Deemed Export.

HIGH SEA

Import of goods means bringing goods into India from a place outside India.-sec 2(10) of IGST Act.

'Customs frontiers of India' means the limits of customs area as defined under sec 2 of the Customs Act,1962.

"**customs area**" means the area of a customs station and includes any area in which imported goods or export goods are ordinarily kept before clearance by Customs Authorities; (Sec 2(11) of Customs Act, 1962)

Section 2(ab) of the CST Act : “ **Crossing the Customs Frontier**” means crossing the limits of the area of the customs station in which the imported goods or export goods are ordinarily kept before clearance by the customs authorities”. Explanation added to the above definition states that “for the purposes of this clause, “Customs station” and “Customs authorities” shall have the same meanings as in the Customs Act, 1962”.

"**customs station**" means any customs port, ¹³[customs airport, international courier terminal, foreign post office] or land customs station; Sec 2(13) of Customs Act.

Customs frontier will be extended up to Customs port which includes customs bonded ware house inside the port. So Bond to Bond sale within customs port will also be consider as supply before the goods enter into ' Customs frontier'.

HIGH SEA

Proviso to Sec 5(1) of IGST Act:-” ...IGST on goods imported into India shall be levied and collected in accordance with the provision of sec 3 of the Customs Tariff Act, 1975 on the value as determined under the Act at the point when duties of customs are levied on the said goods under sec 12 of the Customs Act”

Customs duty will be paid on clearance of goods for home consumption.

Sec 9(1)(b) “ Notwithstanding anything contained in the Act where the place of supply is in the territorial waters, the place of supply shall for the purpose of the Act be deemed to be the coastal State or Union territory where the nearest point of the appropriate base line is located”

HIGH SEA (Case Study)

Mr. A located in Maharashtra imported goods from China and kept it in customs bonded warehouse at JNPT customs port on July 10, 2017. On August 10, 2017 Mr. A supplied the goods to Mr. B located in Tamil Nadu.

This is a supply before the goods cross to customs frontiers of India but within the territorial water of India.

As per sec 9(1)(b) of IGST Act Mr. A will be liable to levy Maharashtra SGST and CGST on its invoice to be raised on Mr. B and as per Sec 5 of the IGST Act, read with Sec 3 of the Customs Tariff Act, on clearance of the goods from JNPT port, Mr. B will be liable to pay IGST under reverse charge basis.

But if Mr. A transfer the IGM before goods entered into territorial water of India which is 12NM from coast line sec 9(1)(b) will not be invoked so supply by Mr. A to Mr. B will not be subject to CGST/SGST under that circumstances.

EXPORT

Sec 2(5) of IGST Act : Export of goods means taking goods out of India to a place outside India.

Export will be subject to zero rated tax.

Case Study:- Mr. A located in Mumbai purchased goods from a supplier based in Muscat and instructs the supplier to deliver the goods to his customer in Dubai from Muscat only. Muscat based supplier raised invoice on Mr. A and shipped the goods to the customer of Mr. A located in Dubai.

Mr. A raised invoice on its customer located in Dubai. What will be the GST implication on Mr. A ?

EXPORT (Case Study)

- Procurement of goods from Muscat which has been shipped to Dubai from Muscat will be considered as deemed supply to Maharashtra u/s 10(1)(b) of CGST Act since the goods are neither imported into India nor exported out of India sec 10 of CGST Act will trigger.
- Moreover since the goods are not imported into India the transaction will not be covered under sec 3 of Customs Tariff Act, so sec 9(4) of CGST will be charging section for levy of GST on Mr. A under reverse charge basis as because Mr. A purchase the goods from Muscat based supplier who is not registered supplier under GST.
- On supply of goods to Dubai based customer, it will not be considered as export as because goods are not moving out of India so it will not be subject to zero rated tax but will subject to normal rate of tax as per GST Rate schedule.
- This could have adverse impact on the bottom line of A

TRANSITIONAL PROVISIONS

Transitional Provisions

Situation	Credit to be transitioned
(1) A registered person, other than a person opting to pay tax under section 10	Credit carried forward in the return relating to the period ending with the day immediately preceding the appointed day
<p>Credit not be allowed to take if: -</p> <ul style="list-style-type: none">(i) not admissible as input tax credit under this Act; or(ii) Returns not furnished under the existing law for the period of last six months or(iii) where the said amount of credit relates to goods manufactured and cleared under such exemption notifications as are notified by the Government.	
(2) A registered person, other than a person opting to pay tax under section 10	Credit not availed in respect of capital goods not carried forward in a return
<p>Provided that the registered person shall not be allowed to take credit unless the said credit was admissible as CENVAT credit under the existing law and is also admissible as input tax credit under this Act.</p>	

Transitional Provisions

Situation	Credit to be transitioned
<p>(3) A registered person, who was</p> <ul style="list-style-type: none">--- not liable to be registered under the existing law, or--- who was engaged in the manufacture of exempted goods or provision of exempted services, or--- who was providing works contract service and was availing of the benefit of notification No. 26/2012—Service Tax--- or a first stage dealer or a second stage dealer or--- a registered importer or a depot of a manufacturer	credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day

subject to the following conditions, namely:—

- (i) such inputs or goods are used or intended to be used for making taxable supplies under this Act;
- (ii) the said registered person is eligible for input tax credit on such inputs under this Act;
- (iii) the said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of such inputs;
- (iv) such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day; and
- (v) the supplier of services is not eligible for any abatement under this Act:

Transitional Provisions

Situation	Tax Treatment
<p>--- Goods on which duty had been paid under the existing law</p> <p>--- not being earlier than six months prior to the appointed day,</p> <p>--- are returned to any place of business</p> <p>--- on or after the appointed day,</p>	<p><u>Returned by an unregistered Person</u></p> <p>i. Within six months of appointed date - claim refund of duty paid</p> <p>ii. After six months of appointed date - NO refund</p> <p><u>Returned by an registered Person</u> – deemed to be a supply</p>

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