<u>**Notification 1/2017 – Integrated Tax**: Notified 6 sections of IGST Act with effect from 22nd June 2017</u>

Appointment date as 22nd June 2017 for Section 1, 2, 3, 14, 20, 22 of the IGST Act coming into force.

Reason for notification before 1st July 2017: To enable enactment of the Act and thereby gain the power to issue IGST rules before GST rollout. The aforesaid sections are discussed below.

1. <u>**Section 1**</u>: It deals with title (IGST Act), extent (whole India except J&K) and the effective date of commencement of the Act via notification by Central Government. Certain new concepts like OIDAR services have been issued before to enable stakeholders gain the knowledge adequately.

2. <u>**Section 2**</u>: Definitions. It has 25 definitions and some of the prominent ones are:
   (i) CGST Act
   (ii) Export of Goods
   (iii) Export of Services
   (iv) Fixed Establishment
   (v) Import of services
   (vi) Intermediary
   (vii) Location of recipient of services
   (viii) Location of supplier of services
   (ix) Non-taxable online recipient
   (x) OIDAR services

   Analysis: Definitions are used at many instances in whole IGST Act hence this section had to be notified at this point of time.

3. <u>**Section 3**</u>: Power of CBEC to appoint Central tax officers under IGST Act.

   Analysis: Adequate machinery and man-power in form of tax officials is required for proper execution of the provisions of the Act. Hence this section was also necessary to be notified.

4. <u>Section 14</u>: Payment of tax by supplier of OIDAR Services. OIDAR stands for Online Information Database Access Retrieval. IGST is payable by the supplier located in taxable-territory on supply of OIDAR services to a non-taxable online recipient. As per CGST Act, place of supply of OIDAR services shall be the location of recipient of services. This section further says that an Intermediary located in non-taxable territory who arranges or facilitates such supply shall be treated as recipient of OIDAR services except where the intermediary satisfies following conditions (all are to be satisfied):
   (i) His invoice/receipt clearly mentions services & the supplier
   (ii) He is not involved in payment procedure between supplier & recipient
   (iii) He does not authorises the delivery of supply
   (iv) He does not set the Terms & Conditions of the delivery of supply
   The supplier, or his representative in the taxable territory, shall get registered under a 'Simplified Registration Scheme' (SRS) for the payment of IGST.

   Certain terms used in this section are defined below:

   - **Online information and database access or retrieval (OIDAR) services** means services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention and impossible to ensure in the absence of information technology and includes electronic services such as:
     (i) Advertising on the internet;
     (ii) Providing cloud services;

(iii) Provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet;
(iv) Providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;
(v) Online supplies of digital content (movies, television shows, music etc.);
(vi) Digital data storage; and
(vii) Online gaming;

- **Location of the supplier of services** means,—
  (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) where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), 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;

- **Taxable territory** means the territory to which the provisions of this Act apply;

- **Non-taxable online recipient** means any Government, local authority, governmental authority, an individual or any other person not registered and receiving online information and database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory. For the purposes of this clause, the expression "governmental authority" means an authority or a board or any other body,—
  (i) set up by an Act of Parliament or a State Legislature; or
  (ii) established by any Government, with ninety per cent or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution;

- **Location of the recipient of services** means,—
  (a) where a supply is received at a place of business for which the registration has been obtained, the location of such place of business;
  (b) where a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;
  (c) where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the receipt of the supply; and
  (d) in absence of such places, the location of the usual place of residence of the recipient;

5. **<u>Section 20</u>**: Application of provision of CGST Act, 2017 relating to 25 aspects like:

(i)	Scope of supply	(xi)	TCS
(ii)	Composite & Mixed supply	(xii)	Assessments
(iii)	Time & Value of supply	(xiii)	Refunds
(iv)	Input Tax Credit	(xiv)	Audit
(v)	Registration	(xv)	Inspection, seizure, Arrest
(vi)	Tax credit, credit & Debit notes	(xvi)	Advance Rulings
(vii)	Accounts & Records	(xvii)	Job Work
(viii)	Returns	(xviii)	E-commerce
(ix)	Payment of Tax	(xix)	Transitional provisions
(x)	TDS	(xx)	Miscellaneous

Certain exceptions to CGST Act have also been mentioned in this section as follows:

(i) TDS @ 2% is to be deducted when making payment to supplier

(ii) TCS @ rate notified (maximum 2%) is to be collected by e-commerce operator

(iii) Value of supply for charging IGST will include all tax/duties/cess/fee/charges levied under any law except the IGST Act and GST (Compensation to State) Act.

Analysis: The IGST Act 2017 is a very small volume of text. Various provisions are borrowed from the in-depth CGST Act. Hence, in order to fully enact the IGST Act, notification of this section was necessary.

6. **<u>Section 22</u>**: Power of Central Government to make rules under IGST Act by a notification. The rules may also be made retrospective, but not before the appointment date of the IGST Act, i.e., 22nd June 2017. Further, rules can have a penalty upto Rs 10,000/- for contravention of provisions of the rules.

Analysis: This section gives power to the Central Government to make IGST Rules. To fully roll out GST, this power was necessary and hence this section is notified.