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FINAL – May 2020

[As per Revised Syllabus – Old & New Scheme]

Goods & Services Tax [GST]

Summary & Scanner

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Law stated in this book is as amended upto 31st October, 2019

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Chapter 7- Taxable Event under GST [Section 9]

	CGST / SGST / UTGST	IGST
Which Activity	**Intra-state supply (excluding supply of A/L for H/C)**	**Inter-state supply (excluding supply of A/L for H/C)**
What Rate	**Max 20%**	**Max 40% (as it is merger of CGST + SGST)**
On what value	**Sec 15 of CGST Act**	**Sec 15 of CGST Act**
GST on specified Petroleum products	**GST will be levied in future from a notified date**	**GST will be levied in future from a notified date**

	CGST / SGST / UTGST	IGST
1. FORWARD CHARGE (Supplier, being taxable person, liable to pay)		
Generally	**Supplier (taxable person) liable to pay**	**Supplier (taxable person) liable to pay**
2. REVERSE CHARGE (Recipient liable to pay GST)		
RCM on notified supply of goods and/or services	**Recipient liable to pay**	**Recipient liable to pay**
RCM in case of … supply of specified goods and / or services … by Unregistered supplier … to a class of Registered Recipient	**Registered Recipient liable to pay**	**Registered Recipient liable to pay**
3. E-COMMERCE OPERATOR-ECO (ECO = Digital platform owner liable to pay)		
Liability of pay GST on notified services* put on ECO	**ECO liable to pay [In certain cases, his representative or appointed person in the taxable territory]**	**ECO liable to pay [In certain cases, his representative or appointed person in the taxable territory]**

Situation	Levy	Charging Section
Intra – State Supplies	**CGST & SGST / UTGST**	**Section 9 of CGST Act**
Inter – State supplies	**IGST**	**Section 5 of IGST Act**

Section 9 is the CHARGING SECTION of CGST Act & Sec 5 for IGST Act

Charge / Taxable Event	**Intra - State Supplies [as defined u/s 8 of IGST Act, 2017]** **Inter – State Supplies [as defined u/s 7 of IGST Act, 2017]**
Of What	**of goods [Sec 2(52)] or services [Sec 2(102)] or both** **except on the supply of alcoholic liquor for human consumption**
	• ***Supply of alcoholic liquor for industrial consumption – Liable to GST*** • ***GST is applicable on Extra Neutral Alcohol (ENA) which is used to manufacture alcoholic liquor human consumption [Commissioner of State Tax & Excise, Himachal Pradesh]***
On what	**VALUE as determined under section 15 + Valuation Rules [for all Acts]**
Rate	**1) Recommended by the Council** **2) Notified by Government [Rates notified are 0%, 0.125%, 1.5%, 2.5%, 6%, 9% and 14%]** **3) Maximum rate – 20% [IGST – 40%]** **4) Tax amount does not change with intra or inter – state nature**
Collection	**Government would notify the manner of collection of tax [Refer CGST Rules – Rule 85 to 88] and the person who will be liable to pay such tax [Taxable person – 2(107) of CGST Act].**
Person liable to pay tax	**The person liable to pay tax can be –** **a) Supplier of goods or services or both [Forward Charge Mechanism]** **b) Receiver of goods or services or both [Reverse Charge Mechanism]** **c) Neither the supplier of service nor the receiver of service [in case of E - Commerce Operator]**
Taxable person [Sec 2(107)]	**Taxable person = Person** **... who is registered [i.e Voluntarily registered] or** **... who is liable to be registered u/sec 22 or Sec 24** **[Note – GST is to be paid by TAXABLE PERSON and "Taxable person" = person who is liable to be registered u/s 22 or u/s 24. Thus, if a person is not liable to register, he is not a taxable person and thus need not pay GST]**
CGST on Petrol, Diesel etc from notified date [Sec 9(2)]	**However, CGST on supply of the following items has not been levied immediately. It shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council:** • **Petroleum crude** • **High speed diesel** • **Motor spirit (commonly known as petrol)** • **Natural gas and** • **Aviation turbine fuel**
	Currently – **Manufacturer = Central Excise Duty + VAT / CST** **Trader = VAT / CST**

Analysis - - - Section 9(3) and 9(4) – RCM under GST

RCM	**Sec 9(3) - RCM is applicable in case of notified goods or services [in such case, tax is payable by Recipient; in all other cases, tax is payable by Supplier].** **Sec 9(4) - RCM is applicable in case of notified goods or services when supplied by unregistered supplier to specified Registered recipient.** ***[Notification 7/2019 has been issued which provides that Registered Promoter of real – estate project shall be liable to pay GST on purchases made for construction projects from unregistered suppliers].***
No RCM tax is supply is exempt	**If supply itself is exempt, there cannot be any tax; and thus no RCM**
All provisions apply to recipient under RCM	**Recipient = Liable to pay GST = Taxable Person** **GST registration –** ⦿ **If already registered as a taxpayer (as having his FCM liability) – No Separate registration is required for discharge of RCM Liability** ⦿ **If not already registered as a taxpayer (as not having his FCM liability) – Separate registration is required for discharge of RCM Liability**
Special provisions for RCM tax (regarding ToS, payment of tax, invoicing etc)	**<u>Recipient -</u>** ➔ **Aggregate turnover does not include value of reverse charge supplies received – Sec 2(6)** ➔ **Time of Supply of goods and services is given u/s 12(3) and 13(3)** ➔ **If Recipient receives goods / services from Registered Supplier – issue Payment Voucher (on payment)** ➔ **If Recipient receives goods / services from Unregistered Supplier – issue Payment Voucher (on payment) + issue Tax Invoice (Self – Invoice)** **<u>Supplier -</u>** ➔ **"Output tax" excludes tax payable on reverse charge basis – Sec 2(82); thus, credit cannot be used to pay it – it needs to be paid in cash [i.e through E-Cash Ledger]** ➔ **Aggregate turnover includes value of services supplied (whether taxable under FCM or RCM)** ➔ **If a supplier is providing both FCM services and RCM services, proportionate ITC needs to be reversed (ITC apportionment) {RCM services are considered as exempt services for ITC purpose}** ➔ **If Supplier is registered – issue Tax Invoice (however, mention in Invoice that tax will be paid under RCM basis by Recipient)** ➔ **If Supplier is unregistered – issue Commercial Invoice**
Payment of tax	**Tax has to be paid in cash (i.e ITC cannot be used for RCM tax liability)**
ITC of tax paid	**Tax so paid is eligible for ITC**
Reverse charge [Sec 2(98)]	**= tax paid u/s 9(3) or 9(4) of CGST Act.** **Thus, ECO notified u/s 9(5) are not covered by meaning of RCM**

Lawyer → **Recipient**

Lawyer

Providing only Legal service

Not liable to Register [Sec 23]

- Will issue – Commercial Invoice

Recipient

Registered Person

- Self Invoice
- On payment – issue Payment Voucher
- ToS = Sec 12(3) / Sec 13(3)
- Pay through Electronic Cash Ledger
- Post payment – avail ITC (in same month)

Lawyer → **Recipient**

Lawyer

Commercial Renting

Providing Legal service + Commercial Renting

Registered Person

- Will issue – GST Invoice [However, in tax column – mention tax to be paid under RCM
- Aggregate Turnover = Value of Lawyer service + Value of Commercial Renting Service
- ITC = Proportionate ITC reversal for Common Credits

Recipient

Registered Person

- On payment – issue Payment Voucher
- ToS = Sec 12(3) / Sec 13(3)
- Pay through Electronic Cash Ledger
- Post payment – avail ITC (in same month)
- Aggregate T/O = Not include value of Lawyer Sr

List of Goods on which reverse charge mechanism is applicable [Not in Syllabus]

S No.	Description of supply of Goods	Supplier of goods	Recipient of Goods
1	Cashew nuts, not shelled or peeled	Agriculturist	Any registered person
2	Bidi wrapper leaves (Tendu)	Agriculturist	Any registered person
3	Tobacco leaves	Agriculturist	Any registered person
4	Silk yarn	Any person who manufactures silk yarn ... from raw silk or silk worm cocoons ... for supply of silk yarn	Any registered person
4A	Raw cotton	Agriculturist	Any registered person.
5	Supply of lottery	State Government, Union Territory or Any local authority	Lottery distributor or selling agent
	✪ Lottery = Actionable Claim (Goods under GST and outside Schedule III) ✪ State Govt issues lottery and they are distributed through distributor / selling agent. ✪ Supply of lottery by SG to its appointed distributor / selling agent = Liable to GST under RCM and thus, appointed distributor / selling agent is liable to pay GST (Tax rate is either 12% or 28% and there is a special provision for valuation of Lottery)		
6	• Used vehicles, • Seized and confiscated goods, • Old and used goods, • Waste and scrap	Central Government, State Government, Union territory or Local authority	Any registered person
7	Priority Sector Lending Certificate	Any registered person	Any registered person

"*Agriculturist*"	Sec 2(7)	<u>MEANS</u> an individual or a HUF who undertakes cultivation of land – (a) by own labour, or (b) by the labour of family, or (c) by servants on wages payable in cash or kind or by hired labour under personal supervision or the personal supervision of any member of the family

List of Supply of Services on which reverse charge mechanism is applicable

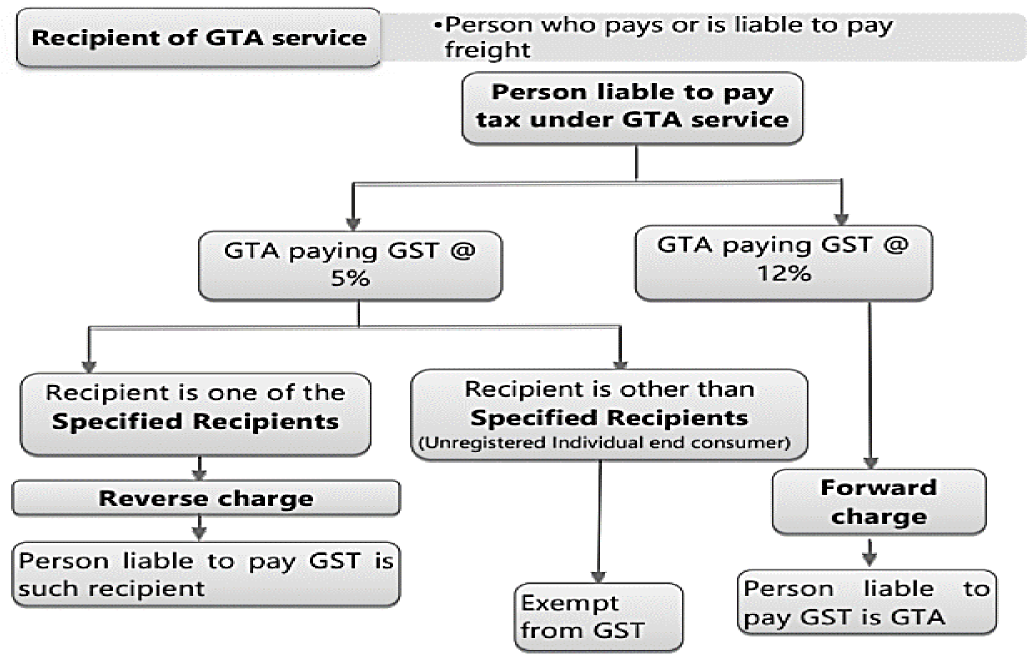
Sr No.	Description of Services	Supplier of Service	Recipient of Service Note :: Person liable to pay freight = Service recipient
1.	Transportation Service	Goods Transport Agency (GTA) … who has not paid GST at the rate 12% (cumulative)	a) Factory b) Any registered society c) Any co-operative society d) Any registered taxpayer under GST e) Any Body corporate f) Any partnership firm (whether registered or not), LLP or AOP g) Any Casual Taxable Person; *[Specified Recipients]* located in the taxable territory Govt Departments registered only for TDS purpose – Not liable to RCM [w.e.f. 1st Jan 2019] Nothing contained in entry (d) shall apply to services provided by a GTA, by way of transport of goods in a goods carriage by road to - a) a Department/establishment of the Central Government / State Government / Union territory; or b) local authority; or c) Governmental agencies, which has taken registration under the CGST Act only for the purpose of deducting tax u/s 51 and not for making a taxable supply of goods or services

⦿ *It may be noted that the said services have been simultaneously exempted from payment of tax vide Notification No. 28/2018 CT (R) dated 31.12.2018. Thus, there will be no tax liability in this case.*

Summary –

Supplier	Unregistered GTA (not availing ITC)				
Categories of Recipient	GST Registered person	a) Factory registered under Factories Act b) Any registered society c) Any co-operative society d) Any Body corporate e) Any partnership firm (whether registered or not), LLP or AOP f) Any Casual Taxable Person (registered);	Unregistered CTP	Govt Departments registered only for TDS purpose	Other unregistered persons
Taxability	RCM @ 5%	RCM @ 5%	Exempt (Entry No 21A)	Exempt (Entry No 21B)	Exempt (Entry No 21A)

Supplier	Registered GTA (Availing ITC)				
Categories of Recipient	GST Registered person	a) Factory registered under Factories Act b) Any registered society c) Any co-operative society d) Any Body corporate e) Any partnership firm (whether registered or not), LLP or AOP f) Any Casual Taxable Person (registered);	Unregistered CTP	Govt Departments registered only for TDS purpose	Other unregistered persons
Taxability	FCM @ 12%	FCM @ 12%	Exempt (Entry No 21A)	Exempt (Entry No 21B)	Exempt (Entry No 21A)



Sr No.	Description of Services	Supplier of Services	Recipient of Services
2.	**Legal services**	**An individual advocate including a senior advocate or firm of advocates**	**Any Business Entity in the taxable territory**
	⦿ Legal service = Advice, consultancy or assistance in any branch of law + Representational services ⦿ Further, Business Entity located in TT who is litigant, applicant or petitioner shall be treated as person who receives the legal services		
3.	**Legal Services**	**Arbitral Tribunal**	**Any Business Entity in the taxable territory**

Sr No.	Description of Services	Supplier of Services	Recipient of Services
4.	**Sponsorship Services**	**Any person**	**Any body corporate or partnership firm in the taxable territory**

Person liable to pay tax on Sponsorship service

Supplier (Event Organizer)	Recipient (Person taking sponsorship of even and paying for that)	FCM or RCM	Person liable to pay
A Ltd	M Ltd	RCM	Recipient – M Ltd
	Mr X	FCM	Supplier – A Ltd
Mr B	N Ltd	RCM	Recipient – N Ltd
	Mr Y	FCM	Supplier – Mr B

Sr No.	Description of Services	Supplier of Services	Recipient of Services
5.	**All Services excluding:** **a) Speed Post, Life Insurance, agency services.** **b) Services in relation to aircraft or vessel** **c) Transport of goods or passengers**	**Central Government, State Government, Union Territory or Local Authority**	**Any business entity in the taxable territory**
5A.	**Services of renting of immovable property**	**Central Government, State Government, Union Territory or Local Authority**	**Any person registered under CGST Act.**

[Effective from 01.04.2019]

Sr No	Category of Supply of Service	Supplier of service	Recipient of Service [Person liable to pay GST]
5B	**Services supplied** • by any person • by way of transfer of ⇒ Development rights or ⇒ Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter.	**Any Person**	**Promoter**
5C	**Long term lease of land (30 years or more)** • by any person ⇒ against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter.	**Any person**	**Promoter**

<table>
<tr><th><u>Sr No.</u></th><th><u>Description of Services</u></th><th><u>Supplier of Services</u></th><th><u>Recipient of Services</u></th></tr>
<tr><td rowspan="2">6.</td><td>Director Services</td><td>Director</td><td>The company or body corporate in the taxable territory</td></tr>
<tr><td colspan="3">As per Section 2(11) of Companies Act, 2013 “body corporate” or “corporation” includes a company incorporated outside India, but does not include—
(i) a co-operative society registered under any law relating to co-operative societies; and
(ii) any other body corporate (not being a company as defined in this Act), which the Central Government may, by notification, specify in this behalf;

Note – A society registered under the Societies Registration Act is also not a body corporate.</td></tr>
<tr><td rowspan="2">7.</td><td>Insurance Agent Services</td><td>An insurance agent</td><td>Any person carrying on the insurance business in the taxable territory</td></tr>
<tr><td colspan="3">“Insurance Agent” has been defined as having the same meaning as assigned to it in Sec 2(10) of the Insurance Act, 1938.</td></tr>
<tr><td>8.</td><td>Recovery Agent Services</td><td>Recovery Agent</td><td>A banking company or NBFC or a financial institution in the taxable territory</td></tr>
<tr><td>9.</td><td>Any service</td><td>Members of overseeing committee of RBI</td><td>Reserve Bank of India</td></tr>
</table>

Sr No.	Description of Services	Supplier of Services	Recipient of Services
10.	**Transfer of copyright** *[relating to original literary, dramatic, musical or artistic work]*	**Music Composer, Photographer, Artist or the like**	**Music Company, Producer or the like in the taxable territory**
11.	**Transfer of copyright** *[relating to original literary, dramatic, musical or artistic work]*	**Author**	**Publisher located in the taxable territory** *Provided that nothing contained in this entry shall apply where,* - *(i) the author has taken registration under CGST Act, 2017, and filed a declaration, in the form at Annexure I, within the time limit prescribed therein,* *with the jurisdictional CGST commissioner, that he exercises the option to pay central tax on the service specified in column (2), under forward charge in accordance with Section 9 (1)* *… and that he shall not withdraw the said option within a period of 1 year from the date of exercising such option;* *(ii) the author makes a declaration, as* *prescribed in Annexure II on the invoice issued by him in Form GST Inv-I to the publisher.*

Sr No.	Description of Services	Supplier of Services	Recipient of Services
12.	**Any service**	**Individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm.**	**A banking company or a Non – Banking Financial company, located in the taxable territory.**
	Direct Selling Agent (DSA) are persons or body corporate engaged by financial institutions to act as sales agents (advertisement and marketing) on its behalf. • If DSA is an Individual – RCM is applicable • If DSA is any other business entity – RCM is not applicable		

13.	Any service	Business facilitator (BF)	A banking company, located in the taxable territory
14.	Any service	An agent of business correspondent (BC)	A business correspondent, located in the taxable territory

Sr No.	Description of Services	Supplier of Services	Recipient of Services
15.	Security services (services provided by way of supply of security personnel)	Any person other than a body corporate	A registered person, located in the taxable territory
	<u>No RCM on – (a) Govt Entities registered only for TDS purpose; or (b) Composite Dealers</u> Nothing contained in this entry shall apply to security services provided to: (i) (a) a Department or Establishment of the CG or SG or Union territory; or (b) Local Authority; or (c) Governmental agencies, which has taken registration under the CGST Act, 2017 … only for the purpose of deducting tax u/s 51 and … not for making a taxable supply of goods or services. (ii) a registered person paying tax under Sec 10 of the CGST Act (i.e., composition supplier).		

Supplier	Recipient	FCM or RCM	Person liable to pay
Company / LLP	Registered / Unregistered	FCM	Supplier
Other than Company / LLP	Registered	RCM	Recipient
Other than Company / LLP	Unregistered	FCM	Supplier
Other than Company / LLP	Registered i) Govt. Dept. (registered only for TDS) ii) Composition Dealer	FCM	Supplier

Sr No.	Description of Services	Supplier of Services	Recipient of Services
16.	Services provided by way of renting of a motor vehicle provided to a body corporate.	Any person other than a body corporate, paying CGST @ 2.5% on renting of motor vehicles with ITC only of input service in the same line of business	Any body corporate located in the taxable territory.
17	Services of lending of securities under Securities	Lender i.e. a person	Borrower i.e. a person who borrows the securities under

	Lending Scheme, 1997 ("Scheme") of SEBI, as amended.	who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the Scheme of SEBI	the Scheme through an approved intermediary of SEBI

Sr No.	Description of Services	Supplier of Services	Recipient of Services
IGST Only -			
18.	Any service supplied by any person who is located in a non-taxable territory to any person other than non-taxable online recipient (NTOR).	Any person located in a non – taxable territory	Any person located in the taxable territory (other than non-taxable online recipient)
19.	Services supplied by a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India	A person located in non-taxable territory	Importer, as defined in Sec 2(26) of Customs Act, 1962, located in the taxable territory

<u>Person liable to pay tax on Import of service</u>
NTOR = Specified category of recipient of OIDAR Service (as defined in Sec 2(16) of IGST Act)
NTOR = Recipient of OIDAR services fulfilling following conditions –

1) He is located in India
2) He is either Govt / Local Authority / Governmental Authority or Individual or any other unregistered person
3) He is receiving OIDAR services for non – business / non – commercial purposes.

Eg – A college student who is resident of India but availing online gaming services is NTOR

- *With effect from 01.01.2019, a new clause has been inserted in the Explanation to reverse charge notifications stipulating that the provisions of this notification, in so far as they apply to CG, SG, shall also apply to the Parliament and State Legislature.*
- *"In simple words, Parliament and State Legislatures will be treated at par with the CG/SG, for RCM purposes. Where CG/SG are not liable to RCM, the same principle/provision will apply to the Parliament and State Legislature.*

Notifications relating to RCM – u/s 9(3)

<u>Exemption from Registration, if all supplies are under RCM [Notification 5/2017]</u>

Recipient	Lawyer [Individual / Firm of Advocates]	Senior Advocate	Arbitral tribunal
Non – Business Entity	Exempt	Exempt	Exempt
Business Entity [PY T/o < Rs 20 Lakhs]	Exempt	Exempt	Exempt
Business Entity [PY T/o > Rs 20 Lakhs]	RCM	RCM	RCM
Advocates	Exempt	Client of Advocate*	Not applicable
CG / SG / UT / LA	Exempt	Exempt	Exempt

	Person liable to pay GST [RCM]
Director (Independent / Nominee / Part time) →	Company / Body Corporate
Insurance Agent →	Person carrying Insurance business in India
Recovery Agent →	Banking Co / FI / NBFC
Members of Overseeing Committee →	RBI

Logic ::
Number of Recipient is more much than Suppliers. This it is easy to administer recipient.
Administration cost will be much higher than the revenue collected from Supplier, if these services are under FCM.
Further, if such supplies are under FCM, each supplier would be eligible for Threshold limit

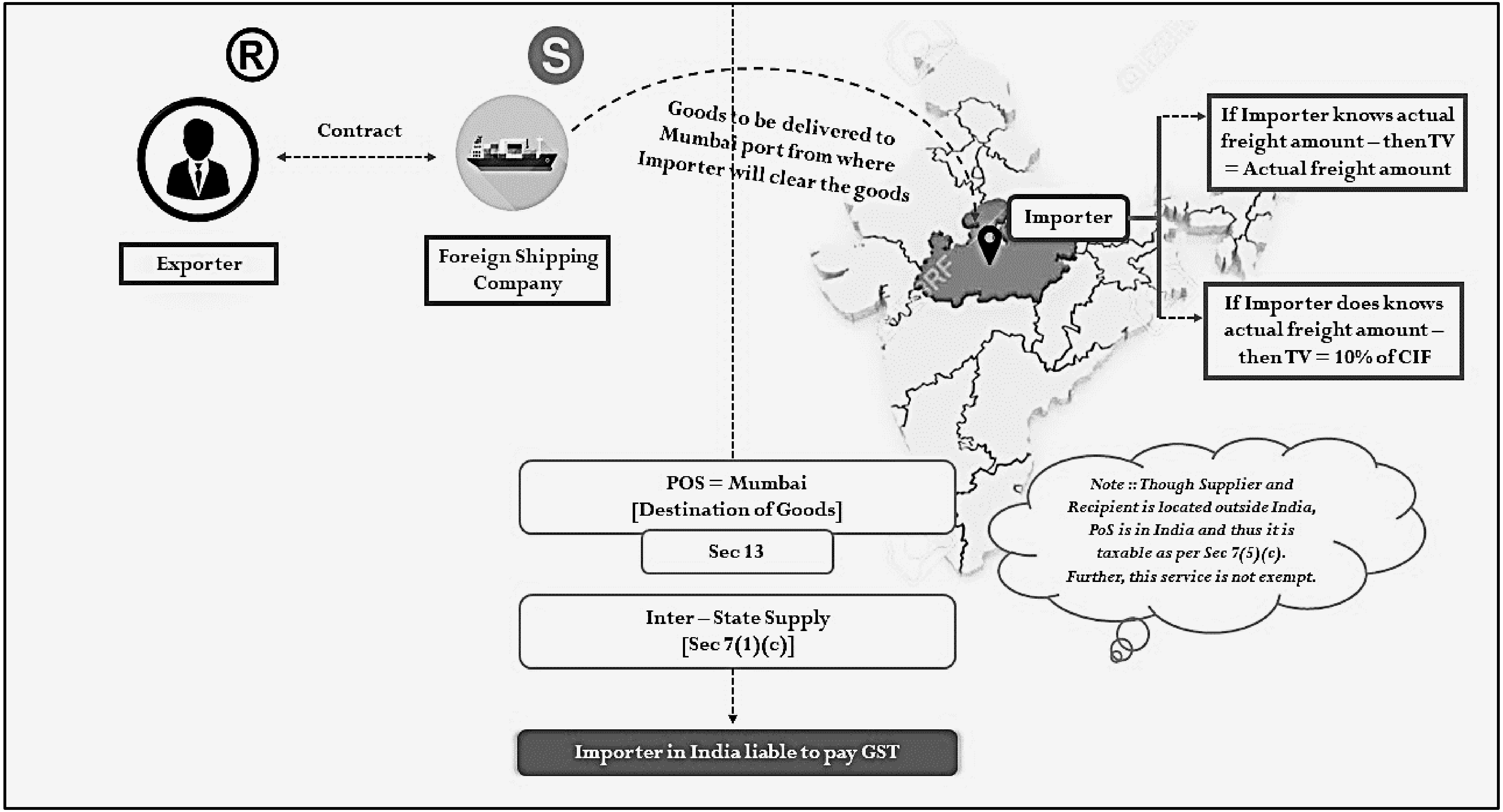
w.e.f 1st Oct, 2019

Lender $\xrightarrow{\text{Securities}}$ Approved Intermediary $\xrightarrow{\text{Securities}}$ Borrower → RCM Liable to pay IGST

Individual DSA → Banking Co / FI / NBFC

Agent $\xrightarrow{\text{FCM}}$ Business Facilitator $\xrightarrow{\text{RCM}}$ Bank

Agent $\xrightarrow{\text{RCM}}$ Business Correspondent $\xrightarrow{\text{FCM}}$ Bank


Contract
Exporter
Foreign Shipping Company
Goods to be delivered to Mumbai port from where Importer will clear the goods
Importer
If Importer knows actual freight amount – then TV = Actual freight amount
If Importer does knows actual freight amount – then TV = 10% of CIF
POS = Mumbai [Destination of Goods]
Sec 13
Inter – State Supply [Sec 7(1)(c)]
Importer in India liable to pay GST
Note :: Though Supplier and Recipient is located outside India, PoS is in India and thus it is taxable as per Sec 7(5)(c). Further, this service is not exempt.

Question - - -

State person liable to pay GST in the following independent cases provided recipient is located in the taxable territory and supply is intra-state supply:

1) **Service of transportation of goods by road provided by a GTA (registered) provided to a company which is GST Registered. [Freight Charged – Rs 20,000 (GST Exclusive)]**
2) **Service of transportation of goods by road provided by a GTA (unregistered) provided to a company which is not registered under GST. [Freight Charged – Rs 20,000 (GST Exclusive)]**

Solution - - -

'1) Liable for FCM @ 12% 2) Liable for RCM @ 5% *[Note – Company is liable to register u/s 24 and pay tax under RCM]*

Question - - -

Canara Goods Transport, unregistered GTA, is engaged in providing services of transportation of goods by road. It provides you the following information. Determine who is liable to pay GST in the following cases :

1) **Services taken by Hemant Enterprise, a trader of goods, registered under GST**
2) **Services provided to M/s D, consultancy service provider registered in GST, for shifting of its office.**
3) **Services taken by MRS Bearing Ltd, manufacturer of auto components , a factory registered under Factories Act, 1948. MRS Bearing Ltd is not registered under GST as it manufactures exempted goods.**
4) **Services provided to Mr X, a CTP of Handicraft goods for transporting goods to Madhya Pradesh. Mr X's turnover in FY 2019-20 is Rs 16 Lakhs.**
5) **Services provided to Mr Y (registered in Maharashtra), a CTP of Apparels, for transporting goods to Gujarat for exhibition there. Mr Y's turnover in FY 2019-20 is Rs 16 Lakhs.**
6) **Services provided to M/s XYZ & Co, a Partnership firm (not registered under Partnership Act). Also, M/s XYZ & Co is not registered under GST.**
7) **Services provided to M/s ABC & Co, a Partnership firm (registered under Partnership Act). Also, M/s ABC & Co is not registered under GST.**
8) **Service provided to Postal Department of CG. Postal Department is registered under GST for its output tax liability and also for deducting TDS u/s 51.**
9) **Service provided to Income tax department of CG. Income Tax department is not registered under GST for its output tax liability but it is registered for deducting TDS u/s 51.**

Solution - - -

'1) Hemant Enterprise - Liable for RCM @ 5%
2) M/s D - Liable for RCM @ 5%
3) MRS Bearing – Liable for RCM @ 5% *[Note – MRS Bearing is liable to register u/s 24 and pay tax]*
4) Exempt under entry no 21A
5) Mr Y – Liable for RCM @ 5%
6) M/s XYZ & Co - Liable for RCM @ 5%
7) M/s ABC & Co - Liable for RCM @ 5%
8) Postal Department of CG - Liable for RCM @ 5%
9) Exempt under entry no 21B

Question - - -

Mr. Rushabh, an advocate, has rendered the following services in the month of October:

1) **Representing Mr. Shweta in her divorce case before High Court.**
2) **Representing Mr. Aniket, an architect by profession, in relation to his GST liability [Turnover of Mr. Aniket in the previous financial year was Rs 25 lakhs]**
3) **Legal consultancy given to Sunil Associates, a partnership firm of advocates [Turnover of services of Sunil Associates in the previous financial year was Rs 28 lakh]**

Examine whether GST is payable on each of the above services assuming Mr. Rushabh to be —
(a) an advocate other than a senior advocate.
(b) a senior advocate in terms of section 16 of the Advocates Act, 1961?

Solution - - -

	Advocate other than senior advocate	Senior advocate
Case 1	Exempt as not business entity	Exempt as not business entity
Case 2	Liable to RCM – Mr Aniket liable to pay	Liable to RCM – Mr Aniket liable to pay
Case 3	Exempt	Client of Sunil Associates is liable to pay

ICAI – Old ST

Question - - -
Vakil & Vakil, a firm of lawyers rendered legal advice to Mr. B, an architect, and MNO Ltd., an advertising agency during October, 20XX. Both Mr. B and MNO Ltd. turnover in preceding financial year exceeds Rs 20 Lakhs. Who is liable to pay GST in this case? Will your answer be different if Mr. B and MNO Ltd. sought legal advice from Mr. A, a lawyer?

Solution - - -
GST will be payable by Mr B and MNO Ltd – irrespective of whether the legal advice is sought from a firm of lawyers or from Mr A, an individual lawyer.

ICAI – Old ST

Question - - -
Mr. A sponsored a dance competition organized by 'Taal Academy', a dance school run by an individual. The dance competition was named as 'Mr. A's Dance Show' by 'Taal Academy'. Who is liable to pay GST in this case? Will your answer be different if 'Taal Academy' is run by a partnership firm? Will your answer be different if sponsor was A Pvt Ltd?

Solution - - -

	Case 1	Case 2	Case 3
Supplier	Taal Academy, Individual	Taal Academy, Partnership Firm	Taal Academy, Individual
Recipient	Mr. A, Individual	Mr. A, Individual	A Pvt Ltd
Person liable to pay GST	Taal Academy, Individual	Taal Academy, Partnership Firm	A Pvt Ltd

Inter – Nov 2018

Question - - -
Decide which person is liable to pay GST in the following independent cases, where the recipient is located in the taxable territory. Ignore the Aggregate Turnover and Exemption available.
(i) Mr. Raghu provided sponsorship services to WE-WIN Cricket Academy, an LLP.
(ii) 'Safe Trans', a Goods Transport Agency, transported goods of Kapil & Co., a partnership firm which is not registered under GST.

Solution - - -
(i) WE-WIN Cricket Academy is liable to pay GST under reverse charge.
'(ii) Kapil & Co. is liable to pay GST under reverse charge

Question - - -
Determine the person liable to pay GST in the following cases –
1) GIC Insurance Co pays commission of Rs 5 lakhs to its agent. Agent is eligible for threshold exemption upto Rs 20 Lakhs.
2) Services provided by Independent director of JP Ltd to company – Rs 4 lakhs
3) Support Services provided by Government to a business entity – Rs 3 Lakhs

4) Renting of Immovable property services provided by Government to X Ltd, registered under GST – Rs 10 Lakhs
5) Renting of Immovable property services provided by Government to Y Ltd, not registered under GST – Rs 1 Lakh
6) GT Jewellers Ltd. paid Rs 50 lakhs for sponsorship of Miss India beauty pageant in Mumbai to a Stylish & Co., a partnership firm

Solution - - -

'1) GIC Insurance Co 2) JP Ltd 3) Business Entity 4) X Ltd 5) Government 6) GT Jewellers

Question - - -

Determine the person liable to pay GST in the following cases –

1) Manpower supply services by an Individual to business entity being a company – Rs 2 Lakhs
2) Security services by a Company to business entity being a company – Rs 1.5 Lakh
3) Works Contract services provided by an Individual to a business entity being a company – Rs 4 Lakhs

Solution - - -

'1) Individual (FCM) 2) Company (FCM) 3) Individual (FCM)

Question - - -

Determine the person liable to pay GST in the following cases –

1) Services by an Individual recovery agent to SBI Bank – Rs 1 Lakh
2) Services by Individual Direct Selling Agent to ICICI Bank – Rs 1 Lakh
3) Services by Direct Selling Agent M/s X Ltd to Punjab National Bank – Rs 10 lakhs

Solution - - -

'1) SBI Bank (RCM) 2) ICICI Bank (RCM) 3) Direct Selling Agent - M/s X Ltd (FCM)

Inter – May 2018

Question - - -

On 4th September, 2019, V.R. Mehman a famous music composer, received Rs 3 crore of consideration from Zilmil Music Co. Ltd. for sale of copyright of his original music album. He finished his work & made available the CD to the music company on 20th July, 2019 & raised the invoice on 24th July, 2019. Who is liable to pay GST? What will be the time of supply as per CGST Act, 2017?

Solution - - -

Zilmil Music Co. Ltd – liable to pay GST
ToS = Date of payment (04.09.2019), or Date immediately following 60 days since issue of invoice by the supplier (23.09.2019)
Thus, time of supply of services is 04.09.2019

Inter – May 2018

Question - - -

State, with reason, person liable to pay GST in each of following independent cases. Assume recipient is located in taxable territory.
(i) Rental income received by Tamil Nadu State Government from renting an immovable property to Mannappa Pvt. Ltd. (Turnover of the company was Rs 22 lakhs in the preceding F. Y.)
(ii) Legal Fees received by Mr. Sushrut, a senior advocate, from M/s. Tatva Trading Company having turnover of Rs 50 lakhs in preceding F. Y.
(iii) Mr. X and Mr. Y paid fee to an arbitrator to appoint a panel of three arbitrators for settlement of their personal dispute as per the Arbitration and Conciliation Act, 1996.

Solution - - -

'(i) Mannappa Pvt. Ltd (RCM) (ii) M/s. Tatva Trading Company (RCM) (iii) Exempt

ICMA – Study Material

Question - - -

M/s Shakshi Associates a recovery agent (located in Chennai) empanelled by State Bank of India, Local Head Office, Nungambakkam, Chennai. The following service supplied M/s Shakshi Assocates in the month of Nov 2018 are as follows:

1) Fee of Rs 2,25,825 for supply of services in relation to recovery of dues from the defaulting Borrowers at the place of business/occupation and if such Borrowers is/are unavailable at the place of business then at his/ her residence.
2) Supply of services with regard to demand for recovery or taking possession of the security from defaulting Borrowers, for which separate fee charge from the bank Rs 55,175/-

Answer the following:
(a) Is it supply of service?
(b) If so, who is liable to pay GST?
(c) What is the GST liability?
Note: Assume applicable rate of GST for recovery agent services @18%.

Solution - - -

(a) Yes. It is taxable supply of service
(b) State Bank of India being recipient of service is liable to pay GST under RCM.
(c) GST liabiliity = Rs 50,580 [i.e Rs 2,25,825 + 55,175) x 18%]

ICMA – Study Material

Question - - -

Mr. TYN has written a book on Indirect Taxes which is published by M/s Dev Law Publications of New Delhi. Mr. TYN is GST registered person.
You are required to find the following: (a) who is liable to pay GST? (b) What if Mr TYN is unregistered person

Solution - - -

Mr TYN is liable to pay GST, in case he is registered person and opts to pay GST by filing a declaration. (he cannot withdraw such option within a period of 1 year from the date of exercising such option)
In case, Mr. TYN is unregistered person, then M/s Dev Law Publications of New Delhi being recipient of service is liable to pay GST under RCM.

Question - - -

Karan is a whole-time director of Bajaj Ltd. Salary is Rs. 1,00,000 per month. Besides he gets sitting fees for Board's meetings. The amount paid for sitting fees is Rs. 50,000 for five meetings. Find out GST liability of Karan and Bajaj Ltd

Solution - - -

No GST – as such service is out of scope of supply [Schedule III]

Question - - -

Determine the person liable to pay GST –

1) X Ltd is providing security services by deploying security personnel round the clock in a year at premise of Y Ltd
2) Mr Bahadur is providing security services by deploying security personnel at premise of ABC Builders Ltd
3) Third Eye Vision, a partnership firm is engaged by A Ltd for installation of security camera to capture all vulnerable areas at their premises
4) Mr Shera is being engaged by Ramesh & Co, a composition dealer for providing security services
5) ABC, a partnership firm, is providing security services to Postal Dept of Govt. Postal Department is registered under GST for its output tax liability and also for deducting TDS u/s 51.

6) ABC, a partnership firm, is providing security services to Income tax Dept of Govt. Income tax department is registered under GST only for deducting TDS u/s 51

Solution - - -

1) X Ltd (FCM)
2) ABC Builders (RCM)
3) Third Eye Vision (FCM) [since it has not deployed security personnel]
4) Mr Shera (FCM)
5) Postal Department of CG (RCM)
6) ABC, partnership firm (FCM)

ICMAI – RTP – Dec 2018

Question - - -

Manas Ltd. is located in Ludhiana. It is in the business of manufacture of cast glass. It has received the following services from different persons during August, 2019 –

1. Service by Department of Posts by way of express parcel post (value of service: Rs 5,000).
2. Manas Ltd. owns an aircraft. This aircraft is used by directors/officers of the company for business purposes. Aircraft maintenance service is provided by the Government of India. Payment of Rs 7,50,000 is made for this purpose.
3. For transportation of goods, Manas Ltd. pays Rs 60,000 to Indian Railways.
4. Manas Ltd. has taken a commercial property on rent from the Punjab Government for which company pays rent of Rs 1,20,000.
5. Manas Ltd. has taken security services for factory complex from the Punjab Government for which payment of Rs 30,000 is made.
6. Manas Ltd. has taken security services for office from Labour Power Security Ltd. (a private sector company) for which payment of Rs 95,000 is made.

The above figures are before GST. Turnover of Manas Ltd. for the financial year 2018-19 was more than Rs 20,00,000. Discuss the following- - Whether GST is applicable. - Whether GST is payable under reverse charge mechanism.

Solution - - -

Supplier of services	Nature of service	Value of taxable services Rs	Whether reverse charge is applicable
Department of Post	Express parcel post	5,000	Reverse charge mechanism not applicable. Supplier will charge GST in its invoice
Government of India	Aircraft maintenance service	7,50,000	Reverse charge mechanism not applicable Supplier will charge GST in its invoice
Indian Railways	Transportation of goods	60,000	Reverse charge mechanism not applicable Supplier will charge GST in its invoice
Punjab Government	Renting of immovable property	1,20,000	Reverse charge mechanism is applicable (Manas Ltd. is registered under GST)
Punjab Government	Security services	30,000	Reverse charge mechanism is applicable.
Labour Power Security Ltd.	Security services	95,000	Reverse charge mechanism not applicable Supplier will charge GST in its invoice

E-Commerce Operator [Section 9(5)]

E-Commerce Operator [Section 9(5)]	
Applicable on	**Notified Services**
Tax to be paid by	⦿ **E-Commerce Operator** ⦿ **If ECO does not have a physical presence in India - any person representing such ECO for any purpose in India has to pay tax** ⦿ **If neither of above then, such ECO has to appoint a person in India for the purpose of paying GST**
Notified Services	**a) Services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor-cycle;** *Example – Uber / Ola* **b) Services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes,** ***… except where supplier of service is liable for registration u/s 22(1) of CGST Act.*** *Example – Oyo rooms provides its portal through which hotels can be booked by a customer.* *If Hotel is registered – Hotel liable to pay tax* *If Hotel is unregistered – OYO rooms is liable to pay tax* **c) Services by way of house-keeping, such as plumbing, carpentering etc,** ***… except where supplier of service is liable for registration u/s 22(1) of CGST Act*** *Example – House-keeping services [say Plumbing] through Urban clab* *If Plumber is registered – Plumber liable to pay tax* *If Plumber is unregistered – Urban clap is liable to pay tax*

E-Commerce [Sec 2(44)]	• **Supply of goods and/or services, including digital products,** • **over digital or electronic network.**
Electronic Commerce Operator [Sec 2(45)]	• **ANY PERSON who owns, operates or manages** • **digital or electronic facility or platform** • **for e-commerce**

Electronic Commerce Operators				
Amazon	Shop Clues	Homeshop18	IRCTC	Paytm
Flipkart	Book My Show	Saavn	Quikr	Freecharge
Snapdeal	Ganna	Hotstar	Olx	Makemytrip

	Goods supplied through ECO [X Ltd---ECO---Mr A]	Notified Services supplied through ECO [Y Ltd---ECO---Mr B]	Other Services supplied through ECO [Z Ltd---ECO---Mr C]

Person liable to pay tax	**X Ltd**	**ECO**	**Z Ltd**
Obligation on ECO	**Liable to deduct TCS**	**Liable to pay entire tax**	**Liable to deduct TCS**
Whether main supplier need to register	**Yes**	**No**	**Only if turnover crosses threshold of Rs 20 Lakhs**
Whether ECO needs registration	**Yes [since liable to deduct TCS]**	**Yes [since liable to pay tax]**	**Yes [since liable to deduct TCS]**

CA Final – Nov 2018

Question - - -

Mr. Sanjay of New Delhi made a request for a Motor cab to "Super ride" for travelling from New Delhi to Gurgaon (Haryana). After Mr. Sanjay pays the cab charges using his debit card, he gets details of the driver Mr. Jorawar Singh and the cab's registration number.

"Super ride" is a mobile application owned and managed by D.T. Ltd. located in India. The application "Super ride" facilitates a potential customer to connect with the persons providing cab service under the brand name of "Super ride".

D.T. Ltd. claims that cab service is provided by Mr. Jorawar Singh and hence, he is liable to pay GST under the provisions of Goods and Service tax laws.

With reference to the provisions of IGST Act, 2017, determine who is liable to pay GST in this case?

Would your answer be different, if D.T. Ltd. is located in New York (USA)? Also briefly state the statutory provisions involved.

Solution - - -

- **Section 5 of IGST Act, 2017 provides that tax on inter-State supplies of specified services notified by Government shall be paid by the electronic commerce operator (ECO) located in taxable territory if such services are supplied through it. Services by way of transportation of passengers by a motor cab supplied through ECO is one of the notified service.**
- **Electronic commerce operator means any person who owns, operates or manages digital or electronic facility or platform for supply of goods or services or both, including digital products over digital or electronic network.**
- **Since DT Ltd. owns and manages a mobile application to facilitate supply of passenger transportation service in motor cabs over a digital network, it is an ECO. Thus, DT Ltd., an ECO located in India is liable to pay GST in the given case.**
- **However, where an ECO does not have a physical presence in the taxable territory, person representing ECO is liable to pay tax. Further, where ECO has neither the physical presence nor any representative in the taxable territory, person appointed by the ECO for the purpose of paying the tax is liable to pay tax.**
- **Accordingly, if D.T. Ltd. is located in New York (USA), any person representing DT Ltd. for any purpose in India is liable to pay tax.**
- **Further, if D.T. Ltd. also does not have a representative in India, it shall appoint a person in India for the purpose of paying tax and such person shall be liable to pay tax.**

ICAI – Study Module

Question - - -

A hotel owner provided accommodation in Haryana, through an electronic commerce operator – Cool Trips. The hotel owner is not liable to get registered as per the provisions of section 22(1) of the CGST Act. Who is the person liable to pay GST in this case?

Would your answer be different if the Electronic Commerce Operator Cool Trips does not have a physical presence in India?

Note: Hotel owner is running budget hotel with ATO below threshold exemption limit of 20 lakhs.

Solution - - -

- Cool Trips is an ECO as it is owning and managing a website for e-commerce.
- Cool Trips is liable to pay GST [since Hotel owner ATO is not exceeding threshold exemption limit of Rs 20 Lakhs i.e it is not liable for registration u/s 22]

ICMA – Study Module

Question - - -

Reon operating radio taxi services in India. In the month of Nov, the following services are rendered by it:
(A) Free services provided to new customers who travelled for the first time. However, payment made to taxi drivers Rs 10,00,000.
(B) Hire charges collected from customers Rs 12,25,500. Payment made to taxi drivers Rs 11,00,000.

Reon appointed X Pvt. Ltd., as their representative in India. Person liable to pay GST is willing to avail exemption if any.

You are required to find:
(i) Who is liable to pay GST?
(ii) Net GST liability (rate of GST = CGST 2.5% SGST 2.5%).

Solution - - -

- X Pvt Ltd is liable to pay GST
- GST payable = CGST = Rs 22,25,500 × 2.5% = 52,988; SGST = Rs 22,25,500 × 2.5% = 52,988

CA – MTP – May 2018

Question - - -

AB Pvt. Ltd., Pune provides house-keeping services in Maharashtra. The company supplies its services exclusively through an e commerce website owned and managed by Hi-Tech Indya Pvt. Ltd., Pune. The turnover of AB Pvt. Ltd. in the CY is Rs. 18 lakh.
Advise AB Pvt. Ltd. as to whether they are required to obtain GST registration. Will your advice be any different if AB Pvt. Ltd. sells readymade garments exclusively through the e-commerce website owned and managed by Hi-Tech Indya Pvt. Ltd.?

Solution - - -

AB Pvt Ltd. is providing house keeping services and also it is not liable for registration under section 22 as it is located in Maharashtra (Pune) and its TO not exceeding 20 Lakhs in a FY.

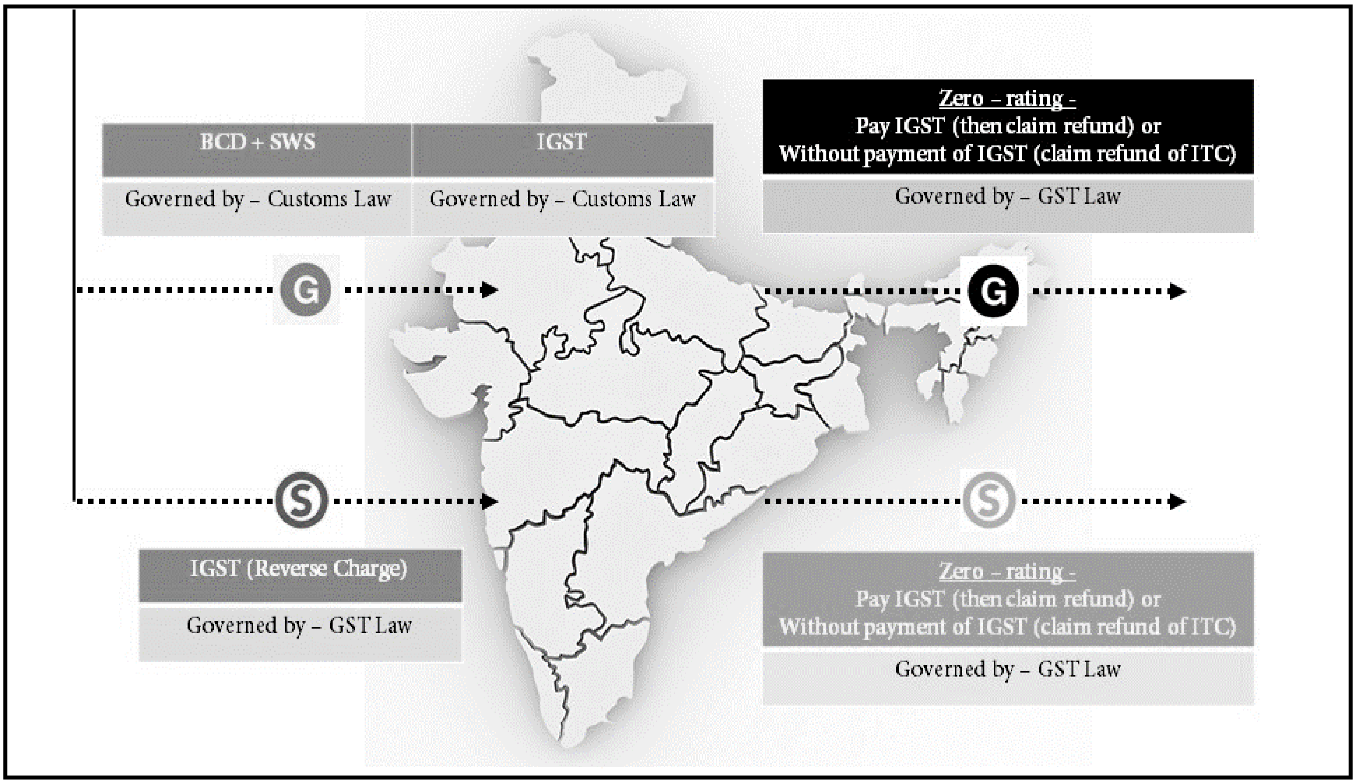
Sec 9(5) of CGST Act which provides that in respect of notified services, ECO through which notified services are supplier shall be treated as supplier and it shall be liable for paying GST. House keeping is one of notified service when provided by supplier who is not liable for registration u/Sec 22(1) as its ATO not exceeding Rs 20 lakhs.

Thus, AB Pvt Ltd is providing notified services and accordingly, ECO-Hi Tech Indya Pvt Ltd. shall be deemed supplier liable for paying GST. Hence, AB Pvt. Ltd shall not be liable to take GST registration, rather ECO-Hi Tech Indya Pvt Ltd. shall be liable to take compulsory registration under section 24.

Registration requirement if AB Pvt ltd. is supplying goods through ECO

If AB Pvt. Ltd. supplies readymade garments through ECO, then such supply cannot be notified under section 9(5) as only supplies of services are notified under that section. Therefore, in such case, AB Pvt. Ltd. will retain its status of supplier. The role of ECO shall be restricted to collection of tax at source under section 52. However, its registration requirement shall fall under section 24 (i.e., compulsory registration) as it is making supplies ECO who is liable to collect TCS under section 52.

Imports and Exports under GST



IGST on Import of goods

IGST on goods imported into India shall be levied and collected

- in accordance with the provisions of section 3 of the Customs Tariff Act, 1975
- on the value as determined under the Customs Tariff Act, 1975
- at the point when duties of customs are levied on the said goods u/s 12 of the Customs Act, 1962.

Value for levy of IGST =
Value as per Customs Sec 14 [Transaction Value u/s 14(1) / Tariff Value u/s 14(2)]
+ Basic Customs Duty
+ any other Customs Duty (except IGST and GST Compensation Cess)

Application of Provisions of CGST Act + CGST Rules [Sec 20 of IGST Act]

All the provisions of CGST Act for charge / levy and collection will apply to IGST Act also.

Following modifications :

- **TDS @ 2%**
- **TCS only upto 2%**
- **Penalty = CGST + SGST Penalty**
- **Pre – deposit limits to be doubled**
  - **Max amount of pre – deposit payable**
  - **For appeal to Appellate Authority – Rs 50 Crore**
  - **For appeal to Appellate Tribunal – Rs 100 Crore**

Wrong tax collected –

IGST paid instead of CGST / SGST

- ➔ **Pay CGST / SGST without interest** ***[Sec 77(2) of CGST Act]***
- ➔ **Claim refund of IGST (no interest to be given)** ***[Sec 19(1) of IGST Act]***

CGST / SGST paid instead of IGST

- ➔ **Pay IGST without interest** ***[Sec 19(2) of IGST Act]***
- ➔ **Claim refund of CGST / SGST (no interest to be given)** ***[Sec 77(1) of CGST Act]***

Mr X pays CGST and SGST of Rs 10,000 + Rs 10,000 = Rs 20,000 on a supply which is considered by him to be an Intra – State Supply. However, later on, it was found out that the transaction is an Inter – State Supply and IGST should have been charged.

Solution -

☛ *In this case,*

- *Mr X will pay IGST of Rs 20,000 without interest*
- *Mr X will claim refund of CGST + SGST paid by him of Rs 20,000*