

9. PLACE OF SUPPLY

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NEED FOR DETERMINATION OF PLACE OF SUPPLY

1. Need for determination of place of supply under GST:

Place of Supply is important to determine: –

- Whether the supply is **Interstate** or **Intrastate**.
- Resulting to which, Whether **SGST/UTGST plus CGST** is leviable or **IGST** is leviable. If interstate transaction is wrongly treated inter-state or vice-versa and tax paid accordingly, then it can be rectified. However, procedural requirements increase and working capital will get blocked. Therefore, determining Place of supply is more importance.

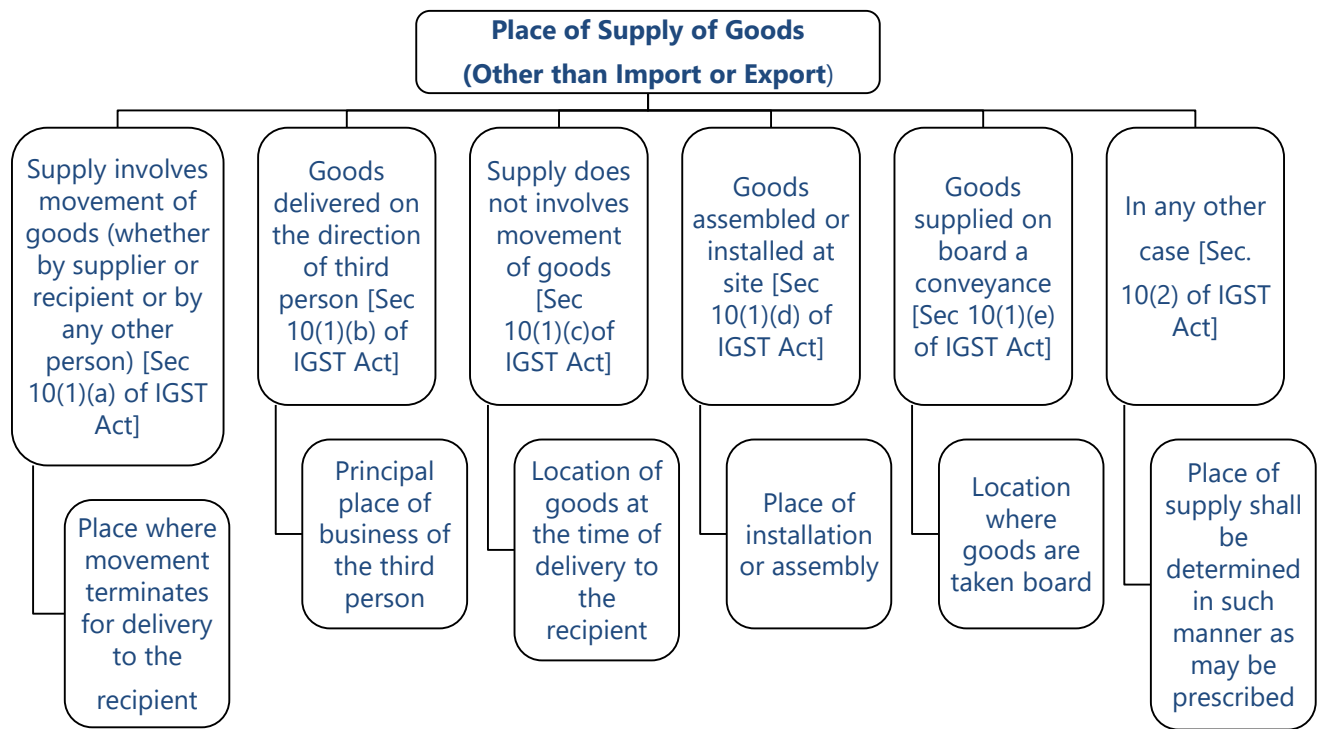


PLACE OF SUPPLY OF GOODS

2. Place of supply of goods other than supply of goods imported into, or exported from India [Section 10]:

Section	Nature of Transaction	Place of Supply
Place of supply of goods in domestic transactions i.e., within India: The place of supply of goods, other than supply of goods imported into, or exported from India, shall be as under,10(1)(a)		
10(1)(a)	Where the supply involves MOVEMENT OF GOODS , whether by the supplier or by 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. Note: Thus, irrespective of the number of states the goods pass through during the course of its journey, the state in which the movement of goods terminates for delivery to the recipient is the place of supply of goods.
10(1)(b)	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,	It shall be deemed that the said third person has received the goods; and The place of supply of such goods shall be the principal place of business of such person. These transactions are also known as Bill to Ship transactions.
10(1)(c)	Where the supply does not involve movement of goods, whether by the supplier or the recipient,	Location of such goods at the time of delivery to the recipient.
10(1)(d)	Where the goods are assembled or installed at site,	Place of such installation or assembly .
10(1)(e)	Where the goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle,	Location at which such goods are taken on board .
10(2)	Where the place of supply of goods cannot be determined,	Shall be determined in such manner as may be prescribed.

Simplified approach to section 10



Example 1: In case of a domestic supply, what is the place of supply where goods are removed?

Answer:

As per section 10(1)(a), the place of supply of goods is the location of the goods at the time at which the movement of goods terminates for delivery to the recipient.

Example 2: What will be the place of supply if the goods are delivered by the supplier to a person on the direction of a third person?

Answer:

As per section 10(1)(b), it would be deemed that the third person has received the goods and the place of supply of such goods will be the principal place of business of such person.

Example 3: Determination of Place of supply — (Bill to Ship to model)

Raman Row, a registered supplier under GST in Mumbai, is directed by Nero Enterprises, Kolkata to deliver goods valued at 12,00,000 to Fabricana of Aurangabad in Maharashtra. Raman Row makes out an invoice at 9% tax rate under CGST and SGST respectively (scheduled rate) and delivers it locally in Maharashtra. Discuss and comment on the above levy of tax and determine the tax liability of goods in the above circumstances. **(4 Marks, May 2018) (Similar RTP Nov., 2019) (ICAI P.Q.)**

Solution: Where three parties are involved i.e. to say a supplier, a buyer who is not the recipient of goods (referred as third person) and the recipient who actually receives the goods on the directions of the buyer, a fiction is introduced by

Section 10(1)(b) of IGST Act, 2017, whereby the third person on whose direction the goods are delivered will be considered the recipient of the goods and the place of supply is deemed to be the principal place of business of the said third person (being the first buyer).

There are two parts to this transaction:

(i) First part of the transaction - between Raman Row and Nero Enterprises Raman Row Mumbai is the supplier of goods, and Nero Enterprises, Kolkatta is the buyer. Accordingly, Raman Row bills the transaction to Nero Enterprises, and as per the instruction, delivers the goods to Fabricana in Maharashtra.

Over here, on the instruction from Nero Enterprises, Kolkatta, Raman Row delivers the goods to Fabricana located in Maharashtra. Here, Nero Enterprises is deemed as the third person. Therefore, the place of supply will be the principal place of business of the Nero Enterprises, i.e., Kolkatta. Since the location of supplier is in Maharashtra and place of supply is in West Bengal, the supply is interstate supply. Accordingly, Ramari Row will have to charge IGST on billing to Nero Enterprises. Since in Raman Row has charged CGST and SGST treating the supply as intra State supply, it has to claim refund of CGST and SGST and deposit IGST as the supply is Inter State supply. Thus, IGST liability of Raman Row will be 18% of Rs.12,00,000 216000.

(ii) The second part of the transaction — between Nero Enterprises, Kolkata and Fabricana, Maharashtra: Nero Enterprises, Kolkata is the supplier, and Fabricana, Maharashtra is the buyer. Nero Enterprises, Kolkata bills the transaction to Fabricana, Maharashtra, and endorses the lorry receipt (goods shipped in a lorry by Raman Row) in favour of Fabricana, Maharashtra. This lorry receipt (LR) will enable Fabricana, Maharashtra to take the delivery of the goods. The second part of the transaction between Nero Enterprises, Kolkata and Fabricana, Maharashtra will also be interstate, and IGST will be charged.

Example 4: Determination of Place of supply — Bill to Ship to model ;

Asha Enterprises supplier of sewing machines, is located in Kota (Rajasthan) and registered for purpose of GST in the said State, It receives an order from Deep Traders, located in Jalandhar (Punjab) and registered for purpose of GST in the said State. The order is for the supply of 100 sewing machines, with an instruction to ship the sewing machines to Jyoti Sons, located in Patiala (Punjab) and registered in the said State for purpose of GST. Jyoti Sons is a customer Of Deep Traders. Sewing machines are shipped in a lorry by Asha Enterprises.

Briefly explain the following:

- (i)** the place of supply under IGST Act, 2017;
- (ii)** the nature of supply : whether inter-state or intra-state and
- (iii)** whether CGST/ SGST or IGST as would be applicable in this case.

(4 Marks, May 2019-NS) (ICAI P. Q.)

Solution: Where three parties are involved i.e. to say a supplier, a buyer who is not the recipient of goods (referred as third person) and the recipient who actually receives the goods on the directions of the buyer, a fiction is introduced by Section 10(1)(b) of IGST Act, 2017, whereby the third person on whose direction the goods are delivered will be considered the recipient of the goods and the place of supply is deemed to be the principal place of business of the said third person (being the first buyer).

There are two parts to this transaction:

1. First part of the transaction — between Asha Enterprises and Deep Traders: Asha Enterprises is the supplier of sewing machine, and Deep Traders is the buyer. Accordingly, Asha Enterprises bills the transaction to Deep Traders, and as per the instruction, ships the goods to Jyoti Sons in Patiala (Punjab).

Over here, on the instruction from Deep Traders, Asha Enterprises ships the sewing machine to Jyoti Sons located in Patiala (Punjab). Here, Deep Traders is deemed as the third person. Therefore, the place of supply will be the principal place of business of the third person, i.e., Jalandhar (Punjab). Since the location of supplier is in Kota (Rajasthan) and Place of supply Jalandhar (Punjab), the supply is an interstate supply. Accordingly, Asha Enterprises will charge IGST on billing to Deep Traders.

2. The second part of the transaction - between Deep Traders and Jyoti Sons: Deep Traders is the supplier, and Jyoti Sons is the buyer. Deep Traders bills the transaction to Jyoti Sons, and endorses the lorry receipt (goods shipped in a lorry by Asha Enterprises) in favour of Jyoti Sons. This lorry receipt (LR) will enable Jyoti Sons to take the delivery of the goods. The second part of the transaction between Deep Traders Jalandhar (Punjab) and Jyoti Sons Patiala (Punjab) will be intra-state supply, CGST and SGST will be charged.

Place of supply of goods imported into, or exported from India [Section 11 of IGST Act, 2017]:

Section	Nature of Transaction	Place of Supply
The place of supply of goods imported into, or exported from India, shall be as under,—		
11(a)	Goods imported into India	Goods imported into India
11(b)	Goods exported from India	Goods exported from India

“Import of goods” with its grammatical variations and cognate expressions, means bringing goods into India from a place outside India. **[Section 2(10) of IGST Act, 2017]**

All imports are deemed as inter- State supplies and accordingly IGST is levied in addition to the applicable custom duties.

“**Export of goods**” with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India.

[Section 2(5) of IGST Act, 2017]

Under the GST Law, export of goods has been treated as:

- inter-State supply
- ‘zero rated supply’ i.e., the goods or services exported shall be relieved of GST levied upon them either at the input stage or at the final product stage.

Example 5: GVT Pvt. Ltd. imports electric kettles from China for its Kitchen Store in Noida, Uttar Pradesh. GVT Pvt. Ltd. is registered in Uttar Pradesh. The place of supply is Noida.

Example 6: SRA Pvt. Ltd. (New Delhi) exports spices from New Delhi to London, UK. The place of supply is London

Place of supply of service



PLACE OF SUPPLY OF SERVICES

3. Place of supply of services where location of supplier and recipient is in India [Section 12 of the IGST Act, 2017]:

Section	Nature of Transaction	Place of Supply
12(1)	Determination of the place of supply of services where the location of supplier of services and the location of the recipient of services is in India.	
12(2)	General provisions: The place of supply of services,—	
	(a) made to a registered person (b) made to any person other than a registered person (i) where the address on record exists; (ii) in other cases.	location of such person; the location of the recipient. the location of the supplier of services.
12(3)	Services provided in relation to immovable property —	
	Services,— (a) 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) by way of 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	→ Location at which the immovable property or boat or vessel, as the case may be, is located or intended to be located.

	(c) by way of accommodation in any immovable property for organizing 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) an” services ancillary to the services referred to in clauses (a), (b) and (c),											
	If the location of the immovable property or boat or vessel is located or intended to be located outside India,	Location of the recipient.										
	<p>Explanation Where the immovable property or boat or vessel is located in more than one State or Union territory, the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the value for services separately collected or 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>For this purpose Rule 4 of IGST Rules, 2017 has been inserted vide Notification No. 4/2018-IT w.e.f. 01-01-2019 which provides that the place of supply of ‘services shall be determined in the following manner namely:-</p>											
	<table border="1"> <thead> <tr> <th></th> <th>Nature of Transaction</th> <th>Place of Supply</th> </tr> </thead> <tbody> <tr> <td rowspan="3">(i)</td> <td>Services provided by way of lodging accommodation by a hotel, inn, guest house, club or campsite, by whatever name called and services ancillary to such services:</td> <td></td> </tr> <tr> <td>Where such property is a single property located in two or more contiguous States or Union territories or both.</td> <td>The supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the area of the immovable lying in each State or Union territory.</td> </tr> <tr> <td>Cases except where such property is a single property located in two or more</td> <td>The supply of services shall be treated as made in each of the respective States or Union territories,</td> </tr> </tbody> </table>			Nature of Transaction	Place of Supply	(i)	Services provided by way of lodging accommodation by a hotel, inn, guest house, club or campsite, by whatever name called and services ancillary to such services:		Where such property is a single property located in two or more contiguous States or Union territories or both.	The supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the area of the immovable lying in each State or Union territory.	Cases except where such property is a single property located in two or more	The supply of services shall be treated as made in each of the respective States or Union territories,
	Nature of Transaction	Place of Supply										
(i)	Services provided by way of lodging accommodation by a hotel, inn, guest house, club or campsite, by whatever name called and services ancillary to such services:											
	Where such property is a single property located in two or more contiguous States or Union territories or both.	The supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the area of the immovable lying in each State or Union territory.										
	Cases except where such property is a single property located in two or more	The supply of services shall be treated as made in each of the respective States or Union territories,										

	contiguous States or Union territories or both.	in proportion to the number of nights stayed in such property.
(ii)	All other services in relation to immovable property including services by way of accommodation in any immovable property or organising any marriage or reception etc.	The supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the area of the immovable property lying in each State or Union territory.
	Services provided by way of lodging accommodation by a house boat or any other vessel and services ancillary to such services.	The supply shall be treated as made in each of the respective States or Union territories, in proportion to the time spent by the boat or vessel in each such State or Union territory, determined on the basis of a declaration made to the effect by the service provider.

Illustrations:

1.	A hotel chain X charges a consolidated sum of Rs.30,000/- for stay in its two establishments in Delhi and Agra, where the stay in Delhi is for 2 nights and the stay in Agra is for 1 night. The place of supply in this case is both in the Union territory of Delhi and in the State of Uttar Pradesh and the service shall be deemed to have been provided in the Union territory of Delhi and in the State of Uttar Pradesh in the ratio 2:1 respectively. The value of services provided will thus be apportioned as Rs.20,000/- in the Union territory of Delhi and Rs.10,000/- in the State of Uttar Pradesh.
2.	There is a piece of land of area 20,000 square feet which is partly in State S1 say 12,000 square feet and partly in State S2, say 8000 square feet. Site preparation work has been entrusted to T. The ratio of land in the two states works out to 12:8 or 3:2 (simplified). The place of supply is in both S1 and S2. The service shall be deemed to have been provided in the ratio of 12:8 or 3:2 (simplified) in the States S1 and S2 respectively. The value of the service shall be accordingly apportioned between the States.

3.	A company C provides the service of 24 hours accommodation in a houseboat, which is situated both in Kerala and Karnataka inasmuch as the guests board the house boat in Kerala and stay there for 22 hours but it also moves into Karnataka for 2 hours (as declared by the service provider) - The place of supply of this service is in the States of Kerala and Karnataka. The service shall be deemed to have been provided in the ratio of 22:2 or 11:1 (simplified) in the states of Kerala and Karnataka, respectively. The value of the service shall be accordingly apportioned between the States.	
12(4)	Personalized Services: Restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery	Location where the services are actually performed.
12(5)	Services in relation to training and performance appraisal to	
	(a) a registered person,	Location of such person;
	(b) a person other than a registered person,	Location where the services are actually performed.
12(6)	Services provided by way of admission to a cultural, artistic, sporting, scientific, educational, entertainment event or amusement park or any other place and services ancillary thereto,	Place where the event is actually held or where the park or such other place is located.
12(7)	Services provided by way of, — (a) organisation 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 (b) services ancillary to organisation of any of the events or services referred to in clause (a), or assigning of sponsorship to such events,— (i) to a registered person, (ii) to a person other than a registered person, ➤ If event is held in India	Location of such person;

	➤ If event is held outside India	Place where event is actually held Location of the recipient.
	<p>Event held in more than one State or Union Territory [Explanation] : 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, the place of supply of such services shall be taken as being in each of the respective States or Union territories in proportion to —</p> <p>➤ the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or,</p> <p>➤ in the absence of such contract or agreement, on such other basis as may be prescribed i.e. by application of the generally accepted accounting principles. - Rule 5 of IGST Rules, 2017 inserted vide Notification No. 4/2018-IT w.e.f. 01-01-2019.</p> <p>Illustration: An event management company E has to organise some promotional events in States S1 and S2 for a recipient R. 3 events are to be organised in S1 and 2 in S2. They charge a consolidated amount of Rs.10,00,000 from R. The place of supply of this service is in both the States S1 and S2. Say the proportion arrived at by the application of generally accepted accounting principles is 3:2. The service shall be deemed to have been provided in the ratio 3:2 in S1 and S2 respectively. The value of services provided will thus be apportioned as Rs.6,00,000/-in S1 and Rs.4,00,000/- in S2.</p>	
12(8)	Services by way of transportation of goods, including by mail or courier to,—	
	(a) a registered person,	Location of such person;
	(b) a person other than a registered person, However, where the transportation of goods is to a place outside India,	Location at which such goods are handed over for their transportation. Place of destination of such goods.
12(9)	Passenger transportation service to, —	
	(a) a registered person, (b) a person other than a registered person, 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,	Location of such person; Place where the passenger embarks on the conveyance for a continuous journey.

	<p>(a) made to a registered person</p> <p>(b) made to any person other than a registered person—</p> <p>(i) where the address on record exists;</p> <p>(ii) in other cases.</p>	<p>Location of such person;</p> <p>the location of the recipient.</p> <p>the location of the supplier of services</p>
	<ul style="list-style-type: none"> ➤ Return Journey to be treated as a Separate Journey: 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. [Explanation] ➤ “Continuous journey” means a journey for which a single or more than one ticket or invoice is issued at the same time, either by a single supplier of service or through an agent acting on behalf of more than one supplier of service, and which involves no stopover between any of the legs of the journey for which one or more separate tickets or invoices are issued. [Section 2(3) of IGST Act, 2017] ➤ “Stopover” means a place where a passenger can disembark either to transfer to another conveyance or break his journey for a certain period in order to resume it at a later point of time. [Explanation] 	
12(10)	Services on board a conveyance , including a vessel, an aircraft, a train or a motor vehicle,	Location of the first scheduled point of departure of that conveyance for the journey.
12(11)	Telecommunication services including data transfer, broadcasting, cable and direct to home television services to any person shall, —	

	<p>(a) in case of services by way of fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna,</p>	<p>Location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services;</p>		
	<p>Explanation: Where the leased circuit is installed in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such circuit, the place of supply of such services shall be taken as being in each of the respective States or Union territories in proportion to the value for services separately collected or 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>For this purpose Rule 6 of IGST Rules, 2017 has been inserted vide Notification No. 4/2018-IT w.e.f. 01-01-2019 which provides that the place of supply of services shall be determined in the following manner namely:</p> <p>(a) The number of points in a circuit shall be determined in the following manner:</p> <ul style="list-style-type: none"> ➤ in the case of a circuit between two points or places, the starting point or place of the circuit and the end point or place of the circuit will invariably constitute two points; ➤ any intermediate point or place in the circuit will also constitute a point provided that the benefit of the leased circuit is also available at that intermediate point; <p>(b) the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the number of points lying in the State or Union territory.</p>			
	<p>Illustration:</p> <table border="1" data-bbox="368 1637 1465 2085"> <tr> <td data-bbox="368 1637 448 2085"> <p>1.</p> </td> <td data-bbox="448 1637 1465 2085"> <p>A company T installs a leased circuit between the Delhi and Mumbai offices of a company C. The starting point of this circuit is in Delhi and the end point of the circuit is in Mumbai. Hence, one point of this circuit is in Delhi and another in Maharashtra. The place of supply of this service is in the Union territory of Delhi and the State of Maharashtra. The service shall be deemed to have been provided in the ratio of 1:1 in the Union territory of Delhi and the State of Maharashtra, respectively.</p> </td> </tr> </table>		<p>1.</p>	<p>A company T installs a leased circuit between the Delhi and Mumbai offices of a company C. The starting point of this circuit is in Delhi and the end point of the circuit is in Mumbai. Hence, one point of this circuit is in Delhi and another in Maharashtra. The place of supply of this service is in the Union territory of Delhi and the State of Maharashtra. The service shall be deemed to have been provided in the ratio of 1:1 in the Union territory of Delhi and the State of Maharashtra, respectively.</p>
<p>1.</p>	<p>A company T installs a leased circuit between the Delhi and Mumbai offices of a company C. The starting point of this circuit is in Delhi and the end point of the circuit is in Mumbai. Hence, one point of this circuit is in Delhi and another in Maharashtra. The place of supply of this service is in the Union territory of Delhi and the State of Maharashtra. The service shall be deemed to have been provided in the ratio of 1:1 in the Union territory of Delhi and the State of Maharashtra, respectively.</p>			

	<p>2.</p>	<p>A company T installs a leased circuit between the Chennai, Bengaluru and Mysuru offices of a company C. The starting point of this circuit is in Chennai and the end point of the circuit is in Mysuru. The circuit also connects Bengaluru. Hence, one point of this circuit is in Tamil Nadu and two points in Karnataka. The place of supply of this service is in the States of Tamil Nadu and Karnataka, The service shall be deemed to have been provided in the ratio of 1:2 in the States of Tamil Nadu and Karnataka, respectively.</p>
	<p>3.</p>	<p>A company T installs a leased circuit between the Kolkata, Patna and Guwahati offices of a company C. There are 3 points in this circuit in Kolkata, Patna and Guwahati. One point each of this circuit is, therefore, in West Bengal, Bihar and Assam. The place of supply of this service is in the States of West Bengal, Bihar and Assam. The service shall be deemed to have been provided in the ratio of 1:1:1 in the States of West Bengal, Bihar and Assam, respectively.</p>
	<p>(b) in case of mobile connection for telecommunication and internet services provided on post-paid basis,</p>	<p>Location of billing address of the recipient of services on the record of the supplier of services;</p>
	<p>(c) in cases where 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 reseller or a distributor of subscriber identity module card or re-charge voucher,</p> <p>(ii) by any person to the final subscriber,</p> <p>If such pre-paid service is availed or the recharge is made through internet banking or other electronic mode of payment,</p>	<p>Address of the selling agent or reseller or distributor as per the record of the supplier at the time of supply; or Location where such prepayment is received or such vouchers are sold; Location of the recipient of services on the record of the supplier of services.</p>
	<p>(d) in other cases,</p>	

	<p>(i) If address of the recipient as per the records of the supplier of services is available</p> <p>(ii) Where such address is not available,</p>	<p>Address of the recipient as per the records of the supplier of services, and</p> <p>Place of supply shall be location of the supplier of services.</p>
	Where the address of the recipient as per the records of the supplier of services is not available, the place of supply shall be the location of the supplier of services.	
	"Telecommunication service" means service of any description (including electronic mail, voice mail, data services, audio text services, video text services, radio paging and cellular mobile telephone services) which is made available to users by means of any transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature, by wire, radio, visual or other electromagnetic means. (Section 2(110) of CGST Act, 2017)	
12(12)	Banking and other financial services, including stock broking services to any person	Location of the recipient of services on the records of the supplier of services:
	if the location of recipient of services is not on the records of the supplier,	Location of the supplier of services.
12(13)	Insurance services,-	
	(a) to a registered person,	Location of such person;
	(b) to a person other than a registered person,	Location of the recipient of services on the records of the supplier of services.
12(14)	Advertisement service to the Central Government! State Government/ Statutory body / Local authority meant for the State / Union Territory identified in contract or agreement	Each of such States! Union territories where the advertisement is broadcasted! Run / played / dissemination.
	The value of such supplies is in proportion to the services provided by way of dissemination in the respective States/Union territories determined in terms of the contract or agreement entered into in this regard. However, in the absence of a contract or agreement between the supplier and recipient of services, the proportionate value of advertisement services attributable to	

different States/Union territories will be computed in accordance with rule 3 of IGST Rules, 2017. The provisions of the said rule are tabulated below:

SL No.	Type of advertisement	Factor which determines the proportionate value of service attributable to the dissemination in each State/Union territory
1.	Advertisements in newspapers and publications	Amount payable for publishing an advertisement in all the editions of a newspaper or publication, which are published in each State/Union territory
2.	Advertisements through printed material like pamphlets, leaflets, diaries, calendars, T-shirts, etc.	Amount payable for the distribution of a specific number of such material in each State / Union territory
3.	Advertisements in hoardings (other than those on trains)	Amount payable for the hoardings located in each State / Union territory
4.	Advertisements on trains	Length of the railway track in each State/Union Territory, for that train
5.	Advertisements on the back of utility bills of oil and gas companies, etc.	Amount payable for the advertisements on bills pertaining to consumers having billing addresses in each State / Union territory
6.	Advertisements on railway tickets	Number of Railway Stations in each State/Union territory
7.	Advertisements on radio stations	Amount payable to such radio station, which by virtue of its name is part of each State! Union territory
8.	Advertisement on television channels	Number of viewers of such channel in each State / Union Territory. Viewership can be ascertained from the channel viewership figures published by the Broadcast Audience Research Council.

		<p>Figures for the last week of a given quarter will be used for calculating viewership for the succeeding quarter. Where the channel viewership figures relate to a region comprising of more than one State/Union territory, the viewership figures for a State/ Union territory of that region, will be calculated in ratio of the populations of that State / Union territory, as determined in the latest Census.</p>
9.	Advertisements in cinema halls	Amount payable to a cinema hall or screens in a multiplex in each State/ Union territory.
10.	Advertisements on internet [the service shall be deemed to have been provided all over India]	Number of internet subscribers in each State/Union Territory Internet subscribers can be ascertained from the internet subscriber figures published by the Telecom Regulatory Authority of India (TRAI). Figures for the last quarter of a given financial year will be used for calculating the number of internet subscribers for the succeeding financial year.
		Where the internet subscriber figures relate to a region comprising of more than one State/Union territory, the subscriber figures for a State/ Union territory of that region shall be calculated in the ratio of the populations of that State/ Union territory, as determined in the latest census.

	11.	Advertisements through SMS	<p>Number of telecom subscribers in each State/Union Territory Telecom subscribers in a telecom circle can be ascertained from the telecom subscribers figures published by the TRAI. Figures for a given quarter will be used for calculating the subscribers for the succeeding quarter.</p> <p>Where such figures relate to a telecom circle comprising of more than one State/Union territory, the subscriber figures for that State/Union territory shall be calculated in the ratio of the populations of that State/Union territory, as determined in the latest census.</p>
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Example 7: Mr. X located in Chennai engaged the services of Mr. Y an Architect in Chennai. Mr. X requests him to make design of residential complex to be constructed in Cochin, Kerala. Mr. Y provided drawing and design services in relation to immovable property located at Cochin.

Find the place of supply of service and levy of tax?

Answer:

Place of supply of service = location or intended to be locate the property (i.e. Cochin)

IGST is liable to pay by Mr. Y

Example 8: Mr. Rohit registered person in Jaipur. He went to Kolkata and stays in a Taj hotel at Kolkata. He also availed Beauty treatment services at hotel.

Find the place of supply of service and tax liability in the hands of Taj hotel.

Answer:

Place of supply of service = Kolkata place of supply of service is same for accommodation service by hotel as well as Beauty treatment as it is an ancillary service to the accommodation.

Example 9: M/s Cut Ltd., provider of hair cutting saloon services, located in Mumbai. Mr. M.S. Dhoni came from Jharkhand to Mumbai after appointment for haircut. The services are provided in Mumbai. Find the place of supply of service and tax liability in the hands of M/s Cut Ltd.

Answer:

Place of supply of service = Mumbai

M/s Cut Ltd is liable to pay CGST and SGST.

Example 10: Mr. A located at Kolkata provides training at Kolkata to employees of M/s Infosys Ltd, which is registered at Mumbai.

Find the place of supply of service and GST liability in the following two cases?

Case 1: Infosys is registered person under GST

Case 2: Infosys is not registered person under GST

Answer:

Case 1: If Infosys Ltd is a registered person

POS will be Mumbai.

Mr. A. is liable to pay IGST.

Case 2: If Infosys Ltd is not a registered than POS will be Kolkata.

Mr. A. liable to pay CGST and SGST.

Example 11: Guidelines Academy registered person provides commercial training and coaching services to budding CMA's at Chennai. Many students (who are unregistered persons) from Telangana, Andhra Pradesh, Tamil Nadu, Karnataka and Kerala came and stay in Chennai for the purpose of undergoing training in the Guidelines Academy. Find the Place of supply of service?

Answer:

Place of supply of service = Chennai

As the training is performed in Chennai.

Guidelines Academy is liable to pay CGST and SGST.

X Ltd. being a registered person located in Hyderabad hires Mr. Y who is located in Chennai for appraisal performance of senior employees of their company. Mr. Y visits Hyderabad to evaluate the performance of the senior employees.

(a) Find the Place of supply of service?

(b) What would be the place of supply of service if some of the selected employees and relevant papers are sent to Chennai for evaluation where X Ltd. is un-registered person.

Answer:

(a) POS = Hyderabad (i.e. Location of recipient of Service, since, provided to a registered person)

Mr. Y is liable to pay IGST.

(b) POS = Chennai (i.e. Location where the services are actually performed, since, provided to un-registered person)

Mr. Y is liable to pay CGST and SGST.

Example 12: Board of Control for Cricket in India located at Mumbai, sold tickets on-line for IPL match, is going to conduct at Chepauk Stadium, Chennai. However, finally match conduct at Mumbai. Find the place of supply of service of admission to sporting event?

Answer:

POS = Mumbai

BCCI is liable to pay CGST and SGST.

Example 13: Mr. X an event organiser, located in Chennai received an order from M/s Taxman publications, Mumbai to conduct a book fair at Chennai. Find the Place of supply of service and GST in the following two cases:

Case 1: Taxman publications is a registered person.

Case 2: Taxman publications is a un-registered person.

Answer:

Case 1: Mumbai (i.e. location of recipient of service)

Mr. X of Chennai is liable to pay IGST.

Case 2: Chennai (i.e. location where the event is actually held)

Mr. X of Chennai is liable to pay CGST & SGST.

Example 14: Mr. Kapil Sharma a Jalandhar based comedian hosted a comedy show at Singapore on birth day occasion of Mumbai based actor Mr. Shah Rukh Khan's son AbRam.

Answer:

POS = Mumbai (i.e. location of service recipient).

GST = IGST is liable to pay by Mr. Kapil Sharma

Example 15: The Times Group being an event organizer located at New Delhi organized Miss India 2017 beauty pageant in India in the following Cities for M/s Femina Miss India a registered person located in Mumbai:

City	No. of Days	Fee in Rs.
New Delhi	12	12 crores
Chennai	18	18 crores
Mumbai	20	20 crores
Total	50	50 crores

Find the place of supply of service if contract specifies clear details.

Find the place of supply of service if contract specifies lump sum amount of Rs. 48 crores.

Answer:

The place of supply of service if contract specifies clear details:

City	No. of Days	Rs. in crore	Location of supplier of service	Place of supply of service = where the respective event is held.	GST
New Delhi	12	12	New Delhi	New Delhi	CGST & SGST
Chennai	18	18	New Delhi	Chennai	IGST
Mumbai	20	20	New Delhi	Mumbai	IGST
Total			50	50	

The place of supply of service if contract specifies lump sum amount:

City	No. of Days	Rs. in crore	Location of supplier of service	Place of supply of service = where the respective event is held.	GST
New Delhi	12	11.52	New Delhi	New Delhi	CGST & SGST
Chennai	18	17.28	New Delhi	Chennai	IGST
Mumbai	20	19.20	New Delhi	Mumbai	IGST

Example 16: M/s Navatha a transporter registered under GST, located in Vijayawada. M/s C Ltd. of Chennai registered under GST, received services from M/s Navatha for transport of goods from its warehouse in Vijayawada to Guntur. M/s Navatha delivered goods at Guntur. Find the place of supply of service and GST?

Whether your answer is different, if M/s C Ltd. of Chennai is not a registered person under GST?

Answer:

If the recipient is registered person:

POS = Chennai (i.e. location of recipient).

M/s Navatha of Vijayawada is liable to pay IGST.

If the recipient is not a registered person:

POS = Vijayawada (i.e. Location at which such goods are handed over for their transportation).

M/s Navatha of Vijayawada is liable to pay CGST & SGST.

Example 17: M/s DHL courier registered under GST and located in Mumbai, provided transportation of documents like Cheques, promissory notes, pay orders (which cannot be considered as goods) belonging to Mr. C of Chennai, from Mumbai to Chennai.

Find the place of supply of services in the following independent cases:

(a) Mr. C of Chennai is a registered person under GST.

(b) Mr. C of Chennai is a un-registered person under GST, however his address is available in the books of M/s Navatha.

(c) Mr. C of Chennai is a un-registered person under GST, however his address is not available in the books of M/s Navatha.

Answer:

Place of supply of services is as per Sec 12(2) but not under Sec 12(8) of IGST.

(a) POS = Chennai (i.e. location of recipient of service)

(b) POS = Chennai (i.e. location of recipient of service)

(c) POS = Mumbai (i.e. location of supplier of service)

Note: Cheques, promissory notes, pay orders cannot be considered as goods.

Example 18: Determination of Place of supply: Determine the Place of supply for the following independent cases under the IGST Act, 2017:

(i) Grand Gala Events, an event management company at Kolkata, organises two award functions for Kalyari Jewellers of Chennai (Registered in Chennai) at New Dethi and at Singapur. (2½ Marks, May 2018)

(ii) Perfect Planners (Bengaluru) is hired by Dr. Kelvin (unregistered person based in Kochi) to plan and organise his son's wedding at Mumbai.

Will your answer be different if the wedding is to take place at Malaysia? (2½ Marks, May 2018) (ICAI P.Q.)

Answer:

(i) As per Section 12(7) of IGST Act, 2017, the place of supply of services provided by way of organisation 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 to a registered person, shall be the location of such person.

Thus, the place of supply of services shall be Chennai where Kalyan Jewellers is registered. Even if event is held in Singapur, since service recipient is registered person, the place of supply shall be the location of the recipient, here Chennai.

(ii) As per Section 12(7) of IGST Act, 2017, the place of supply of services provided by way of organisation 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 to a person other than a registered person, shall be the place where the event is actually held and if the event is held outside India, the place of supply shall be the location of the recipient.

Since Dr. Kelvin is not a registered person, the place of supply shall be the place where the event is held, here as the wedding is organised in Mumbai, therefore, place of supply shall be Mumbai. The location of the supplier and the location of the recipient is irrelevant.

If the wedding is organised in Malaysia, then the place of supply would have been the location of the recipient. Since Dr. Kelvin resides in Kochi, therefore, the place of supply shall be Kochi.

Example 19: Determination of Place of supply: Mr. Murthy, an unregistered person and a resident of Pune, hires the services of M/s. Sun Ltd. an event management company registered in Delhi, for organising of the new product launch in Bengaluru.

- i) Determine the place of supply of services provided by M/s. Sun Ltd.
- ii) What would your answer be in case the product launch takes place in Bangkok?
- iii) What would your answer be in case Mr. Murthy is a registered person and product launches take place in Bengaluru and Bangkok? **(5 Marks, May 2018) (ICAI P.Q.)**

Answer:

(i) When service by way of organization of an event is provided to an unregistered person, the place of supply is the location where the event is actually held and if the event is held outside India, the place of supply is the location of recipient.

Since, in the given case, the service recipient (Mr. Murthy) is unregistered and event is held in India, place of supply is the location where the event is actually held i.e., Bengaluru.

(ii) However, if product launch takes place outside India (Bangkok), the place of supply will be the location of recipient i.e., Pune.

(iii) When service by way of organization of an event is provided to a registered person, place of supply is the location of recipient.

Therefore, if Mr. Murthy is a registered person, then in both the cases i.e., either when product launch takes place in Bengaluru or Bangkok, the place of supply will be the location of recipient i.e., Pune.

4. Place of supply of services where location of supplier or location of recipient is outside India [Section 13 of IGST Act, 2017]:

Section	Nature of Transaction	Place of Supply
13(1)	Applicability: The provisions of this section shall apply to determine the place of supply of services where the location of the supplier of services or the location of the recipient of services is outside India.	
13(2)	General Provisions:	
	Services not covered in Section 13(3) to 13(13)	Location of the recipient of services.

	If in above case where the location of the recipient of services is not available in the ordinary course of business	Location of the supplier of services.
13(3)	<p>Performance Based Services:</p> <p>(a) Services supplied in respect of goods which are 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> <p>When such services are provided from a remote location by way of electronic means,</p> <p>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.</p> <p>(b) Services supplied to an individual, represented either as the recipient of services or a person acting on behalf of the recipient, which require the physical presence of the recipient or the person acting on his behalf, with the supplier for the supply of services.</p>	<p>Location where the services are actually performed.</p> <p>Location where goods are situated at the time of supply of services.</p> <p>Provisions of Section 13(3)(a) will not be applicable and place of supply shall be determined as per Section 13(2).</p> <p>Location where the services are actually performed.</p>
13(4)	Services relating to Immovable property:	
	Services supplied directly in relation to an 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	Place where the immovable property is located or intended to be located.

	of rights to use immovable property, services for carrying out or co-ordination of construction work, including that of architects or interior decorators,	
13(5)	Services relating to events:	
	Services supplied by way of admission to, or organisation 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 organisation,	Place where the event is actually held.
13(6)	Services provided at more than one location:	
	Where any services referred to in,— <ul style="list-style-type: none"> ➤ Section 13(3) [i.e. Performance Based Services]; or ➤ Section 13(4) [i.e. Services relating to Immovable property]; or ➤ Section 13(5) [i.e. Services relating to events], is supplied at more than one location, including a location in the taxable territory. 	Location in the taxable territory.
13(7)	Where any services referred to in,— <ul style="list-style-type: none"> ➤ Section 13(3) [i.e. Performance Based Services]; or ➤ Section 13(4) [i.e. Services relating to Immovable property]; or ➤ Section 13(5) [i.e. Services relating to events], are supplied in more than one State or Union territory, 	<ul style="list-style-type: none"> → Place of supply of such services shall be taken as being in each of the respective States or Union territories; and → Value of such supplies specific to each State or Union territory shall be in proportion to — <ul style="list-style-type: none"> ➤ Value for services separately collected or 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.

	Performance based services : For this purpose Rule 7 has been inserted in IGST Rules, 2017 vide Notification No. 4/ 2018 w.e.f. 01-01-2019 which provides that —	
	In the case of —	Illustrations
	<p>1. Services supplied on the same goods, by equally dividing the value of the service in each of the States and Union territories where the service is performed;</p>	<p>A company C which is located in Kolkata is providing the services of testing of a dredging machine and the testing service on the machine is carried out in Orissa and Andhra Pradesh. The place of supply is in Orissa and Andhra Pradesh and the value of the service in Orissa and Andhra Pradesh will be ascertained by dividing the value of the service equally between these two States.</p>
	<p>2. Services supplied on different goods, by taking the ratio of the invoice value of goods in each of the States and Union territories, on which service is performed, as the ratio of the value of the service performed in each State or Union territory;</p>	<p>A company C which is located in Delhi is providing the service of servicing of two cars belonging to Mr.X. One car is of manufacturer J and is located in Delhi and is serviced by its Delhi workshop. The other car is of manufacturer A and is located in Gurugram and is serviced by its Gurugram workshop. The value of service attributable to the Union Territory of Delhi and the State of Haryana respectively shall be calculated by applying the ratio of the invoice value of car J and the invoice value of car A, to the total value of the service.</p>
	<p>3. Services supplied to individuals, by applying the generally accepted accounting principles,</p>	<p>A makeup artist M has to provide make up services to an actor A. A is shooting some scenes in Mumbai and some scenes in Goa. M provides the makeup services in Mumbai and Goa. The services are provided in Maharashtra</p>

		and Goa and the value of the service in Maharashtra and Goa will be ascertained by applying the generally accepted accounting principles.
	<p>Services relating to Immovable property: For this purpose Rule 8 has been inserted in IGST Rules, 2017 vide Notification No. 4/2018 w.e.f. 01-01-2019 which provides that value of supply shall be determined in accordance with the provisions of rule 4 of the IGST Rules, 2017.</p> <p>Services relating to Events: For this purpose Rule 9 has been inserted in IGST Rules, 2017 vide Notification No. 4/2018 w.e.f. 01-01-2019 which provides that value of supply shall be determined in accordance with the provisions of rule 5 of the IGST Rules, 2017.</p>	
13(8)	Specified Services:	
	<p>(a) Services supplied by a banking company, or a financial institution, or a non-banking financial company, to account holders</p> <p>Explanation:</p> <p>→ “Account” means an account bearing interest to the depositor, and includes a non-resident external account and a non-resident ordinary account;</p> <p>→ “Banking company” shall have the same meaning as assigned to it under section 45A(a) of the Reserve Bank of India Act, 1934;</p> <p>→ “Financial institution” shall have the same meaning as assigned to it in section 45-1(c) of the Reserve Bank of India Act, 1934;</p> <p>→ “Non-banking financial company” means,—</p> <p>(i) a financial institution which is a company;</p>	Location of the supplier of services.

	<p>(ii) a non-banking institution which is a company and which has as its principal business the receiving of deposits, under any scheme or arrangement or in any other manner, or lending in any manner; or</p> <p>(iii) such other non-banking institution or class of such institutions, as the Reserve Bank of India may, with the previous approval of the Central Government and by notification in the Official Gazette, specify.</p>	
	<p>(b) Intermediary services “Intermediary” means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account; (Section 2(13) of IGST Act 2017]</p>	Location of the supplier of services.
	<p>(c) Services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of one month</p>	Location of the supplier of services.
13(9)	Services of transportation of goods, other than by way of mail or courier,	Place of destination of such goods.
13(10)	Passenger transportation services	Place where the passenger embarks on the conveyance for a continuous journey.
13(11)	Services provided on board a conveyance during the course of a passenger transport operation, including services	First scheduled point of departure of that conveyance for the journey.

	intended to be wholly or substantially consumed while on board.	
13(12)	The place of supply of online information and database access or retrieval services.	Location of the recipient of services.
13(13)	In order to prevent double taxation or non-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 services or circumstances in which the place of supply shall be the place of effective use and enjoyment of a service.	

Satellite launch services provided to international customers — Place of supply is to be determined as per destination of goods - Export Incentives available [Circular No. 2/112017-IGST dated 27-09-2017]:

Issue	Clarification
How is the taxability of satellite launch services provided to both international and domestic customers by ANTRIX Corporation Limited, which a wholly owned Government of India Company under the administrative control of Department of Space (DOS), determined?	<p>Customers located outside India : Place of supply of satellite launch services supplied by ANTRIX Corporation Limited to international customers would be outside India in terms of Section 13(9) of IGST Act, 2017 and such supply which meets the requirements of Section 2(6) of IGST Act, thus constitutes export of service and shall be zero rated in accordance with Section 16 of the IGST Act.</p> <p>Customers located in India: Where satellite launch service is provided by ANTRIX Corporation Limited to a person located in India, the place of supply of satellite launch service would be governed by Section 12(8) of the IGST Act and would be taxable under CGST Act, IJTGST Act or IGST Act, as the case may be.</p>

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 is a composite supply, where such testing is an ancillary supply. The place of supply of such service is the location of the service recipient as per Section 1342 of the IGST Act. f Circular No. 118/37/2019-GST dated 11-10-2019]

Issue	Clarification
➤ “Issue under consideration: The issue is with regard to determination of place of supply in case of supply of software/design services by a supplier	➤ Composite supply of chip design/software development along with software testing cannot be vivisected — Principal supply being

located in taxable territory to a service recipient located in nontaxable territory by using the sample hardware kits provided by the service recipient.

- **Nature of service:** 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 behest 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.

chip design/software development, testing service is ancillary: 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.

- **Place of supply is location of recipient of service:** Therefore, it is 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.

Clarification regarding determination of place of supply in respect of services provided by Ports and Services rendered on goods temporarily imported in India [Circular No. 103/22/2019-GST dated 28-06-2019]:

The clarification relating to determination of place of supply is as under —

	Nature of services	Place of supply
1.	<p>Services provided by Ports — Cargo handling:</p> <p>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.</p> <p>Doubts have been raised about determination of place of supply for such services i.e. whether the same would be determined in terms of the provisions contained in Section 12(2) or Section 13(2) of the IGST Act, as the case may be or the same shall be determined in terms of the provisions contained in Section 12(3) of the IGST Act.</p>	<p>Place of supply is to be determined as per Section 12(2) / Section 13(2) of the IGST Act, 2017: It is hereby 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 Section 12(2) or Section 13(2) of the IGST Act, as the case may be, depending upon the terms, of the contract between the supplier and recipient of such services.</p>
2.	<p>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?</p>	<p>Place of supply to be determined as per Section 13(2) of the IGST Act, 2017: Place of supply in case of performance based services is to be determined as per the provisions contained in Section 13(3)(a) 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</p>

		<p>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.</p> <p>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 Section 13(2) of the IGST Act.</p>
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<p>Mohit Minerals (P.) Ltd. v. UOI [2020] 33 GSTL 321 (Gujarat)</p>	<p>No tax is leviable on the ocean freight for services provided by a person located in a 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.</p> <p>Relevant Notification No. 8/2017-IT (Rate), dated 28-6-2017 and Entry 10 of Notification No. 10/2017-IT (Rate), dated 28-6-2017 levying IGST on such service of transport, are unconstitutional.</p>
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Place of supply of research and development services related to pharmaceutical sector [Notification No. 04/2019 IT dated 30-09-2019] : As per Section 13(13), the following research and development services related to pharmaceutical sector, when supplied by a person located in taxable territory to a person located in the non -taxable territory, have been notified as the services for which the place of supply shall be the place of effective use and enjoyment of a service [as specified in column (3) of the table given below]

	Nature of supply	Place of supply
(1)	(2)	(3)
1.	<p>1. Integrated discovery and development</p> <p>2. Integrated development</p>	<p>When research and development services related to pharmaceutical sector as specified in columns (2) from S. No. 1 to 10 of this table are supplied by a person</p>

	<p>3. Evaluation of the efficacy of new chemical/ biological entities in animal models of disease</p> <p>4. Evaluation of biological activity of novel chemical/biological entities in in-vitro assays</p> <p>5. Drug metabolism and pharmacokinetics of new chemical entities</p> <p>6. Safety Assessment/ Toxicology</p> <p>7. Stability Studies</p> <p>8. Bio-equivalence and Bio-availability Studies</p> <p>9. Clinical trials</p> <p>10. Bio analytical studies</p>	<p>located in taxable territory to a person located in the non-taxable territory, the place of supply shall be the location of the recipient of services subject to fulfillment of the following conditions:</p> <p>(i) Supply of services from the taxable territory is 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 the condition that place of supply is outside India.</p>
<p>2.</p>	<p>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.</p>	<p>The place of supply of services shall be the location of the recipient of service.</p>
<p>3</p>	<p>The place of supply in respect of B2B supply of maintenance, repair or overhaul service (hereinafter referred to as MRO service) in respect of ships and other vessels, their engines and other components or parts supplied to a person for use in the course or furtherance of business (Notification No. 03/2021 IT dated 02.06.2021)</p>	<p>shall be the location of the recipient of service</p> <p>if an Indian shipping company has received MRO service in respect of a ship/vessel from a foreign supplier, place of supply of such service is in India (location of recipient being in India) and said service would qualify as an 'import of service'</p>

Example 20: Determine the place of supply of service in each of the following independent cases and state whether GST is payable in each of these cases:

(a) Mr. A travelled on a Bagdogra-Dibrugarh-Singapore-Dibrugarh-Bagdogra flight where a single ticket with no stopover has been issued by Parkinson Airlines located in Dubai.

(b) Mr. B, a well-known comedian from Delhi, organises a stage-show in Japan. For organising the stage-show, he takes the services from a Mumbai based event organiser.

Answer:

- a.** Place of supply of services = Bagdogra of West Bengal (As per Section 13(10) of the IGST). However, it is specifically exempted from GST under Entry No. 15 of the Notification No. 12/2017 of the Central Tax (Rate) dt. 28.06.2017).
- b.** Place of supply of service = Delhi (i.e. location of recipient of service). GST is payable by supplier of service (Section 13(2) of the IGST).

Example 21: With reference to the position of Goods and Service Tax law as applicable on or after 01.07.2017, what would be the place of supply of service in the following independent cases?

- (i)** MN Trade Links of New Delhi are appointed as commission agent by a foreign company for sale of its goods to Indian customers. In lieu of their services, MN Trade Links receive a fixed percentage of commission from the concerned foreign company.
- (ii)** OP Fabricators of Mumbai has temporarily imported certain goods from its customer located in Hongkong for repairs. The said goods have been re-exported to Hongkong after carrying out the necessary repairs without being put to any use in Mumbai.
- (iii)** UV Airlines, an airlines located in New Delhi, has hired aircrafts from a foreign Airlines for a period of 15 days.

Answer:

- (i)** Place of supply of service = New Delhi (i.e. location of supplier of service section 13(8)(b) of the IGST Act, 2017). GST will be levied.
- (ii)** Place of supply of service = Hongkong (i.e. location of recipient of service as per Section 13(2) of the IGST Act, 2017). No GST will be levied.
- (iii)** Place of supply of service = New Delhi (i.e. location of recipient of service as per Section 13(2) of the IGST Act, 2017). IGST will be levied.

Example 22: Determine the place of supply of service as well as their taxability in each of the following cases with brief reasons:

- (a)** XY Ltd. of Delhi, agrees to provide 'technical inspection and certification service' in respect of a newly developed product of an overseas firm (for a newly launched motorbike which has to meet emission standards in different states or countries). The overseas firm has provided its newly developed product to XY Ltd. for the purpose of testing. The testing is carried out in Delhi (15%), Assam (35%) and Sweden (50%).
- (b)** A movie on demand is provided as on board entertainment during the Kolkata-Delhi leg of a Bangkok- Kolkata-Delhi Flight.

Answer:

(a) As per Section 13(6) of IGST Act, 2017, Place of supply of service will be the place in the taxable territory (i.e. Delhi and Assam).

X Ltd is liable to pay CGST and SGST for the part of Delhi

X Ltd is liable to pay IGST for the part of Assam.

X Ltd is also liable to pay CGST and SGST as well as IGST for the services rendered in Sweden in ratio 3:7.

It means tax will be payable on the entire value.

(b) As per section 13(11) of the IGST Act, 2017, PoS is Bangkok which is non taxable territory, not subject to GST

Example 23: M/s. X Ltd. of Chennai, engaged in various businesses has provided the following services, whose values are listed below. Compute its GST liability:

(1) Service of interior decoration in respect of immovable property located in Jammu: Rs. 5 lakh;

(2) Service of renting of commercial buildings in Delhi: Rs. 15 lakh;

(3) Architectural services to an Indian Hotel Chain which has business establishment in Mumbai for its newly acquired property in Sydney: Rs. 25 lakhs;

(4) Services provided as an Indian agent undertaking marketing in India of goods of a foreign seller: Rs.51 lakhs;

(5) Services provided as travel agent undertaking marketing in India of services of a foreign seller: Rs.1 lakhs.

Applicable rate of GST 18%.

Answer:

Particulars	Value Rs. (in lakhs)	Working note
Interior decoration services	5	PoS = J & K (Sec 12(3)(a) of IGST) taxable territory. IGST will be levied
Renting of commercial buildings	15	PoS = Delhi (Sec 12(3)(b) of IGST) Taxable territory IGST will be levied
Architectural services	25	PoS = Mumbai (Sec 12(3)(a) of IGST). Taxable territory IGST will be levied
Marketing of Goods	51	PoS = Chennai (sec 13(8) of IGST) Taxable territory CGST & SGST will be levied.
Travel agent	1	PoS = Chennai (sec 13(8) of IGST) Taxable territory CGST & SGST will be levied.

Taxable supply of services		97	
Particulars	CGST	SGST	IGST
GST liability	4.68	4.68	8.10

Example 24: Determine the place of supply of service as well as their taxability in each of the following cases with brief reasons:

- (a) XY Ltd. of Delhi, agrees to provide 'technical inspection and certification service' in respect of a newly developed product of an overseas firm (for a newly launched motorbike which has to meet emission standards in different states or countries). The overseas firm has provided its newly developed product to XY Ltd. for the purpose of testing. The testing is carried out in Delhi (15%), Assam (35%) and Sweden (50%).
- (b) A movie on demand is provided as on board entertainment during the Kolkata-Delhi leg of a Bangkok- Kolkata-Delhi Flight.

Answer:

- (a) As per Section 13(6) of IGST Act, 2017, Place of supply of service will be the place in the taxable territory (i.e. Delhi and Assam).

X Ltd is liable to pay CGST and SGST for the part of Delhi

X Ltd is liable to pay IGST for the part of Assam.

X Ltd is also liable to pay CGST and SGST as well as IGST for the services rendered in Sweden in ratio 3:7.

It means tax will be payable on the entire value.

- (b) As per section 13(11) of the IGST Act, 2017, PoS is Bangkok which is non taxable territory, not subject to GST

ONLINE INFORMATION DATABASE ACCESS AND RETRIEVAL SERVICES (OIDAR)

5. Online information and database access or retrieval services [Section 2(17) of IGST Act, 2017]:

"Online information and database access or retrieval 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,

- ii) advertising on the internet;
- iii) providing cloud services;



- iv)** provision of e-books, movie, music, software and other intangibles through telecommunication networks or znternet;
- v)** providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;
- vi)** online supplies of digital content (movies, television shows, music and the like);
- vii)**digital data storage; and
- viii)** online gaming;

Indicative List of OIDAR services:

- (a) Website supply, web-hosting, distance maintenance of programmes and equipment;
- (b) Supply of software and updating thereof;
- (c) Supply of images, text and information and making available of databases;
- (d) Supply of music, films and games, including games of chance and gambling games, and of political, cultural, artistic, sporting, scientific and entertainment broadcasts and events;
- (e) e; Supply of distance teaching.

6. Place of supply of OIDAR services : As per provisions of Section 13(12), the place of supply of online information and database access or retrieval services shall be the location of the recipient of services.

Recipient deemed to be located in India if any 2 non-contradictory conditions out of such 7 conditions fulfilled [Explanation] : 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:—

- (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.

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

- (i) **Applicability:** This Section is applicable in 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.

“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. [Section 2(16)1

(ii) In case of OIDAR Services, the supplier of services liable to pay IGST. If an intermediary located outside India arranges or facilitates supply of such service to a non-taxable online recipient in India, the intermediary would be deemed to be the supplier of the said service, except when the 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. This means 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.

(iii) Registration Scheme in respect of OIDAR Services: The supplier of OIDAR services referred shall, for payment of integrated tax, take a single registration under the Simplified Registration Scheme to be notified by the Government. [Section 14(3)] 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. 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.

Summary:

Type of service	Nature of service (Cross-border)	Taxable/Exempted	Liable to pay tax
B2C	OIDAR service	Taxable	Forward charge
B2C	Other than OIDAR service	Exempt	Exempted supply
B2B	OIDAR service	Taxable	Reverse charge
B2B	Other than OIDAR service	Taxable	Reverse charge

PRACTICE QUESTIONS

Question 1. Determination of Place of supply: Mr. Mahendra Goyal, an interior decorator provides professional services to Mr. Harish Jam in relation to two of his immovable properties. Determine the place of supply in the transaction below as per provisions of GST law in the following independent situations:

Case	Location of Mr. Mahendra Goyal	Location of Mr. Harish Jam	Properties situated at
I	Delhi	Mumbai	New York (USA)
II	Delhi	New York	Paris (France)

Explain the relevant provisions of law to support your conclusions. **(5 Marks, May 2018-NS) (ICAI P.Q.)**

Solution: Case 1: In a case where both the service provider and the service recipient are located in India, the place of supply of services directly in relation to an immovable property is the location of the immovable property. However, if the immovable property is located outside India, the place of supply is the location of the recipient.

Since in the given case, both the service provider (Mr. Mahendra Goyal) and the service recipient (Mr. Harish Jain) are located in India and the immovable property is located outside India (New York), the place of supply will be the location of recipient i.e., Mumbai.

Case II: In a case where either the service provider or the service recipient is located outside India, the place of supply of services directly in relation to an immovable property is the location of the immovable property.

Since in the given case, service recipient (Mr. Harish Jain) is located outside India (New York), the place of supply will be the location of immovable property i.e., Paris (France).

Question 2. Determination of Place of supply of services: XYZ Ltd. of Delhi, engaged in various business has provided the following services in the month of March 2021, whose values are listed below. Compute its taxable value for the purpose of GST liability:

1. Service of interior decoration in respect of immovable property located in Jammu : Rs.5 lakh;
2. Service of renting of commercial buildings in Delhi : Rs.10 lakh;
3. Architectural services to an Indian Hotel Chain which has business establishment in Mumbai for its newly acquired property in Sydney : Rs.15 lakh;
4. Services provided as an Indian agent undertaking marketing in India of goods of a foreign seller: Rs.15 lakh;
5. Beautification and fashion designing services to a pageant based at Mumbai. The services are in nature of personalized services (Value: Rs.15 lakh).

6. Freight-forwarding services: Rs.12 lakh profit earned on buying and selling cargo space on airlines for export of goods. In some other cases, commission of Rs.3 lakh earned from airlines on acting as intermediary in arranging cargo space on airlines for export of goods.
7. Online information and database access and retrieval services provided to clients in UK: Rs.5 lakhs. (amount is received in convertible foreign exchange)
8. Other services provided: Rs.4 lakh to persons located in Srinagar and 15 lakh to persons located in Delhi.

Solution: The Value of taxable supply —

(amount in Rs.)

(1)	Service of interior decoration in respect of immovable property located in Jammu: As per Section 12(3) of CGST Act, 2017 in respect of services provided directly in relation to immovable property, the place of supply shall be the location of immovable property. Therefore, in the given case, the place of supply of service shall be in Jammu.	5,00,000
(2)	Service of renting of commercial buildings in Delhi: As per Section 12(3) of CGST Act, 2017, in respect of services provided directly in relation to immovable property, the place of supply shall be location of immovable property. Therefore, in the given case, the place of supply of service shall be Delhi.	10,00,000
(3)	Architectural services to an Indian Hotel Chain which has business establishment in Mumbai for its newly acquired property in Sydney: As per Section 12(3), If the location of the immovable property is outside India, the place of supply shall be the location of recipient - in this case Mumbai. If property in Sydney amounts to a fixed establishment of service recipient, then location of service recipient would be Sydney i.e. non taxable territory. As per Section 13(4), in that case place of supply shall be in	15,00,000
(4)	Sydney. Services provided as an Indian agent undertaking marketing in India of goods of a foreign seller: As per Section 13(8), the place of supply of intermediaries of goods is the place of location of service supplier. Since service supplier XYZ Ltd. is located in Delhi (taxable territory), hence, these	15,00,000
(5)	services shall be taxable. Beautification and Fashion designing: The place of supply of service shall be the place where the services are actually performed i.e. Mumbai. Hence,	15,00,000
(6)	it is chargeable to tax.	

	Freight Forwarding: According to Section 12(8), Where the transportation of goods is to a place outside India, the place of supply shall be destination of such goods. The said services have been exempt vide Entry 19A of Notification No. 12/2017 tifi 30-09-2021.	Nil
(7)	As per Section 12(2), the place of supply of intermediary services shall be the location of registered person, assuming that services are provided to registered person. Hence it shall be taxable.	3,00,000
(8)	Online information database access and retrieval services: As per provisions of Section 13(12), the place of supply of service shall be the location of the recipient of services i.e. UK. Since the amount is received in convertible foreign exchange, it amounts to export of service and hence it can be exported without payment of tax under LUT.	Nil
	Other services provided: For other services, As per Section 12(3) services in India (including Srinagar are taxable) based on location of the recipient of services.	19,00,000
	Total Value of taxable Supply	82,00,000

Question 3. Place of supply: Answer the following questions in the light of the place of supply provisions contained in the IGST Act, 2017:

- (1) Quickdeal Enterprises (Ahmednagar, Gujarat) opens a new branch office at Hissar, Haryana. It purchases a building for office from Ruhani Builders (Hissar) along with pre-installed office furniture and fixtures. Determine place of supply of the pre-installed office furniture and fixtures. (MTP May, 2018 Marks)
- (2) Supra Events, an event management company at New Delhi, organizes an award function for Chirag Diamond Merchants of Varanasi (registered in U.P.), at Mumbai. Determine place of supply of the service supplied by Supra Events. Will your answer be different, if the award function is organised at Mauritius instead of Mumbai? (MTP May, 2018 Marks)

Solution: The place of supply shall be as under:

- (1) As per Section 10(1)(c) of the IGST Act, if the supply does not involve movement of goods, the place of supply is the location of goods at the time of delivery to the recipient. Since there is no movement of office furniture and fixtures in the given case, the place of supply of such goods is their location at the time of delivery to the recipient (Quickdeal Enterprises) i.e., Hissar, Haryana.
- (2) Section 12(7) of the IGST Act stipulates that the place of supply of services provided by way of organisation 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 is the location of recipient in a case where such service is provided to a registered

person. In the given case, since the recipient (Chirag Diamond Merchants) is a registered person, the place of supply is the location of the recipient, i.e., Varanasi, UP.

Further, the place of supply will not change even if the award function is organised at Mauritius instead of Mumbai as the location of recipient remains unchanged. Thus, in that case also, the place of supply is the location of the recipient, i.e., Varanasi, U.P.

Question 4. Determination of Place of supply of service: Swamy Ltd. of Chennai acquires the business of SA Ltd. at Johannesburg, South Africa. Swamy Ltd. entered into a contract with M/s. Krish & Krish Architects, Chennai to do the interiors of the building of new business at South Africa. The GST department issued a notice demanding GST based on the Place of Supply. Discuss. **(Modified 4 Marks, Nov. 2016)**

Answer: As per Section 12(3) of the IGST Act, 2017, in respect of services provided directly in relation to immovable property, the place of supply shall be the location at which the immovable property is located. However, if the location of the immovable property is outside India, the place of supply shall be the location of recipient. In this case the place of supply shall be the location of the recipient i.e. Chennai.

However, since branch in South Africa is a separate person and if order is placed by branch in South Africa, then provisions of Section 13(4) of the IGST Act shall apply and the place of supply shall be location of immovable property i.e. South Africa.

Question 5. Determination of Place of supply of service: Musicera Pvt. Ltd., owned by Nitish Daani - a famous classical singer - wishes to organise a 'Nitish Daani Music Concert' in Gurugram (Haryana). Musicera Pvt. Ltd. (registered in Ludhiana, Punjab) enters into a contract with an event management company, Supriya (F) Ltd. (registered in Delhi) for organising the said music concert at an agreed consideration of Rs.10,00,000. Supriya (P) Ltd. books the lawns of Hotel Dumdum, Gurugram (registered in Haryana) for holding the music concert, for a lump sum consideration of Rs.4,00,000. Musicera Pvt. Ltd. fixes the entry fee to the music concert at Rs.5,000. 400 tickets for 'Nitish Daani Music Concert' are sold.

You are required to determine the CGST and SGST or IGST liability, as the case may be, in respect of the supply(s) involved in the given scenario. Will your answer be different if the price per ticket is fixed at 450?

Note: Rate of CGST and SGST is 9% each and IGST is 18%. All the amounts given above are exclusive of taxes, wherever applicable. **(RTP May2019) (ICAI P. Q.)**

Solution: In the given situation, three supplies are involved:

- i) Admission to events: Services provided by Musicera Pvt. Ltd. to audiences by way of admission to music concert.
- ii) Organization of event: Services provided by Supriya (F) Ltd. to Musicera Pvt. Ltd. by way of organising the music concert.

iii) Accommodation services : Services provided by Hotel Dumdum to Supriya (P) Ltd. by way of accommodation in the Hotel lawns for organising the music concert.

The CGST and SCSJ or IGST liability in respect of each of the above supplies is determined as under:

i) Admission to event — POS — Place where event is held: As per the provisions of section 12(6) of the IGST Act, 2017, the place of supply of services provided by way of admission to, inter alia, a cultural event shall be the place where the event is actually held.

Therefore, the place of supply of services supplied by Musicera Pvt. Ltd. to audiences by way of admission to the music concert is the location of the Hotel Dumdum, i.e. Gurugram, Haryana.

Since the location of the supplier (Ludhiana, Punjab) and the place of supply (Gurugram, Haryana) are in different States, IGST will be leviable. Therefore, IGST leviable will be computed as follows:

Consideration for supply (400 tickets @ Rs.5,000 per ticket) = Rs.20,00,000
IGST @ 18% on value of supply = Rs.20,00,000 x 18% = Rs.3,60,000.

ii) Organization of event — POS — Location of registered person: Section 12(7) (a) (i) of IGST Act, 2017 stipulates that the place of supply of services provided by way of organization of, inter alia, a cultural event to a registered person is the location of such person.

Therefore, the place of supply of services supplied by Supriya (F) Ltd. to Musicera Pvt. Ltd. (Ludhiana, Punjab) by way of organizing the music concert is the location of the recipient, i.e. Ludhiana (Punjab).

Since the location of the supplier (Delhi) and the place of supply (Ludhiana, Punjab) are in different States, IGST will be leviable. Therefore, IGST leviable will be computed as follows:

Consideration for supply Rs.10,00,000

IGST @ 18% on value of supply = Rs.10,00,000 x 18% = Rs.1,80,000

iii) Accommodation service — POS — place where immovable property is located: As per the provisions of section 12(3)(c) of the IGST Act, 2017, the place of supply of services, by way of accommodation in any immovable property for organizing, inter alia, any cultural function shall be the location at which the immovable property is located.

Therefore, the place of supply of services supplied by Hotel Dumdum (Gurugram, Haryana) to Supriya (F) Ltd. by way of accommodation in Hotel lawns for organising the music concert shall be the location of the Hotel Dumdum, i.e. Gurugram, Haryana.

Since the location of the supplier (Gurugram, Haryana) and the place of supply (Gurugram, Haryana) are in the same State, CGST and SCSJ will be leviable. Therefore, CGST and SCSJ leviable will be computed as follows:

Consideration for supply = Rs.4,00,000

CGST @ 9% on value of supply = 4,00,000 x 9% = 36,000

SGST @ 9% on value of supply = Rs.4,00,000 x 9% = Rs.36,000

If the price for the entry ticket is fixed at Rs.450, answer will change in respect of supply of service provided by way of admission to music concert, as mentioned in point (i) above. There will be no IGST liability if the consideration for the ticket is Rs.450 as the inter-State services by way of right to admission to, inter alia, musical performance are exempt from IGST vide Notification No. 9/2017-IT (R) dated 28-06-2017, if the consideration for right to admission to the event is not more than Rs.500 per person. However, there will be no change in the answer in respect of supplies mentioned in point (ii) and (iii) above.

Question 6. Determination of Place of supply of services: What would be the place of supply of service in the following independent cases?

- (i) MN Trade Links of New Delhi are appointed as commission agent by a foreign company for sale of its goods to Indian customers. In lieu of their services, MN Trade Links receive a fixed percentage of commission from the concerned foreign company.
- (ii) OP Fabricators of Mumbai has temporarily imported certain goods from its customer located in Hongkong for repairs. The said goods have been re-exported to Hongkong after carrying out the necessary repairs without being put to any use in Mumbai.
- (iii) UV Airlines, an airlines located in New Delhi, has hired aircrafts from a foreign Airlines for a period of 15 days.

Answer:

- i) As per Section 13(8) of IGST Act, 2017, the place of supply of intermediaries of goods is the place of location of service supplier. Thus, the place of supply of services provided or agreed to be provided by MN Trade Links (as commission agent of goods) to foreign company shall be the location of service supplier i.e., New Delhi and shall be liable to GST.
- ii) Section 13(3)(a) of IGST Act, 2017 provides that the place of supply of services supplied in respect of goods which are 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, is the location where the services are actually performed. However, 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, the above provision shall not apply and place of supply shall be determined as per general rule i.e. Section 13(2) i.e. location of the recipient of service.

In the given case, goods have been temporarily imported by OP Fabricators and have been re-exported after the repairs without being put to any use in Mumbai. Therefore, place of supply of repair services carried out by OP Fabricators shall be the location of service recipient i.e. Hongkong.

iii) As per Section 13(8)(c), place of supply of services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of one month is the location of the service supplier. Therefore, services of hiring of aircraft and vessel (except yachts), irrespective of the period of hire, shall be covered under Section 13(2) of the IGST Act, 2017 and place of supply shall be location of the recipient of service. Thus, the place of supply of aforesaid hiring services shall be New Delhi (location of service recipient).

Question 7. Determination of Place of supply of services: Determine the place of supply of services in each of the following independent cases:

- (i)** Mr. A, the owner of an immovable property located in New Delhi gives on rent the said property to Mr. B of U.P. for commercial purposes.
- (ii)** Mr. Rahul, a Delhi based Interior Decorator provides his professional services in respect of property which is intended to be located in Punjab.
- (iii)** A U.S.A. based company possessing specialization in mineral exploration has been awarded a contract for mineral exploration in respect of specific sites in Canada by Mumbai based Mr. Ram Kapoor.
- (iv)** Rohit, a Consulting Engineer provides his professional consultancy services to a U. K. based company in respect of its three properties located in U. K., USA and Dubai.
- (v)** Yogesh, Chennai based Professional valuer provides his professional services of valuation of immovable properties [vide a single contract for a consolidated consideration] to Mumbai based Reliance Industries Ltd. in respect of its four properties located in Delhi, Kashmir, Kolkata and London. It is assumed that Yogesh performed 20%, 30% 15% and 35% of his total services in foregoing four cities respectively.
- (vi)** A Delhi based builder provides construction services to Punjab based company in respect of construction of its new building in Bangladesh.

Answer:

The aforesaid cases have been discussed herein below,—

- i)** As per Section 12(3) of JGST Act, 2017 in respect of services provided directly in relation to immovable property, the place of supply shall be place where immovable property is located or intended to be located. Therefore, in the given case, the place of supply of service shall be New Delhi which falls within the ambit of taxable territory.

- ii)** As per Section 12(3) of IGST Act, 2017 in respect of services provided directly in relation to immovable property, the place of supply shall be place where immovable property is located or intended to be located. In this case, it is assumed that location of service recipient is in India. The place of supply of services shall be Punjab as the concerned property is intended to be located in Punjabi which falls within the ambit of Taxable Territory.
- iii)** As per Section 13(4) of IGST Act, 2017 in respect of services provided directly in relation to immovable property, the place of supply shall be place where the immovable property is located or intended to be located. In this case, since specific sites in respect of which mineral exploration is to be carried out are located in Canada, the place of supply of service shall be Canada which does not fall within the ambit of taxable territory.
- iv)** As per Section 13(4) of IGST Act, 2017 in respect of services provided directly in relation to immovable property, the place of supply shall be place where the immovable property is located or intended to be located. Since, in this case, consulting engineers services provided by Mr. Rohit are in respect of property which falls within non- taxable territory.
- v)** As per Section 12(3) of ICST Act, 2017, in respect of services provided directly in relation to immovable property, the place of supply shall be place where the immovable property is located or intended to be located.

Where the immovable property is located in more than one State or Union territory, the supply of service shall be treated as made in each of the respective States or Union territory, in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard.

Here, place of Supply for services provided in three properties located in Delhi (20%), Kashmir (30%) and Kolkata (15%) shall be in each of the states where the service is supplied. If the immovable property is located or intended to be located outside India, the place of supply shall be location of the recipient. In this case services provided in relation to immovable property located in London (35%), Place of supply shall be location of the recipient i.e. Mumbai which falls within the ambit of taxable territory.

- vi)** As per Section 12(3) of IGST Act, 2017, in respect of services provided directly in relation to immovable property, the place of supply shall be place where the immovable property is located or intended to be located. If the immovable property is located or intended to be located outside India, the place of supply shall be location of the recipient.

In this case services provided in relation to immovable property located in Bangladesh, the place of supply shall be location of the recipient i.e. Punjab which falls within the ambit of 'Taxable Territory'.

Question 8. Determination of Place of supply of services: Determine the place of provision of services in each of the following cases with brief reasons:

- (i) XY Ltd. agrees to provide technical inspection and certification service' in respect of a newly developed product of an overseas firm (for a newly launched motorbike which has to meet emission standards in different states or countries). The overseas firm has provided its newly developed product to XY Ltd. for the purpose of testing. The testing is carried out in Delhi (15%), Assam (35%) and Sweden (50%).
- (ii) A movie on demand is provided as on-board entertainment during the Kolkata-Delhi leg of a Bangkok Kolkata-Delhi Flight. **(Modified 2 Marks, May 2015)**

Answer: The place of supply of services as well as their taxability is as under —

(1) As per Section 13(3) of IGST Act, 2017, where any service supplied in respect of goods which are required to be made physically available by the recipient of services to supplier of services, the place of supply of services shall be the location where the service is actually performed.

As per Section 13(7) of IGST Act 2017, where any such services are supplied in more than one state or Union territory, place of supply of such services shall be taken as being in each of the respective states or Union territories.

Thus, place of supply of testing services (including that of Sweden) shall be in proportion of 15 and 35 in Delhi and Assam respectively.

(2) As per Section 12(10) of IGST Act, 2017, the place of supply of services provided on board a conveyance during the course of a passenger transport operation, including services intended to be wholly or substantially consumed while on board shall be location of the first scheduled point of departure of that conveyance for the journey. The first scheduled departure of the conveyance is Bangkok. Hence, the place of supply of service shall be in Bangkok i.e. in the non-taxable territory.

Question 9. Determination of Place of Supply of services: The supplier of service is abroad. He renders service to a subsidiary of an Indian Company located abroad. Payment to him is done by holding Indian Company. Does it attract GST?**(Modified 2 Marks, May 2007)**

Answer: GST is levied on supply of goods or services or both, in India including the state of Jammu and Kashmir. GST is a destination based tax on consumption of goods and services. In this case, GST will not be attracted as location of supplier of service is abroad and place of supply of service is outside India. It is irrelevant that the payment for service is made from India.

Question 10. Determination of Place of Supply of services: Determine the place of supply of service in each of the following independent cases:

- (1) A Mumbai based builder provides construction services to Gujarat based company in respect of construction of its new building in Afghanistan.
- (2) A UK based company has been awarded mineral exploration contract in respect of specific sites in ZIMBABWE by a Chennai based corporation. **(Modified 3 Marks, Nov. 2013)**

Answer:

- (1) As per Section 12(3) of IGST Act, 2017, in respect of services provided directly in relation to immovable property, the place of supply shall be the place where the immovable property is located or intended to be located. If the immovable property is located or intended to be located outside India, the place of supply shall be location of the recipient. In this case services provided in relation to immovable property located in Afghanistan, Place of supply shall be location of the recipient i.e. Gujarat which falls within the ambit of 'Taxable Territory.
- (2) As per Section 13(4) of IGST Act, 2017, in respect of services provided directly in relation to immovable property, the place of supply shall be the place where the immovable property is located or intended to be located. In this case, since specific sites in respect of which mineral exploration is to be carried out are located in ZIMBABWE, the place of supply of service shall be ZIMBABWE which does not fall within the ambit of taxable territory.

Question 11. Determination of Place of supply of services: Determine the place of supply of service in each of the following independent cases and state whether GST is payable in each of these cases:

- (1) Mr. A (an unregistered person) travelled on a Bagdogra - Dibrugarh — Singapore - Dibrugarh – Bagdogra flight where a single ticket with no stopover has been issued by Parkinson Airlines.
- (2) Mr. B (an unregistered person), a well-known comedian from Delhi, organises a stage-show in Japan. For organising the stage-show, he takes the services from a Mumbai based event organiser.

Answer: The place of supply of service as well as their taxability is as under —

- (1) As per Section 12(9) of IGST Act, 2017, the place of supply in respect of a passenger transportation service supplied to unregistered person is the place where the passenger embarks on the conveyance for a continuous journey. The journey in the given case is a continuous journey as a single ticket has been issued for the entire journey [Section 2(3) of IGST Act, 2017]. on application of Section 12(9) in the given case, the place of supply of service is Bagdogra and resultantly, the service is taxable in India.

However, no GST would be payable as there is an exemption for air transportation of passengers embarking from Bagdogra airport located in West Bengal [Entry 15 of Notification No. 12/2017-CT (Rate)].

(2) As per Section 12(7)(a) of IGST Act, 2017, the place of supply of services provided by way of organization of an entertainment event in India supplied to an unregistered person is the place where event is actually held. If event is held outside India then the place of supply is location of the recipient. Thus, in the given case since the event is held in Japan (outside India), the place of supply of service is Delhi, thus the service is taxable in India.

Question 12. Place of supply of services: Write a brief note on the applicability of GST in the following cases:

- (i)** Whether the representation service provided by an Indian bank to a foreign MTSO (Money Transfer Service Operator) in relation to money transfer to a beneficiary in India falls in the category of intermediary service.
- (ii)** Whether GST is leviable on the services provided as mentioned in (i) above by a intermediary/ agent located in India (in taxable territory) to MTSOs located outside in India.

(Modified 4 Marks, Nov. 2016)

Answer:

(i) In terms of Section 2(13) of IGST Act 2017, intermediary means a broker, an agent or any other person who arranges/facilitates the supply of a service (hereinafter called the 'main service') between two/more persons, but does not include a person who supplies such service on his own account.

An Indian bank, acting as an agent to foreign MTSO, facilitates the provision of money transfer service by the foreign MTSO to a beneficiary in India and receives commission or fee in return.

Hence, the Indian Bank falls in the category of intermediary and representation service provided by such Bank is intermediary service. Hence, the said service is liable to GST.

(ii) Yes, GST is leviable on the said service. Section 13(8) of IGST Act, 2017 provides that the place of supply of intermediary service is the location of supplier of service, Since the intermediary is located in taxable territory, the said service is liable to GST.

Question 13. OIDAR Services: From the following information determine GST liability, if any; and person liable to pay GST in context of "Online information and database access or retrieval services" (OIDAR) Services.

Mr. X of Rajasthan provides online gaming services across India. He earns Rs.12,00,000 from user of India (including Rs.2,00,000 from Jammu & Kashmir users), and Rs.5,00,000 from foreign

users. (Rate of GST — 18%) (Payment from foreign users is received in convertible foreign exchange)

Solution: The place of supply and GST liability is as under — **(amount in Rs.)**

OIDAR Services:	
(a) Services provided to users in India (including Jammu & Kashmir users) shall be taxable in India	12,00,000
(b) Services provided to Foreign users - The place of supply shall be outside India, hence, not taxable	Nil
Total Value of taxable supply	12,00,000
GST payable @ 18%	2,16,000
Since X is located in taxable territory, he shall be liable to pay GST	

Question 14. OIDAR Services: From the following information determine GST liability, if any; and person liable to pay GST in context of "Online information and database access or retrieval services" (OIDAR) Services. Mr. X of Dubai provides cloud services. He earns Rs.10 lakhs from users in India (including Rs.2 lakh from Jammu and Kashmir (personal users)Rs.5 lakhs from Dubai users and 50,00,000 from companies in India, being business users (who further sell such services). GST is 18%

Solution: The position of law is explained by way of table below - (amount in Rs.)

OIDAR Services provided by Mr. X of Dubai i.e., person in non-taxable territory:	
a) Place of supply - For users in India (including Jammu & Kashmir users) (Personal use) i.e. Non Taxable on line recipient: As per Section 13(13), the place of supply shall be the location of recipient of services i.e. India, hence taxable. Person liable to pay tax - The person liable to pay GST shall be Mr. X or his agent in India.	10,00,000
b) Place of supply - For Dubai users: The place of supply shall be outside India. The same shall not be taxable. Otherwise also, the sale is exempt under Entry 10(c) of Notification No. 9/2017-IT (Rate), as both Service supplier and Service recipient are located in non Taxable territory.	Nil
c) Place of supply - For business users in India: As per Section 13(13), the place of supply shall be the location of recipient of services i.e. India, hence taxable. Person liable to pay tax: The company located in India shall be liable to pay GST on reverse charge basis.	50,00,000

Total Value of taxable Supply	60,00,000
GST payable @ 18%	10,80,000

Question 15. Advertisement services to Government: 'PQ', a statutory body, deals with the all the advertisement and publicity of the Government. It has issued a release order to 'Moon Plus' channel (registered in State 'A') for telecasting an advertisement relating to one of the schemes of the Government in the month of September 2020. The advertisement will be telecasted in the States of 'A', 'B', 'C', 'D' and 'F'. The total value of the service contract entered into between 'Moon Plus' and 'PQ' is Rs.10,00,000 (exclusive of GST).

You are required to determine the place of supply of the services in the instant case as also the value of supply attributable to the States of 'A', 'B', 'C', 'D' and 'E'.

Further, compute the GST liability [CGST & SCS or IGST, as the case may be] of 'Moon Plus' as also advise it as to whether it should issue one invoice for the entire contract value or separate State-wise invoices.

The other relevant information is given hereunder:

Table 1

States	Viewership figures of 'Moon Plus' channel in the last week of June 2020 as provided by the Broadcast Audience Research Council
A	50,000
B + C	1,00,000
D+E	50,000

Table 2

States	Population as per latest census (in crores)
A	50
B	180
C	20
D	100
E	25

The applicable rate of tax is as under:

CGST	SGST	IGST
9%	9%	18%

(RTP May 2020)

Solution: Determination of POS in case of advertisement services to Government: As per section 12(14) of the IGST Act, 2017, the place of supply of 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 is taken as being in each of such States or Union territories (where the advertisement is broadcasted / run /played/disseminated).

Therefore, in the given case, the place of supply of advertisement service is in the States of 'A', 'B', 'C', 'D' and 'E'.

The value of the supply of such advertisement services specific to each State/Union territory is in proportion to the amount attributable to the services provided by way of dissemination in the respective States/Union territories determined in terms of the contract or agreement entered into in this regard.

In the absence of such a contract or agreement between the supplier and recipient of services, the proportionate value of advertisement services attributable to different States/Union territories (where the advertisement is broadcasted/ run/played/ disseminated) is computed in accordance with rule 3 of the IGST Rules, 2017.

As per rule 3(f) of the IGST Rules, 2017, in the case of advertisement on television channels, the amount attributable to the value of advertisement' service disseminated in a State shall be calculated on the basis of the viewership of such channel in such State, which in turn, shall be calculated in the following manner, namely: -

- (i) the channel viewership figures for that channel for a State or Union territory shall be taken from the figures published in this regard by the Broadcast Audience Research Council;
- (ii) the figures published for the last week of a given quarter shall be used for calculating viewership for the succeeding quarter;
- (iii) where such channel viewership figures relate to a region comprising of more than one State or Union territory, the viewership figures for a State or Union territory of that region, shall be calculated by applying the ratio of the populations of that State or Union territory, as determined in the latest Census, to such viewership figures;
- (iv) the ratio of the viewership figures for each State or Union territory as so calculated, when applied to the amount payable for that service, shall represent the portion of the value attributable to the dissemination in that State or Union territory.

Therefore, value of supply attributable to 'A', 'B', 'C', 'D' and 'E', will be computed as under:

States	Viewership figures of 'Moon Plus' channel as provided by the Broadcast Audience Research Council in the last week of June 2020	Viewership ratio of 'Moon Plus' channel in the States 'A', ('B' + 'C') and ('D' + 'E')	Proportionate value of advertisement services for States A', ('B' + 'C') and ('D' + 'E')
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A	50,000	50,000: 1,00,000 :	Rs.10,00,000 x 1/4 = Rs.2,50,000
B + C	1,00,000	50,000 = 1:2:1	Rs.10,00,000 X 2/4 = Rs.5,00,000
D + F	50		Rs.10,00,000 x 1/4 = Rs. 2,50,000

States	Population as per latest census (in crores)	Population ratio in the States 'B' & 'C' and 'D' & 'E'	Proportionate value of advertisement services in the States 'A', 'B', 'C', 'D' & 'E'
A	50		Rs.2,50,000
B	180	B : C = 180 : 20 = 9 : 1	Rs.5,00,000 x 9/10 = Rs.4,50,000
C	20		Rs.5,00,000 x 1/10 = Rs.50,000
D	100	D : E = 100 : 25 = 4 : 1.	Rs.2,50,000 x 4/5 = Rs.2,00,000
E	25		Rs.2,50,000 x 1/5 = Rs.50,000

Different tax invoices to be issued for different POS: Since, there are five different places of supply in the given e, 'Moon Plus' channel will have to issue five separate invoices for each of the States namely, 'A', 'B', 'C', 'D' & indicating the value pertaining to that State. The GST liability of 'Moon Plus' channel will, therefore, be worked out: under:

Computation of GST liability of 'Moon Plus':

States	Proportionate value of advertisement services (Rs.)	CGST @ 9% (Rs.)	SGST @ 9% (Rs.)	IGST @ 18% (Rs.)
A	2,50,000	22,500		
B	4,50,000		22,500	81,000
C	50,000			9,000
D	2,00,000			36,000
E	50,000			9,000

Nature of supply: Only in case of supply of services in State 'A', the location of supplier (State 'A') and the place of supply are in the same State, hence the same is an intra-State supply in terms of section 8(1) of the IGST Act, 2017 and is thus, liable to CGST and SGST. In all the remaining cases of supply of services, the location of the supplier (State 'A') and the places of supply (States 'B', 'C', 'D' & 'F') are in two different States, hence the same are inter-State supplies liable to IGST [Section 7(1)(a) of the IGST Act, 2017 read with section 5(1) of that Act].

PRACTICE QUESTIONS

Question 1. What would be the place of supply of services provided by an event management company for organizing a sporting event for a Sports Federation which is held in multiple States?

Answer:

In case of an event, if the recipient of service is registered, the place of supply of services for organizing the event is the location of such person. However, if the recipient is not registered, the place of supply is the place where event is held.

Since the event is being held in multiple states and a consolidated amount is charged for such services, the place of supply will be deemed to be in each State in proportion to the value for services determined in terms of the contract or agreement entered into in this regard [Explanation to section 12(7)].

In the absence of a contract or agreement between the supplier and recipient of services, the proportionate value of services made in each State (where the event is held) will be computed in accordance with rule 5 of the IGST Rules by the application of generally accepted accounting principles.

Question 2. What is the place of supply of services by way of transportation of goods, including mail or courier when the both the supplier and the recipient of the services are located in India?

Answer:

If the recipient is registered, the location of such person is the place of supply. However, if the recipient is not registered, the place of supply is the place where the goods are handed over for transportation. Further, if the goods are transported outside India, the destination of such goods is the place of supply [Section 12(8)].

Question 3. What will be the place of supply of passenger transportation service, if a person travels from Mumbai to Delhi and back to Mumbai?

Answer:

If the person is registered, the place of supply will be the location of recipient. If the person is not registered, the place of supply for the forward journey from Mumbai to Delhi will be Mumbai, the place where he embarks [Section 12(9)].

However, for the return journey, the place of supply will be Delhi as the return journey has to be treated as separate journey [Explanation to section 12(9)].

Question 4. What is the place of supply for mobile connection? Can it be the location of supplier?

Answer:

The location of supplier of mobile services cannot be the place of supply as the mobile companies are providing services in multiple states and many of these services are inter-state.

The consumption principle will be broken if the location of supplier is taken as place of supply and all the revenue may go to a few states where the suppliers are located.

The place of supply for mobile connection would depend on whether the connection is on postpaid or prepaid basis. In case of postpaid connections, the place of supply is the location of billing address of the recipient of service.

In case of pre-paid connections, the place of supply is the place where payment for such connection is received or such pre-paid vouchers are sold.

However, if the recharge is done through internet/e-payment, the location of recipient of service on record will be taken as the place of supply.

Question 5. A person from Mumbai goes to Kullu-Manali and takes some services from ICICI Bank in Manali. What is the place of supply?

Answer:

If the service is not linked to the account of person, place of supply will be Kullu, i.e. the location of the supplier of services. However, if the service is linked to the account of the person, the place of supply will be Mumbai, the location of recipient on the records of the supplier

Question 6. XY Ltd. (registered in Rajasthan) received legal services from an attorney in UK (unrelated person) in relation to registration of a trademark in UK. A consideration of £ 8,000 was paid by the company to the attorney in UK. Determine the place of supply for the service and suggest if XY Ltd. is required to pay tax under reverse charge on this transaction.

Answer:

In the given case, the service provider is outside India, and the service recipient is in India. Thus, the place of supply will be determined on the basis of the provisions of section 13. Since the given service does not get covered under any of the specific provisions of section 13, the place of supply thereof will be governed by the general rule, i.e. place of supply of services will be the location of the recipient of service, which in this case is Rajasthan (India).

Further, the given case is import of service in terms of section 2(11) as the supplier of service is located outside India, the recipient of service is located in India and the place of supply of service is in India. Since the services are imported for a consideration from an unrelated person, the same tant amounts to supply in terms of section 7(1)(b) of CGST Act and are liable to GST. As per reverse charge Notification No. 10/2017 IT(R) dated 28.06.2017, if a service is supplied by a person located in a non-taxable territory to a person located in the taxable territory, other than non-taxable online recipient, the tax is payable by the recipient of service under reverse charge.

Therefore, XY Ltd. will pay GST under reverse charge on £ 8000 paid by it to the attorney in UK.

Question 7. Damani Industries has recruited Super Events Pvt. Ltd., an event management company of Gujarat, for organising the grand party for the launch of its

new product at Bangalore. Damani Industries is registered in Mumbai. Determine the place of supply of the services provided by Super Events Pvt. Ltd. to Damani Industries. Will your answer be different if the product launch party is organised at Dubai?

Answer:

Section 12(7)(a)(i) stipulates that when service by way of organization of an event is provided to a registered person, place of supply is the location of recipient.

Since, in the given case, the product launch party at Bangalore is organized for Damani Industries (registered in Mumbai), place of supply is the location of Damani Industries, i.e. Mumbai, Maharashtra.

In case the product launch party is organised at Dubai, the answer will remain the same, i.e. the place of supply is the location of recipient (Damani Industries)– Mumbai, Maharashtra.

Question 8. Priyank Sales of Pune, Maharashtra enters into an agreement to sell goods to Bisht Enterprises of Bareilly, Uttar Pradesh. While the goods were being packed in Pune godown of Priyank Sales, Bisht got an order from Sahil Pvt. Ltd. of Shimoga, Karnataka for the said goods. Bisht Enterprises agreed to supply the said goods to Sahil Pvt. Ltd. and asked Priyank Sales to deliver the goods to Sahil Pvt. Ltd. at Shimoga.

You are required to determine the place of supplies in the above situation.

Answer:

The supply between Priyank Sales (Pune) and Bisht Enterprises (Bareilly) is a bill to ship to supply where the goods are delivered by the supplier [Priyank Sales] to a recipient [Sahil Pvt. Ltd. (Shimoga)] or any other person on the direction of a third person [Bisht Enterprises]. The place of supply in case of domestic bill to ship to supply of goods is determined in terms of section 10(1)(b).

As per section 10(1)(b), 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, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person.

Thus, in the given case, it is deemed that the Bisht Enterprises has received the goods and the place of supply of such goods is the principal place of business of Bisht Enterprises. Accordingly, the place of supply between Priyank Sales (Pune) and Bisht Enterprises (Bareilly) will be Bareilly, Uttar Pradesh.

This situation involves another supply between Bisht Enterprises (Bareilly) and Sahil Pvt. Ltd. (Shimoga). The place of supply in this case will be determined in terms of section 10(1)(a).

Section 10(1)(a) stipulates that where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient.

Thus, the place of supply in second case is the location of the goods at the time when the movement of goods terminates for delivery to the recipient (Sahil Pvt. Ltd.), i.e. Shimoga, Karnataka..

Question 9. RST Inc., a corn chips manufacturing company based in USA, intends to launch its products in India. However, the company wishes to know the taste and sensibilities of Indians before launching its products in India. For this purpose, RST Inc. has approached ABC Consultants, Mumbai, (Maharashtra) to carry out a survey in India to enable it to make changes, if any, in its products to suit Indian taste.

The survey is to be solely based on the oral replies of the surveyees; they will not be provided any sample by RST Inc. to taste. ABC Consultants will be paid in convertible foreign exchange for the assignment.

With reference to the provisions of GST law, determine the place of supply of the service. Also, explain whether the said supply will amount to export of service?

Answer:

As per section 13(2), in case where the location of the supplier of services or the location of the recipient of services is outside India, the place of supply of services except the services specified in sub-sections (3) to (13) shall be the location of the recipient of services. Sub-sections (3) to (13) provide the mechanism to determine the place of supply in certain specific situations.

The given case does not fall under any of such specific situations and thus, the place of supply in this case will be determined under sub-section (2) of section 13. Thus, the place of supply of services in this case is the location of recipient of services, i.e. USA.

As per section 2(6), export of services means the supply of any service when,—

- a)** the supplier of service is located in India;
- b)** the recipient of service is located outside India;
- c)** the place of supply of service is outside India;
- d)** the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India; and
- e)** the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8.

Since all the above five conditions are fulfilled in the given case, the same will be considered as an export of service.

Question 10. ABC Pvt. Ltd., New Delhi, provides support services to foreign customers in relation to procuring goods from India. The company identifies the prospective vendor, reviews product quality and pricing and then shares the vendor details with the foreign customer.

The foreign customer then directly places purchase order on the Indian vendor for purchase of the specified goods. ABC Pvt. Ltd. charges its foreign customer cost plus 10% mark up for services provided by it.

The company has charged US \$ 1,00,000 (exclusive of GST) to its foreign customer for the services provided by it. With reference to the provisions of GST law, examine whether the said supply will amount to export of service?

Answer:

Section 2(13) defines "intermediary" to mean a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account.

In this case, since ABC Pvt. Ltd. is arranging or facilitating supply of goods between the foreign customer and the Indian vendor, the said services can be classified as intermediary services.

If the location of the supplier of services or the location of the recipient of service is outside India, the place of supply is determined in terms of section 13. Since, in the given case, the recipient of supply is located outside India, the provisions of supply of intermediary services will be determined in terms of section 13.

As per section 13(8)(b), the place of supply in case of intermediary services is the location of the supplier, i.e. the location of ABC Pvt. Ltd. which is New Delhi.

As per section 2(6) of the IGST Act, 2017, export of services means the supply of any service when,—

- (a) the supplier of service is located in India;
- (b) the recipient of service is located outside India;
- (c) the place of supply of service is outside India;
- (d) the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India; and
- (e) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8.

Since, in the given case, place of supply is in India, this transaction does not tantamount to export of service.

Question 11. Asha Enterprises, supplier of sewing machines, is located in Kota (Rajasthan) and registered for purpose of GST in the said State. It receives an order from Deep Traders, located in Jalandhar (Punjab) and registered for the purpose of GST in the said

State. The order is for the supply of 100 sewing machines with an instruction to ship the sewing machines to Jyoti Sons, located in Patiala (Punjab) and registered in the said State for purpose of GST. Jyoti Sons is a customer of Deep Traders. Sewing machines are being shipped in a lorry by Asha Enterprises.

Briefly explain the following:

- a) the place of supply;**
- b) the nature of supply:- whether inter-State or intra-State and**
- c) whether CGST/SGST or IGST would be applicable in this case.**

Answer:

The supply between Asha Enterprises (Kota, Rajasthan) and Deep Traders (Jalandhar, Punjab) is a bill to ship to supply where the goods are delivered by the supplier [Asha Enterprises] to a recipient [Jyoti Sons (Patiala, Punjab)] on the direction of a third person [Deep Traders].

In case of such supply, it is deemed that the said third person has received the goods and the place of supply of such goods is the principal place of business of such person [Section 10(1)(b)]. Thus, the place of supply between Asha Enterprises (Rajasthan) and Deep Traders (Punjab) will be Jalandhar, Punjab.

Since the location of supplier and the place of supply are in two different States, the supply is an inter-State supply in terms of section 7, liable to IGST.

This situation involves another supply between Deep Traders (Jalandhar, Punjab) and Jyoti Sons (Patiala, Punjab). In this case, since the supply involves movement of goods, place of supply will be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient, i.e. Patiala, Punjab [Section 10(1)(a)].

Since the location of supplier and the place of supply are in the same State, the supply is an intra-State supply in terms of section 8, liable to CGST and SGST.

The end