



# CHARGE OF GST





## LEARNING OUTCOMES

**After studying this Chapter, you will be able to:**

- ❑ explain the extent and commencement of CGST Act/ SGST Act/ UTGST Act.
- ❑ describe the intra-State supply, inter-State supply and supply in the territorial waters
- ❑ describe the provisions pertaining to levy and collection of CGST.
- ❑ identify and analyse the services on which tax is payable under reverse charge mechanism.
- ❑ understand and analyse the composition levy- eligibility for the same and conditions to be fulfilled.
- ❑ explain the extent and commencement of IGST Act.
- ❑ describe the provisions pertaining to levy and collection of IGST.
- ❑ explain the concept of export/import of goods/services



## 1. INTRODUCTION

-  Power to levy tax is drawn from the Constitution of India. Introduction of GST necessitated the Constitutional amendment to enable integration of the central excise duty including additional duties of customs, State VAT and certain State specific taxes and service tax levied by the Centre into a comprehensive goods and services tax [Discussed in detail in Chapter-1: GST in India – An Introduction].
-  The very basis for the charge of tax in any taxing statute is the taxable event i.e the point on which the levy of tax gets attracted. As discussed in an earlier chapter, the taxable event under GST is **SUPPLY**. **CGST and SGST/UTGST** are levied on all **intra-State supplies** of goods and/or services while **IGST** is levied on all **inter-State supplies** of goods and/ or services.

### Intra-State supply

Where the location of the supplier and the place of supply of goods or services are in the same State/Union territory, it is treated as **intra-State supply** of goods or services respectively.



### Inter-State supply

Where the location of the supplier and the place of supply of goods or services are in (i) two different States or (ii) two different Union Territories or (iii) a State and a Union territory, it is treated as **inter-State supply** of goods or services respectively.




## 2. RELEVANT DEFINITIONS



-  **Central tax:** means the central goods and services tax levied under section 9 [Section 2(21) of the CGST Act].
-  **Integrated tax:** means the integrated goods and services tax levied under

the Integrated Goods and Services Tax Act [Section 2(58) of the CGST Act].



- ✔ **Goods:** means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply. [Sec. 2(52) of CGST Act].
  - ✔ **E-Commerce operator:** means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce. [Section 2(45) of CGST Act]
- 
- ✔ **Exempt supply:** means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply [Section 2(47) of CGST Act].
  - ✔ **Aggregate turnover:** means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess [Section 2(6) of CGST Act].
  - ✔ **Reverse charge:** means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under section 9(3)/9(4), or under section 5(3)/5(4) of the IGST Act [Section 2(98) of CGST Act].
  - ✔ **Taxable supply:** means a supply of goods and/or services which is chargeable to tax under CGST Act. [Section 2(108) of CGST Act]
  - ✔ **Non-taxable supply:** means a supply of goods or services or both which is not leviable to tax under CGST Act or under IGST Act. [Section 2(78) of CGST Act]
  - ✔ **Import of goods:** with its grammatical variations and cognate expressions, means bringing goods into India from a place outside India [Section 2(10) of the IGST Act].

 **Business:** includes –

- |   |
|---|
| (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;                         |
| (b) any activity or transaction in connection with or incidental or ancillary to (a) above;   |
| (c) any activity or transaction in the nature of (a) above, whether or not there is volume, frequency, continuity or regularity of such transaction;                              |
| (d) supply or acquisition of goods including capital assets and services in connection with commencement or closure of business;  |
| (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members, as the case may be; |
| (f) admission, for a consideration, of persons to any premises; and   |
| (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;                    |
| (h) services provided by a race club by way of totalisator or a licence to book maker in such club  |
| (i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities                   |

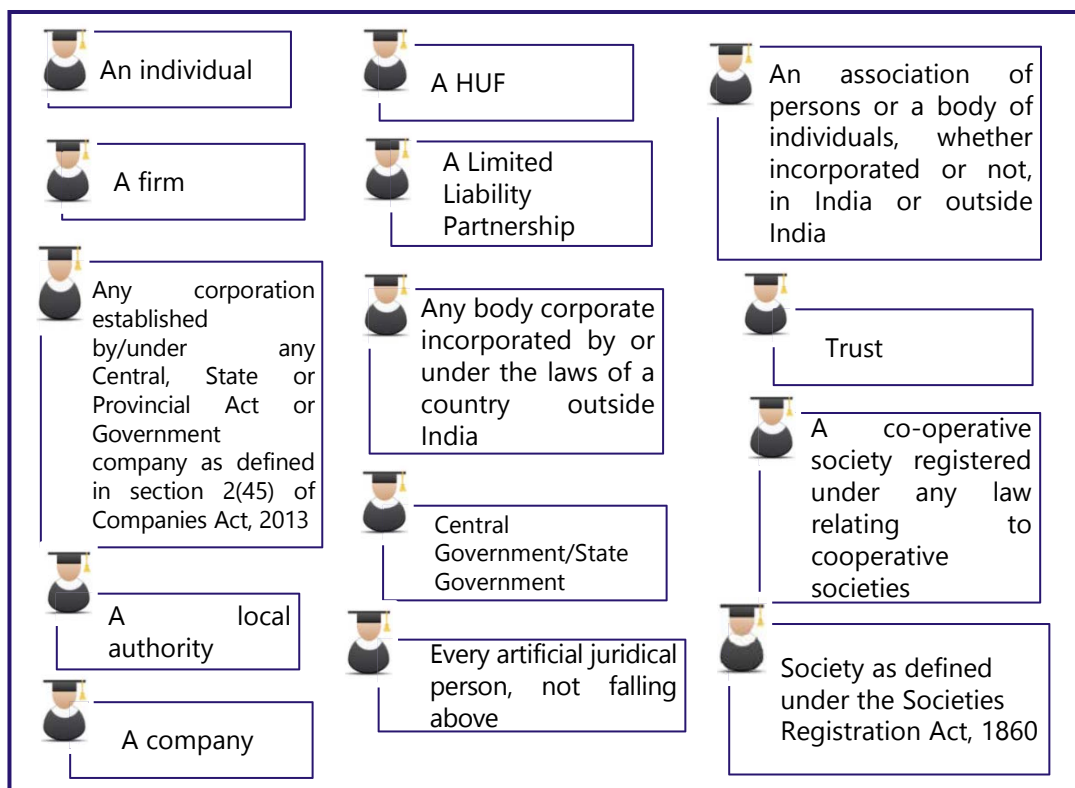
[Section 2(17) of CGST Act].


 **Consideration:** in relation to the supply of goods or services or both includes:

-  any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government,
-  the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government.

However, a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply. [Section 2(31) of CGST Act].

 **Person:** includes [Section 2(84) of CGST Act]-



 **Recipient:** of supply of goods and/or services means-

- where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration,
- where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available, and
- where no consideration is payable for the supply of a service, the person to whom the service is rendered,

and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied. [Section 2(93) of CGST Act]

- ✔ **Services:** means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged. [Section 2(102) of CGST Act]
- ✔ **Supplier:** in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied. [Section 2(105) of CGST Act]
- ✔ **Taxable person:** means a person who is registered or liable to be registered under section 22 or section 24. [Section 2(107) of CGST Act]

It is important to note that even an unregistered person who is liable to be registered is a taxable person. Similarly, a person not liable to be registered, but has taken voluntary registration and got himself registered is also a taxable person.

*Section 22 enumerates the persons liable to be registered under CGST Act and section 24 lists the persons liable to be registered compulsorily under the said law. The said sections and the concept of taxable person thereto has been discussed in detail in Chapter 9 – Registration.*

- ✔ **Customs frontiers of India:** means the limits of a customs area as defined in section 2 of the Customs Act, 1962 [Section 2(4) of the IGST Act].

Section 2(11) of the Customs Act, 1962 defines 'Customs Area' as the area of a customs station or a warehouse and includes any area in which imported goods or export goods are ordinarily kept before clearance by Customs Authorities.

- ✔ **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.

Explanation - For the purposes of this clause, the expression “**governmental authority**” means an authority or a board or any other body, -

- (i) set up by an Act of Parliament or a State Legislature; or
- (ii) established by any Government,

with 90% or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution [Section 2(16) of the IGST Act].

✔ **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 the IGST Act].



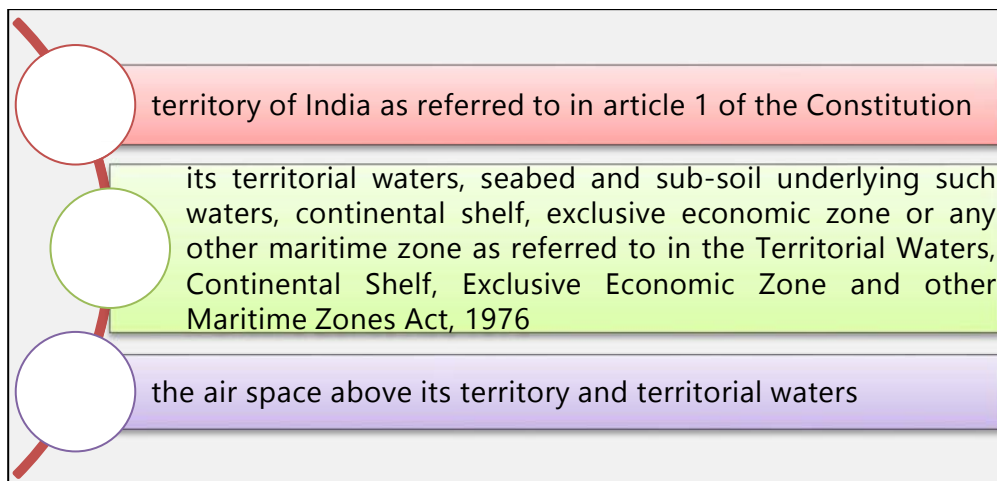
### 3. EXTENT & COMMENCEMENT OF CGST ACT/SGST ACT/ UTGST ACT

- (i) **Central Goods and Services Tax Act, 2017** extends to the whole of India\* [Section 1 of the CGST Act].

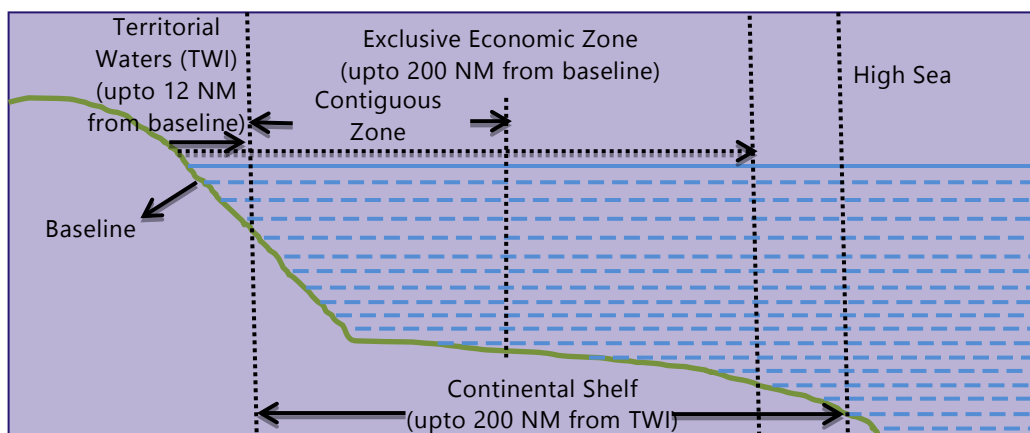


\*It is pertinent to note that the CGST Act applies to the State of Jammu and Kashmir also.

📍 **India:** "India" means-



[Section 2(56) of CGST Act].



(ii) **State GST law** of the respective State/Union Territory with State Legislature [Delhi and Puducherry]\*\* extends to whole of that State/Union Territory.



Maharashtra GST Act, 2017 extends to whole of the State of the Maharashtra.

**\*\*State:** includes a Union territory with Legislature [Section 2(103) of CGST Act].

(iii) **Union Territory Goods and Services Tax Act, 2017** extends to the Union territories\*\* of the Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, Daman and Diu, Chandigarh and other territory, i.e. the Union



Territories without State Legislature [Section 1 of the UTGST Act].

**\*\*Union territory:** means the territory of—

- (a) the Andaman and Nicobar Islands;
- (b) Lakshadweep;
- (c) Dadra and Nagar Haveli;
- (d) Daman and Diu;
- (e) Chandigarh; and
- (f) other territory.

Explanation—For the purposes of this Act, each of the territories specified in sub-clauses (a) to (f) shall be considered to be a separate Union territory [Section 2(114) of CGST Act].

Our discussion in this Study Material will principally be confined to the provisions of CGST and IGST laws as the specific State GST laws are outside the scope of syllabus.

Before we go into niceties of levability of CGST and IGST under respective statutes, let us first understand the terms - inter-State supply, intra-State Supply and supplies in territorial waters.



## 4. INTER-STATE SUPPLY [SECTION 7 OF THE IGST ACT]



### STATUTORY PROVISIONS

Section 7	Inter-State Supply
Sub-section	Particulars
<b>(1)</b>	<p><i>Subject to the provisions of section 10, supply of goods, where the location of the supplier and the place of supply are in—</i></p> <ul style="list-style-type: none"> <li><i>(a) two different States;</i></li> <li><i>(b) two different Union territories; or</i></li> <li><i>(c) a State and a Union territory,</i></li> </ul> <p><i>shall be treated as a supply of goods in the course of inter-State trade or commerce.</i></p>

<b>(2)</b>	<i>Supply of goods imported into the territory of India, till they cross the customs frontiers of India, shall be treated to be a supply of goods in the course of inter-State trade or commerce.</i>
<b>(3)</b>	<p><i>Subject to the provisions of section 12, supply of services, where the location of the supplier and the place of supply are in—</i></p> <p><i>(a) two different States;</i></p> <p><i>(b) two different Union territories; or</i></p> <p><i>(c) a State and a Union territory,</i></p> <p><i>shall be treated as a supply of services in the course of inter-State trade or commerce.</i></p>
<b>(4)</b>	<i>Supply of services imported into the territory of India shall be treated to be a supply of services in the course of inter-State trade or commerce.</i>
<b>(5)</b>	<p><i>Supply of goods or services or both,—</i></p> <p><i>(a) when the supplier is located in India and the place of supply is outside India;</i></p> <p><i>(b) to or by a Special Economic Zone developer or a Special Economic Zone unit; or</i></p> <p><i>(c) in the taxable territory, not being an intra-State supply and not covered elsewhere in this section,</i></p> <p><i>shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce.</i></p>



## ANALYSIS

This section provides as to when the supplies of goods and/or services shall be treated as **Supply in the course of inter-State trade/commerce**.



**A. 'SUPPLY OF GOODS' in the course of inter-State trade/commerce [Section 7(1) and (2) of the IGST Act]**

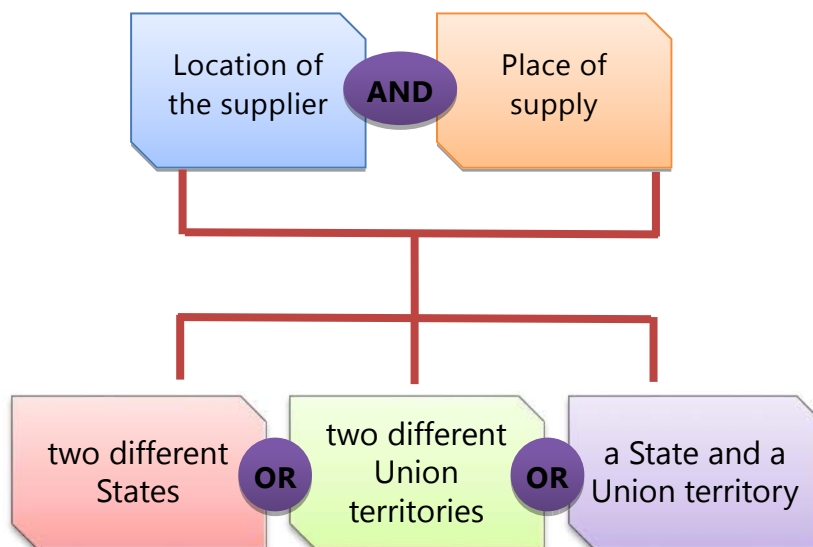
It primarily covers two kinds of supplies – Supply of goods within India and supply of goods imported into India.

The two categories of supplies are discussed hereunder:



**(i) Supplies within India**

Supply of goods shall be considered as supply of goods in course of inter-State trade or commerce in the following cases:



The above concept can be easily understood with the help of following examples. In each of the following cases, supplies of goods shall be treated as supply of goods in the course of inter-State trade/commerce.



Location of Supplier

Place of Supply



**Punjab**



**Haryana**



**Punjab**



**Daman and Diu**



**Daman and Diu**



**Chandigarh**

### **(ii) Supplies from outside India**

Supply of goods imported into the territory of India, till they cross the customs frontiers of India, shall be considered as supply of goods in the course of inter-State trade or commerce. Import of goods, means bringing goods into India from a place outside India.



Thus, all imports shall be deemed as inter-State supplies and accordingly IGST shall be levied on the imported goods in addition to the applicable custom duties.

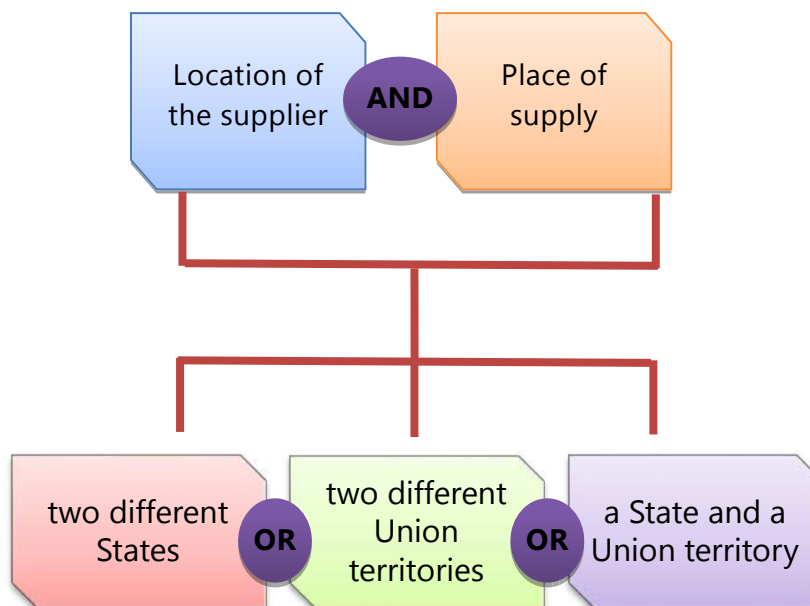
### **B. 'SUPPLY OF SERVICES' in the course of inter-State trade/commerce [Section 7(3) and 7(4) of the IGST Act]**

It primarily covers two kinds of supplies – supply of services within India and import of services into India.

The two categories of supplies are discussed hereunder:

**(i) Supplies within India**

Supply of services shall be considered as supply of services in course of inter-State trade or commerce in the following cases:

**(ii) Import of services into India**

Supply of services which are imported into territory of India, shall be treated as supply of services in the course of inter-State trade or commerce.

The term 'import of services' has been defined under section 2(11) of the IGST Act as supply of any service where the supplier is located outside India, the recipient is located in India, and the place of supply of service is in India

From the aforesaid discussion, it can be inferred that import of goods or services shall be treated as inter-State supplies and would be subject to IGST. *Provisions relating to import of goods/services have been discussed in detail subsequently in this chapter.*

### **C. SUPPLY OF GOODS OR SERVICES OR BOTH in the course of inter-State trade or commerce [Section 7(5) of the IGST Act]**

Certain supplies are treated as supplies in the course of inter-State trade or commerce, and shall equally apply to supply of goods or to supply of services. These have been discussed hereunder:

#### **I. Supply of goods or services or both when the supplier is located in India and the place of supply is outside India**



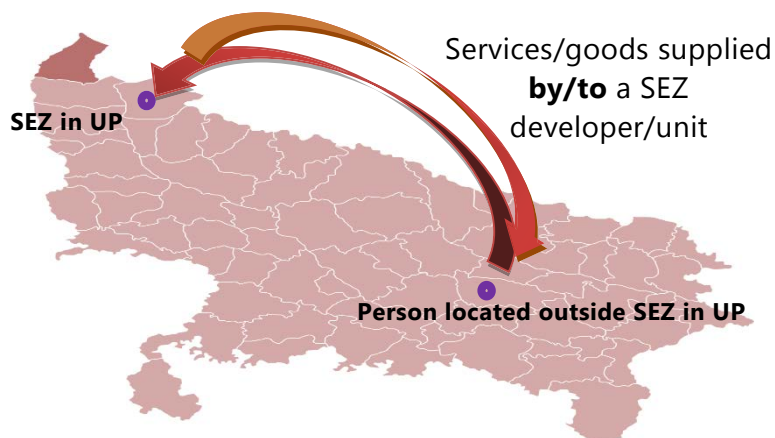
It is important to note here that in this case, location of recipient is not material to qualify as supply in the course of inter-State trade or commerce. However, such supplies of goods and/or services need to satisfy some more conditions to qualify as export of goods and/or services. *Provisions relating to export of goods/services have been discussed in detail in later part of this chapter.*

#### **II. Supply of goods or services or both to or by a Special Economic Zone developer/ Special Economic Zone unit**

SEZ is a geographically bound zone within India where the economic laws relating to export and import are more liberal as compared to other parts of the country. For all tax purposes, SEZ is considered to be a place outside India. Any supplies made to SEZ unit/developer or vice versa are inter-State supplies. It is noteworthy that place of supply is not relevant in case of supplies to/from an SEZ unit or developer.

Further, supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit are zero-rated supplies [Section 16 of the IGST Act] – *Discussed in detail in Chapter 4- - Exemptions from GST.*

The same can be understood with the help of the following example:



### III. Supply of goods or services or both in the taxable territory, not being an intra-State supply and not covered elsewhere in this section

This is a residuary clause and shall cover all supplies other than those not covered under any provisions determining intra-State or inter-State supplies.



## 5. INTRA-STATE SUPPLY [SECTION 8 OF THE IGST ACT]



### STATUTORY PROVISIONS

Section 8	Intra-State Supply
Sub-section	Particulars
(1)	<p>Subject to the provisions of section 10, supply of goods where the location of the supplier and the place of supply of goods are in the same State or same Union territory shall be treated as intra-State supply:</p> <p>Provided that the following supply of goods shall not be treated as intra-State supply, namely :-</p>



	<p>(i) supply of goods to or by a Special Economic Zone developer or a Special Economic Zone unit;</p> <p>(ii) goods imported into the territory of India till they cross the customs frontiers of India; or</p> <p>(iii) supplies made to a tourist referred to in section 15.</p>
<b>(2)</b>	<p>Subject to the provisions of section 12, supply of services where the location of the supplier and the place of supply of services are in the same State or same Union territory shall be treated as intra-State supply.</p> <p>Provided that the intra-State supply of services shall not include supply of services to or by a Special Economic Zone developer or a Special Economic Zone unit.</p>
	<p>Explanation 1. - For the purposes of this Act, where a person has, -</p> <p>(i) an establishment in India and any other establishment outside India;</p> <p>(ii) an establishment in a State or Union territory and any other establishment outside that State or Union territory; or</p> <p>(iii) an establishment in a State or Union territory and any other establishment being a business vertical registered within that State or Union territory,</p> <p>then such establishments shall be treated as establishments of distinct persons.</p>
	<p>Explanation 2. - A person carrying on a business through a branch or an agency or a representational office in any territory shall be treated as having an establishment in that territory.</p>

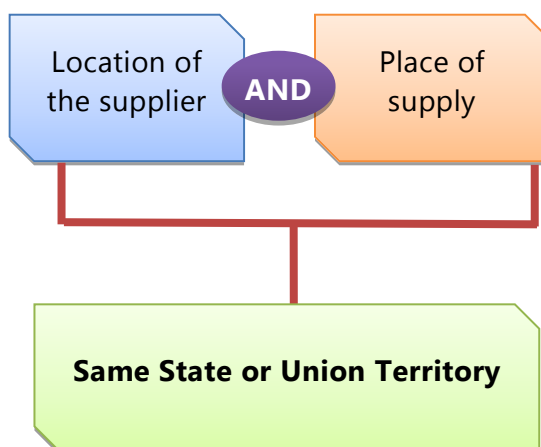


## ANALYSIS



This section provides as to when the supplies of goods and/or services shall be treated as **intra-State supply**.

**A. Which supplies of goods/services shall be treated as intra-State supplies? [Section 8(1) and 8(2) of the IGST Act]**

Supply of goods/services where the location of the supplier and the place of supply of goods/services are in the same State or same Union territory shall be treated as intra-State supply. Such supplies are exigible to CGST and SGST.



The concept discussed above has been explained by way of following examples:

Location of Supplier	Place of Supply	Whether qualifies as intra-State supply?
 Punjab	 Punjab	<b>Yes</b>



London

Delhi

No



Delhi

Gujarat

No



Puducherry

Puducherry

Yes

### **B. Exclusions [Proviso to section 8(1) and proviso to section 8(2) of the IGST Act]**

Certain supplies of goods/services shall not be treated as intra-State supplies even when the location of supplier and place of supply fall within the same State/ Union Territory. These supplies are as under:

- ❑ **Supply of goods/services to or by SEZ Unit or SEZ Developer:** Supply of goods/services to/by a SEZ developer/unit or supply to a SEZ developer/unit shall not be treated as intra-State supply. As already discussed in this chapter, such supplies shall be treated as supply in course of inter-State trade or commerce.
- ❑ **Supply of goods made to a tourist [referred to in section 15 of the IGST Act]:** shall not be considered as intra-State supply. Explanation to section 15 defines tourist as a person not normally resident in India, who enters India for a stay of not more than 6 months for legitimate non-immigrant purposes.



A tourist from USA visits India and purchases a shawl in Delhi. In this case, even though the place of supply and location of supplier are in the same State, it will be treated as inter-State transaction and will be exigible to IGST.

- ❑ **Goods imported in India:** Goods imported into the territory of India till they cross the customs frontiers of India are supplies in course of inter-State trade/commerce and thus, are excluded from the definition of intra-State supplies.

### **C. Establishments of distinct persons**

Just like CGST Act, IGST Act also creates a deeming fiction whereby different units / establishments of the same entity shall also be considered as distinct persons. Establishments of same entity shall be considered as establishments of distinct persons where a person has:

- (i) an establishment in India and any other establishment outside India;
- (ii) an establishment in a State or Union territory and any other establishment outside that State or Union territory; or
- (iii) an establishment in a State or Union territory and any other establishment being a business vertical registered within that State or Union territory.

Thus, any supply between any of the above establishments shall qualify as supply between establishments of distinct persons. Further, a person carrying on a business through a branch or an agency or a representational office in any territory shall be treated as having an establishment in that territory.



## **6. SUPPLIES IN TERRITORIAL WATERS [SECTION 9 OF THE IGST ACT]**



### **STATUTORY PROVISIONS**

#### **Section 9**

#### **Supplies in territorial waters**

*Notwithstanding anything contained in this Act -*

- (a) *where the location of the supplier is in the territorial waters, the location of such supplier; or*
- (b) *where the place of supply is in the territorial waters, the place of supply, shall, for the purposes of this Act, be deemed to be in the coastal State or Union territory where the nearest point of the appropriate baseline is located.*



## ANALYSIS

This section determines the location of supplier and/or the place of supply when such location of supplier and/or the place of supply is in territorial waters. Before that, let us understand the term “territorial waters”.

The term ‘**Territorial waters**’ has not been defined in the GST law. However, the term has been defined by the 1982 United Nations Convention on the Law of the Sea, as a belt of coastal waters extending atmost 12 nautical miles from the baseline of a coastal state.

Section 3(2) of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976 stipulates that the limit of territorial waters is the line every point of which is at a distance of 12 nautical miles from the nearest point of the appropriate base line.

Section 9 of the IGST Act provides that where the location of the supplier is in the territorial waters, it shall be deemed that location of such supplier is in the coastal State or Union Territory where the nearest point of the appropriate baseline is located. Similarly, in case where the place of supply is in territorial waters, the place of supply shall be deemed to be in the coastal State or Union Territory where the nearest point of the appropriate baseline is located.

After understanding the terms – inter-State supply, intra-State supply and supplies in territorial waters, we shall discuss hereunder the chargeability of CGST and IGST and related provisions.



## 7. LEVY & COLLECTION OF CGST [SECTION 9 OF THE CGST ACT]



### STATUTORY PROVISIONS

<i>Section 9</i>	<i>Levy and collection</i>
<i>Sub-section</i>	<i>Particulars</i>
<i>(1)</i>	<i>Subject to the provisions of sub-section (2), there shall be levied</i>



	<p><i>a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.</i></p>
(2)	<p><i>The central tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.</i></p>
(3)	<p><i>The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.</i></p>
(4)	<p><i>The central tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both</i></p>
(5)	<p><i>The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services.</i></p>

*Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:*

*Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.*









## ANALYSIS

-  A tax called the Central Goods and Services Tax (CGST) shall be levied on all intra-State supplies of goods or services or both.
-  The tax shall be collected in such manner as may be prescribed and shall be paid by the taxable person. However, intra-State supply of alcoholic liquor for human consumption is outside the purview of CGST.



**Value for levy:** Transaction value under section 15 of the CGST Act.

**Rates of CGST:** Rates for CGST are rates as may be notified by the Government on the recommendations of the GST Council [Rates notified are 0%, 0.125%, 1.5%, 2.5%, 6%, 9% and 14%]. Maximum rate of CGST will be 20%.

-  However, CGST on supply of the following items has not been levied immediately. It shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council:
  -  petroleum crude
  -  high speed diesel
  -  motor spirit (commonly known as petrol)
  -  natural gas and
  -  aviation turbine fuel

### **Reverse charge - Tax payable by recipient of supply of goods or services or both**

CGST shall be paid by the recipient of goods or services or both, on reverse charge basis [concept of reverse charge has been discussed in detail in subsequent paras], in the following cases:

-  Supply of goods or services or both, notified by the Government on the recommendations of the GST Council.
-  Supply of taxable goods or services or both by an unregistered supplier to a registered person


All the provisions of the CGST Act shall apply to the recipient in the aforesaid cases as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

### **Tax payable by the electronic commerce operator on notified services**


#### **Electronic Commerce Operators**

(ECO) display products as well as services which are actually supplied by some other person to the consumer, on their electronic portal. The consumers buy such goods/ services through these portals. On placing the order for a particular product/ service, the actual supplier supplies the selected product/ service to the consumer. The price/ consideration for the product/ service is collected by the ECO from the consumer and passed on to the actual supplier after the deduction of commission by the ECO.



-  The Government may notify specific categories of services the tax on intra-State supplies of which shall be paid by the **electronic commerce operator (ECO)** if such services are supplied through it. Such services shall be notified on the recommendations of the GST Council.



-  **Notification No. 17/2017 CT (R) dated 28.06.2017** as amended has notified the following categories of services **supplied through ECO** for this purpose –



(a) services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle;



(b) services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration under section 22(1) of the CGST Act.



(iii) services by way of house-keeping, such as plumbing, carpentering etc, except where the person supplying such service through electronic commerce operator is liable for registration under sub-section 22(1) of the CGST Act.

### Meaning of various terms

(i) **Radio taxi:** means a taxi including a radio cab, by whatever name called, which is in two- way radio communication with a central control office and is enabled for tracking using Global Positioning System (GPS) or General Packet Radio Service (GPRS).

(ii) **Maxicab/ Motorcab/ Motor cycle:** shall have the same meanings as assigned to them respectively in clauses (22), (25) and (26) of section 2 of the Motor Vehicles Act, 1988.

As per Motor Vehicles Act, 1988,

**Maxicab:** means any motor vehicle constructed or adapted to carry more than 6 passengers, but not more than 12 passengers, excluding the driver, for hire or reward.

**Motorcab:** means any motor vehicle constructed or adapted to carry not more than 6 passengers excluding the driver for hire or reward.

**Motor car:** means any motor vehicle other than a transport vehicle, omnibus, road-roller, tractor, motor cycle or invalid carriage.

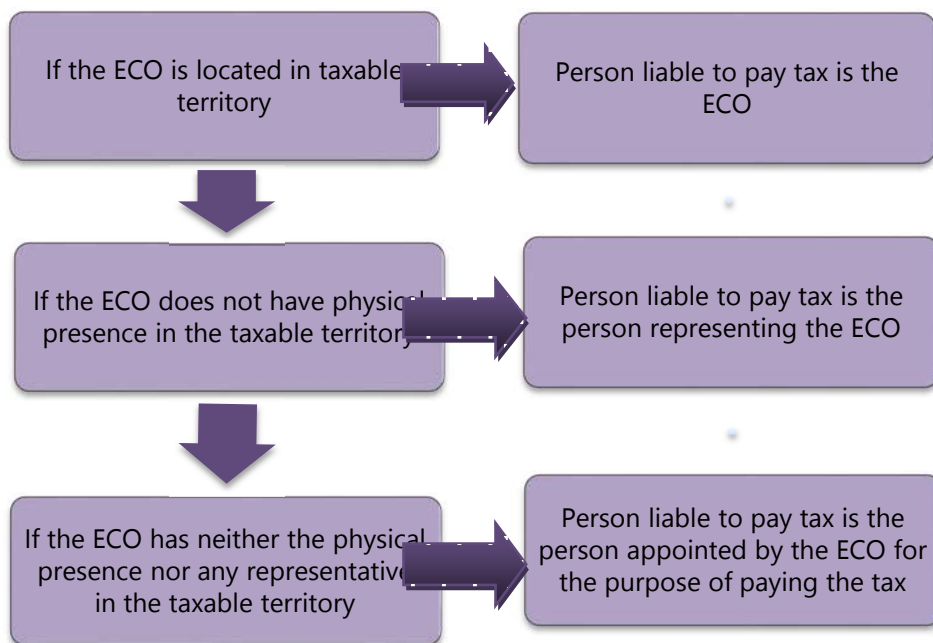
*Provisions relating to Electronic Commerce Operator have been discussed in detail in Chapter-16 – Electronic Commerce.*

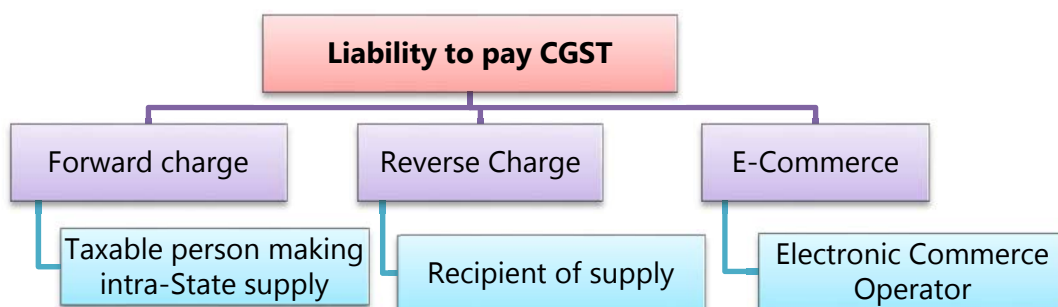
- ✔ All the provisions of the CGST Act shall apply to such ECO as if he is the supplier liable for paying the tax in relation to the supply of above services.



It is important to note here that the above provision shall apply only in case of supply of services.

### Person liable to pay GST for above specified services when supplied through ECO





## Reverse charge mechanism

- Generally, the supplier of goods or services is liable to pay GST. However, in case of certain notified supplies, the liability may be cast on the recipient under the reverse charge mechanism. Reverse charge means the liability to pay tax is on the recipient of supply of goods or services instead of the supplier of such goods or services in respect of notified categories of supply.
- There are **two type of reverse charge scenarios** provided in law.
  - (i) First is dependent on the nature of supply and/or nature of supplier. This scenario is covered by section 9(3) of the CGST/ SGST (UTGST) Act [as discussed in preceding paras] and section 5(3) of the IGST Act [to be discussed subsequently in this chapter].
  - (ii) Second scenario is covered by section 9(4) of the CGST Act [as discussed in preceding paras] and section 5(4) of the IGST Act [to be discussed subsequently in this chapter] where taxable supplies by any unregistered person to a registered person are covered.

Further, intra-State supply of taxable goods or services or both by an unregistered supplier to a registered person are exempt from CGST provided the aggregate value of such supplies of goods and/or services received by a registered person from any or all the unregistered suppliers does not exceed ₹ 5,000 in a day. The said exemption has been discussed in detail in *Chapter 4 – Exemptions from GST*.



Mr A, a registered supplier, engaged in the profession of architect, buys stationery worth ₹100 for his office from a nearby shop which is not registered under GST. In such case, Mr. A would not be required to pay GST on such purchase of stationery provided his total supplies received from all unregistered persons do not exceed ₹5,000 on that day.

- ❑ It is important to note that GST being an indirect tax, burden of the tax has to be ultimately passed on to the recipient. Under reverse charge also, the burden to pay GST is on the recipient, but the compliance requirements, i.e. to obtain registration under GST, deposit tax, filing returns with the Government, etc. has been shifted from supplier to recipient.
- ❑ Goods and services notified under reverse charge mechanism are as follows:

**A. Supplies of goods taxable under reverse charge, i.e. the goods where tax is payable by the recipient:** Goods like cashewnuts [not shelled/peeled], bidi wrapper leaves, tobacco leaves, supply of lottery, silk yarn, etc. are taxable under reverse charge, i.e. recipient is liable to pay tax.

**B. Supply of services taxable under reverse charge, i.e. the services where tax is payable by the recipient: Notification No. 13/2017 CT (R) dated 28.06.2017** as amended has notified the following categories of supply of services wherein whole of the CGST shall be paid on reverse charge basis by the recipient of services:

S. No.	Category of supply of service	Supplier of service	Recipient of Service
1.	Supply of services by a <b>Goods Transport Agency (GTA)</b> in respect of transportation of goods by road to-	Goods Transport Agency (GTA) who has not paid CGST @ 6%	(a) Any factory registered under or governed by the Factories Act, 1948; or

	<p>(a) any factory registered under or governed by the Factories Act, 1948; or</p> <p>(b) any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or</p> <p>(c) any co-operative society established by or under any law; or</p> <p>(d) any person registered under the CGST Act or the IGST Act or the SGST Act or the UTGST Act; or</p> <p>(e) any body corporate established, by or under any law; or</p> <p>(f) any partnership firm whether registered or not under any law including association of persons; or</p> <p>(g) any casual taxable</p>		<p>(b) any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or</p> <p>(c) any co-operative society established by or under any law; or</p> <p>(d) any person registered under the CGST Act or the IGST Act or the SGST Act or the UTGST Act; or</p> <p>(e) any body corporate established, by or under any law; or</p> <p>(f) any partnership firm whether registered or not under any law including association of persons; or</p>
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	person.		(g) any casual taxable person; located in the taxable territory.
2.	Services supplied by an <b>individual advocate including a senior advocate</b> by way of representational services before any court, tribunal or authority, directly or indirectly, <b>to any business entity located in the taxable territory</b> , including where contract for provision of such service has been entered through another advocate or a firm of advocates, or by a firm of advocates, by way of legal services, to a business entity.	An individual advocate including a senior advocate or firm of advocates.	Any business entity located in the taxable territory.
3.	<b>Services supplied by an arbitral tribunal</b> to a business entity.	An arbitral tribunal.	Any business entity located in the taxable territory.
4.	Services provided by way of <b>sponsorship</b> to any body corporate or partnership firm.	Any person	Any body corporate or partnership firm located in the taxable territory.
5.	<b>Services supplied by</b>	Central	Any business entity

	<p><b>the Government, Government, territory or authority to a business</b> <b>Central State Union or local authority to a business entity</b></p> <p>excluding, -</p> <p>(1) renting of immovable property, and</p> <p>(2) services specified below-</p> <p>(i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State Government or Union territory or local authority;</p> <p>(ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an</p>	<p>Government, State Government, Union territory or local authority</p>	<p>located in the taxable territory.</p>
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	airport; (iii) transport of goods or passengers.		
6.	<b>Services supplied by a director</b> of a company/body corporate to the said company/body corporate.	A director of a company or a body corporate	The company or a body corporate located in the taxable territory.
7.	<b>Services supplied by an insurance agent</b> to any person carrying on insurance business.	An insurance agent	Any person carrying on insurance business, located in the taxable territory.
8.	<b>Services supplied by a recovery agent</b> to a banking company or a financial institution or a non-banking financial company.	A recovery agent	A banking company or a financial institution or a non-banking financial company, located in the taxable territory.
9.	Supply of <b>services by an author, music composer, photographer, artist</b> or the like by way of transfer or permitting the use or enjoyment of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to	Author or music composer, photographer, artist, or the like	Publisher, music company, producer or the like, located in the taxable territory.



	original literary, dramatic, musical or artistic works <b>to a publisher, music          company, producer or          the like.</b>		
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**For purpose of this notification,-**

- (a) The person who pays or is liable to pay freight for the transportation of goods by road in goods carriage, located in the taxable territory shall be treated as the person who receives the service for the purpose of this notification.
- (b) **Body Corporate:** has the same meaning as assigned to it in clause (11) of section 2 of the Companies Act, 2013.

As per section 2(11) of the Companies Act, 2013, body corporate or corporation includes a company incorporated outside India, but does not include—

- (i) a co-operative society registered under any law relating to co-operative societies; and
- (ii) any other body corporate (not being a company as defined in this Act), which the Central Government may, by notification, specify in this behalf.
- (c) the business entity located in the taxable territory who is litigant, applicant or petitioner, as the case may be, shall be treated as the person who receives the legal services for the purpose of this notification.
- (d) the words and expressions used and not defined in this notification but defined in the Central Goods and Services Tax Act, the Integrated Goods and Services Tax Act, and the Union Territory Goods and Services Tax Act shall have the same meanings as assigned to them in those Acts.
- (e) Limited Liability Partnership formed and registered under the provisions of the Limited Liability Partnership Act, 2008 shall also be considered as a **partnership firm or a firm.**

## GST Rates prescribed for various goods/services

**A. GST Rates prescribed for various goods:** Broadly, six rates of CGST have been notified for goods, viz., 0.125%, 1.5%, 2.5%, 6%, 9% and 14%.

Some items have been kept at Nil rate<sup>1</sup>. Equivalent rate of SGST/ UTGST will also be levied.

Items of Common Use to Attract Lower GST Rates				
<p>Household goods of Daily use</p>	<p>Kite</p>	Pre GST* 11% ▼ 5% Post GST	<p>Soap</p>	
	<p>Footwear of RSP upto Rs. 500 per pair</p>	Pre GST* 10% ▼ 5% Post GST	<p>Other Footwear</p>	
			Pre GST* 27% ▼ 18% Post GST	
			Pre GST* 21% ▼ 18% Post GST	

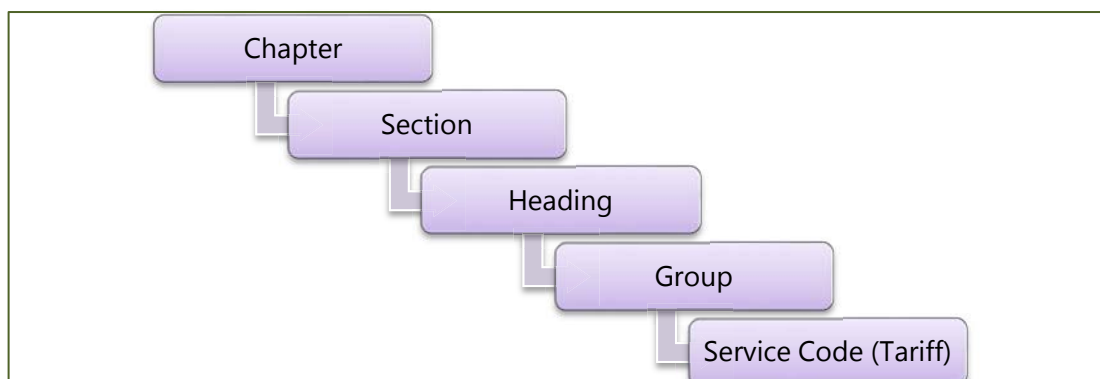
\* Pre GST incidence will be higher if the tax incidence on account of CDT, entry tax, etc. (which is more than 2%) is also included.

**B. GST Rates prescribed for various services:** Broadly, four rates of CGST have been notified for services, viz., 2.5%, 6%, 9% and 14%. Equivalent rate of SGST/ UTGST will also be levied. A new **Scheme of Classification of Services**<sup>2</sup> has been devised wherein the services of various descriptions have been classified under various sections, headings and groups. Each group consists of various Service Codes (Tariff). Chapters referred are the Chapters of the First Schedule to the Customs Tariff Act, 1975<sup>3</sup>.

<sup>1</sup> Students may refer the CBEC website for the complete Schedule of CGST Rates for goods, for knowledge purposes.

<sup>2</sup> Students may refer the Scheme of Classification of Services from CBEC website for knowledge purposes.

<sup>3</sup> The provisions relating to Customs Act and Customs Tariff Act have been discussed in detail at Final Level.



**Notification No. 11/2017 CT (R) dated 28.06.2017** as amended has notified the different rates of the CGST to be levied on the intra-State supplies of services subject to the condition(s) specified therein, if any.

SI No.	Chapter/Section/Heading	Description of Service	Rate (%)	Condition
1	Chapter 99	All Services		
2	Section 5	Construction Services		
3	Heading 9954 (Construction services)	(i) Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received:  (a) after issuance of completion certificate, where required, by the competent authority  or  (b) after its first	9	

		<p>occupation whichever is earlier. <b>[Refer Note 1 below the table]</b></p>		
		(ii) composite supply of works contract as defined in clause 2(119) of CGST Act, 2017.	<b>9</b>	-
		<p>(iii) Composite supply of works contract*, supplied to the Government, a local authority or a Governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of:</p> <p>(a) a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and</p>	<b>6</b>	-

		<p>Archaeological Sites and Remains Act, 1958;</p> <p>(b) canal, dam or other irrigation works;</p> <p>(c) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal.</p> <p><i>*as defined in section 2(119) of the CGST Act, 2017</i></p>		
		<p>(iv) Composite supply of works contract* supplied by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of:</p> <p>(a) a road, bridge, tunnel, or terminal for road transportation for use by general public;</p> <p>(b) a civil structure or any other original works pertaining</p>	<b>6</b>	

		<p>to a scheme under Jawaharlal Nehru National Urban Renewal Mission or Rajiv Awaas Yojana;</p> <p>(c) a civil structure or any other original works pertaining to the "In-situ rehabilitation of existing slum dwellers using land as a resource through private participation" under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana, only for existing slum dwellers;</p> <p>(d) a civil structure or any other original works pertaining to the "Beneficiary led individual house construction / enhancement" under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana;</p> <p>(e) a pollution</p>		
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		<p>control or effluent treatment plant, except located as a part of a factory; or</p> <p>(f) a structure meant for funeral, burial or cremation of deceased.</p> <p><i>*as defined in section 2(119) of the CGST Act, 2017</i></p>		
		<p>(v) Composite supply of works contract* supplied by way of construction, erection, commissioning, or installation of original works pertaining to:</p> <p>(a) railways, excluding monorail and metro;</p> <p>(b) a single residential unit otherwise than as a part of a residential complex;</p> <p>(c) low-cost houses up to a carpet area of 60 square metres per house in a housing project approved by competent</p>	<b>6</b>	

		<p>authority empowered under the 'Scheme of Affordable Housing in Partnership' framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India;</p> <p>(d) low cost houses up to a carpet area of 60 square metres per house in a housing project approvedthe competent authority under-</p> <p>(1) <b>"Affordable Housing in Partnership"</b> component of the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana;</p> <p>(2) any housing scheme of a State Government;</p> <p>(e) post-harvest storage</p>		
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		<p>infrastructure for agricultural produce including a cold storage for such purposes; or</p> <p>(f) mechanised food grain handling system, machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic beverages.</p>		
		(vi) Construction services other than (i), (ii), (iii), (iv) and (v) above.	9	
4	Section 6	Distributive Trade Services; Accommodation, Food and Beverage Service; Transport Services; Gas and Electricity Distribution Services		
5	Heading 9961	<p><b>Services in wholesale trade.</b></p> <p><b>Explanation</b>-This service does not include sale or purchase of goods but includes:</p> <ul style="list-style-type: none"> <li>– Services of commission agents, commodity brokers, and auctioneers and</li> </ul>	9	

		<p>all other traders who negotiate whole sale commercial transactions between buyers and sellers, for a fee or commission’.</p> <ul style="list-style-type: none"> <li>– Services of electronic whole sale agents and brokers.</li> <li>– Services of whole sale auctioning houses.</li> </ul>		
<b>6</b>	Heading 9962	<p><b>Services in retail trade.</b>  <i>Explanation-</i> This service does not include sale or purchase of goods</p>	<b>9</b>	-
<b>7</b>	Heading 9963 (Accommodation, food and beverage services)	<p>(i) <b>Supply</b>, by way of or as part of any service or in any other manner whatsoever, of goods, being <b>food</b>/any other article for human consumption/drink, where such supply or service is for cash, deferred payment or other valuable consideration, provided by a restaurant, eating joint including mess, canteen,</p> <p><b>neither having the facility of air-conditioning or central air-heating in</b></p>	<b>6</b>	

		any part of the establishment, at any time during the year <b>nor having licence/permit or by whatever name called to serve alcoholic liquor</b> for human consumption.		
		<p>(ii) Accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes <b>having declared tariff of a unit of accommodation of ₹ 1,000 and above but less than ₹ 2,500 per unit per day or equivalent.</b></p> <p><b>Explanation.- Declared tariff:</b> includes charges for all amenities provided in the unit of accommodation (given on rent for stay) like furniture, air conditioner, refrigerators or any other amenities, but without excluding any discount offered on the published charges for such unit.</p>	6	

		<p>(iii) <b>Supply</b>, by way of or as part of any service or in any other manner whatsoever, of goods, being <b>food</b> or any other article for human consumption or any drink, where such supply or service is for cash, deferred payment or other valuable consideration, provided by a restaurant, eating joint including mess, canteen, <b>having licence</b> or permit or by whatever name called <b>to serve alcoholic liquor</b> for human consumption.</p>	9	-
		<p>(iv) <b>Supply</b>, by way of or as part of any service or in any other manner whatsoever, of goods, being <b>food</b> or any other article for human consumption or any drink, where such supply or service is for cash, deferred payment or other valuable consideration, provided by a</p>	9	

		<p>restaurant, eating joint including mess, canteen,</p> <p><b>having the facility of air-conditioning or central air-heating</b> in any part of the establishment, at any time during the year.</p>		
		<p>(v) <b>Supply</b>, by way of or as part of any service or in any other manner whatsoever in <b>outdoor catering</b> wherein goods, being <b>food</b> or any other article for human consumption or any drink (<b>whether or not alcoholic liquor for human consumption</b>), as a part of such outdoor catering and such supply/service is for cash, deferred payment or other valuable consideration.</p>	9	-
		<p>(vi) <b>Accommodation in hotels</b>, inns, guest houses, clubs, campsites or other commercial places meant for residential</p>	9	-

		<p>or lodging purposes  <b>having declared tariff of a unit of accommodation of ₹ 2,500 and above but less than ₹ 7,500 per unit per day or equivalent.</b></p> <p><i>The term declared tariff has already been defined.</i></p>		
		<p>(vii) <b>Supply</b>, by way of or as part of any service or in any other manner whatsoever, of goods, <b>including but not limited to food</b> or any other article for human consumption or any drink (whether or not alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration, in a premises (including hotel, convention center, club, pandal, shamiana or any other place, specially arranged for organising a function) <b>together with renting of such</b></p>	<b>9</b>	

		<b>premises.</b>		
		(viii) Accommodation in hotels <b>including five star hotels</b> , inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes <b>having declared tariff of a unit of accommodation of ₹ 7,500 and above per unit per day or equivalent.</b> <i>The term declared tariff has already been defined.</i>	<b>14</b>	
		(ix) Accommodation, food and beverage services <b>other than (i), (ii), (iii), (iv), (v), (vi), (vii) and (viii) above.</b>	<b>9</b>	-
<b>8</b>	Heading 9964 (Passenger transport services)	(i) <b>Transport of passengers</b> , with/without accompanied belongings, <b>by rail</b> in <b>first class/air conditioned coach.</b>	<b>2.5</b>	Provided that credit of input tax charged in respect of goods used in supplying the service is not utilised for paying central tax or integrated tax on the

				supply of the service
		<p>(ii) Transport of <b>passengers</b>, with/without accompanied belongings by-</p> <p>(a) <b>air conditioned contract carriage</b> other than motorcab;</p> <p>(b) <b>air conditioned stage carriage</b>;</p> <p>(c) <b>radio taxi</b>.</p> <p><b>Explanation.-</b></p> <p>(a) <b>Contract carriage:</b> has the meaning assigned to it section 2(7) of the Motor Vehicles Act, 1988.</p> <p>As per section 2(7) of the Motor Vehicles Act, 1988, <b>contract carriage</b> means a motor vehicle which carries a passenger(s) for hire/reward and is engaged under a contract, whether expressed or implied, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered</p>	<b>2.5</b>	<p>Provided that credit of input tax charged on goods or services used in supplying the service has not been taken</p> <p>[Please refer to <i>Explanation</i> no. (iv)]</p>



		<p>into by a person with a holder of a permit in relation to such vehicle or any person authorised by him in this behalf on a fixed or an agreed rate or sum-</p> <p>(a) on a time basis, whether or not with reference to any route or distance; or</p> <p>(b) from one point to another; and in either case, without stopping to pick up or set down passengers not included in the contract anywhere during the journey, and includes-</p> <p>(i) a maxicab; and</p> <p>(ii) a motor-cab notwithstanding that separate fares are charged for its passengers.</p> <p><b>(b) Stage carriage:</b> has the meaning assigned to it in section 2(40) of</p>		
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		<p>the Motor Vehicles Act, 1988.</p> <p>As per section 2(40), <b>stage carriage</b> means a motor vehicle constructed or adapted to carry more than 6 passengers excluding the driver for hire/reward at separate fares paid by or individual passengers, either for the whole journey/for stages of the journey</p> <p><b>(c) Radio taxi:</b> means a taxi including a radio cab, by whatever name called, which is in two-way radio communication with a central control office and is enabled for tracking using Global Positioning System (GPS) or General Packet Radio Service (GPRS).</p>		
		<p>(iii) Transport of <b>passengers</b>, with/without accompanied belongings, <b>by air in economy class</b>.</p>	2.5	<p>Provided that credit of input tax charged on goods used in supplying the service has not been taken</p> <p>[Please refer to</p>

				<i>Explanation</i> no. (iv)]
		(iv) Transport of <b>passengers</b> , with/without accompanied belongings, <b>by air</b> , embarking from or terminating in a <b>Regional Connectivity Scheme Airport</b> , as notified by the Ministry of Civil Aviation.	<b>2.5</b>	Provided that credit of input tax charged on goods used in supplying the service has not been taken [Please refer to <i>Explanation</i> no. (iv)]
		(v) Transport of <b>passengers by air</b> , with/without accompanied belongings, in <b>other than economy class</b> .	<b>6</b>	-
		(vi) <b>Transport passengers of by motorcab</b> where the cost of fuel is included in the consideration charged from the service recipient.	<b>2.5</b>	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to <i>Explanation</i> no. (iv)]
			<b>or</b>	
			<b>6</b>	--

		(vii) <b>Passenger</b> transport services <b>other than (i), (ii), (iii), (iv), (v) and (vi) above.</b>	<b>9</b>	-
<b>9</b>	Heading 9965 (Goods transport services)	(i) <b>Transport of goods by rail</b> [other than services specified at item no. (iv)].	<b>2.5</b>	Provided that credit of input tax charged in respect of goods in supplying the service is not utilised for paying central tax or integrated tax on the supply of the service
		(ii) <b>Transport of goods in a vessel.</b>	<b>2.5</b>	Provided that credit of input tax charged on goods (other than on ships, vessels including bulk Carriers and tankers) used in supplying the service has no and tankers) used in supplying the service has not been taken [Please refer to <i>Explanation</i> no. (iv)]

		<p>(iii) Services of <b>goods transport agency (GTA)</b> in relation to transportation of goods <b>(including used household goods for personal use)</b>.</p> <p><b>Goods transport agency:</b></p> <ul style="list-style-type: none"> <li>• means any person who provides service in relation to transport of goods by road and</li> <li>• issues consignment note, by whatever name called.</li> </ul>	<p><b>2.5</b></p>	<p>Provided that credit of input tax charged on goods and services used in supplying the service has not been taken</p> <p>[Please refer to <i>Explanation</i> no. (iv)]</p>
			<b>OR</b>	
			<b>6</b>	<p>Provided that the goods transport agency opting to pay central tax @ 6% under this entry shall, thenceforth, be liable to pay central tax @ 6% on all the services of GTA supplied by it.</p>
		<p>(iv) Transport of <b>goods</b> in containers <b>by rail</b> by any person <b>other than Indian Railways</b>.</p>	<b>6</b>	-
		<p>(v) <b>Goods</b> transport services <b>other than (i), (ii), (iii) and (iv)</b></p>	<b>9</b>	-

		above.			
10	Heading 9966 (Rental services of transport vehicles)	(i) <b>Renting of motorcab</b> where the cost of fuel is included in the consideration charged from the service recipient.	2.5	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to <i>Explanation</i> no. (iv)]	
				<b>OR</b>	
				6	--
		(ii) Rental services of transport vehicles with or without operators, <b>other than (i) above.</b>	9	-	
11	Heading 9967 (Supporting services in transport)	(i) Services of <b>goods transport agency (GTA)</b> in relation to transportation of goods (including used household goods for personal use). <i>The term GTA has already been defined.</i>	2.5	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to <i>Explanation</i> no. (iv)]	
				<b>OR</b>	

			6	Provided that the goods transport agency opting to pay central tax @ 6% under this entry shall, thenceforth, be liable to pay central tax @ 6% on all the services of GTA supplied by it.
		(ii) <b>Supporting services in transport other than (i) above.</b>	9	-
12	Heading 9968	<b>Postal and courier services.</b>	9	-
13	Heading 9969	<b>Electricity, gas, water and other distribution services.</b>	9	-
14	Section 7	<b>Financial</b> and related services; <b>real estate</b> services; and <b>rental</b> and <b>leasing</b> services.		
15	Heading 9971 (Financial and related services)	(i) Services provided by a <b>foreman of a chit fund</b> in relation to chit. <i>Explanation-</i> <b>(A) Chit:</b> means a transaction whether called chit, chit fund,	6	Provided that credit of input tax

chitty, kuri, or by whatever name by or under which a person enters into an agreement with a specified number of persons that every one of them shall subscribe a certain sum of money (or a certain quantity of grain instead) by way of periodical instalments over a definite period and that each subscriber shall, in his turn, as determined by lot or by auction or by tender or in such other manner as may be specified in the chit agreement, be entitled to a prize amount;

**(B) Foreman of a chit fund:** shall have the same meaning as is assigned to the expression "foreman" in section 2(j) of the Chit Funds Act, 1982.

As per section 2(j) of the Chit Funds Act, 1982, **foreman** means the person who under the chit agreement is responsible for the



		<p>conduct of the chit and includes any person discharging the functions of the foreman under section 39</p>		
		<p>(ii) Transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.</p>		<p><b>Same rate of central tax as on supply of like goods involving transfer of title in goods with no condition.</b></p>
		<p>(iii) Any transfer of right in goods or of undivided share in goods without the transfer of title thereof.</p>		<p><b>Same rate of central tax as on supply of like goods involving transfer of title in goods with no condition</b></p>
		<p>(iv) Leasing of aircrafts by an operator for operating scheduled air transport service or scheduled air cargo service by way of transaction covered by clause (f) paragraph 5 of Schedule II of the Central Goods and Services Act, 2017.</p> <p><i>Explanation.-</i></p> <p><b>(a) Operator:</b> means a</p>	<p><b>2.5</b></p>	<p>Provided that credit of input tax charged on goods used in supplying the service has not been taken</p> <p>[Please refer to <i>Explanation</i> no. (iv)]</p>

		<p>person, organisation or enterprise engaged in or offering to engage in aircraft operations;</p> <p><b>(b) Scheduled air transport service:</b> means an air transport service undertaken between the same two or more places operated according to a published time table or with flights so regular or frequent that they constitute a recognisable systematic series, each flight being open to use by members of the public;</p> <p><b>(c) Scheduled air cargo service:</b> means air transportation of cargo or mail on a scheduled basis according to a published time table or with flights so regular or frequent that they constitute a recognisable systematic series, not open to use by passengers.</p>		
		(v) Financial and related	9	

		services other than (i), (ii), (iii), and (iv) above.		-
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<b>16</b>	<b>Heading 9972</b>	<b>Real estate services.</b>	<b>9</b>	-
<b>17</b>	Heading 9973 (Leasing or rental services, with or without operator)	(i) Temporary/permanent transfer/permitting the use or enjoyment of <b>Intellectual Property (IP) right</b> in respect of goods <b>other than Information Technology software.</b>	<b>6</b>	
		(ii) Temporary or permanent transfer or permitting the use or enjoyment of <b>Intellectual Property (IP) right in respect of Information Technology software.</b> [Please refer to <i>Explanation</i> no. (v)]	<b>9</b>	-
		(iii) <b>Transfer of the right to use any goods</b> for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.		<b>Same rate of central tax as on supply of like goods involving transfer of title in goods with no condition</b>

		(iv) Any <b>transfer of right in undivided share in goods</b> without the transfer of title thereof.	<b>Same rate of central tax as on supply of like goods involving transfer of title in goods with no condition</b>	
		(v) <b>Leasing of aircrafts</b> by an operator for operating scheduled air transport service or scheduled air cargo service by way of transaction covered by clause (f) paragraph 5 of Schedule II of the CGST Act, 2017, i.e. transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration. <i>Explanation.-</i> <b>(a) Operator:</b> means a person, organization or enterprise engaged in or offering to engage in aircraft operations; <b>(b) Scheduled air transport service:</b>	<b>2.5</b>	Provided that credit of input tax charged on goods used in supplying the service has not been taken [Please refer to <i>Explanation</i> no. (iv)]

		<p>means an air transport service undertaken between the same two or more places operated according to a published time table or with flights so regular or frequent that they constitute a recognisable systematic series, each flight being open to use by members of the public;</p> <p><b>(c) Scheduled air cargo service:</b> means air transportation of cargo or mail on a scheduled basis according to a published time table or with flights so regular or frequent that they constitute a recognisable systematic series, not open to use by passengers.</p>		
		(vi) Leasing or rental services, with or without operator, <b>other than (i), (ii), (iii), (iv) and (v) above.</b>		<b>Same rate of central tax as applicable on supply of like goods involving transfer of title in goods with no condition</b>
<b>18</b>	Section 8	<b>Business and Production</b>		

		Services		
19	Heading 9981	Research and development services.	9	-
20	Heading 9982	Legal and accounting services.	9	-
21	Heading 9983 (Other professional, technical and business services)	(i) Selling of space for advertisement in print media.	2.5	-
		(ii) Other professional, technical and business services other than (i) above.	9	-
22	Heading 9984	Telecommunications, broadcasting and information supply services.	9	-
23	Heading 9985 (Support services)	(i) Supply of tour operators services.  <b>Tour operator:</b> means any person engaged in the business of planning, scheduling, organizing, arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of transport,	2.5	1. Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to <i>Explanation</i> no. (iv)] 2. The bill

		and includes any person engaged in the business of operating tours.		issued for supply of this Service indicates that it is inclusive of charges of accommodation and transportation required for such a tour and the amount charged in the bill is the gross amount charged for such a tour including the charges of accommodation and transportation required for such a tour.
		(ii) Support services <b>other than (i) above</b>	<b>9</b>	-
<b>24</b>	Heading 9986	(i) <b>Support services to agriculture, forestry, fishing, animal husbandry.</b> <b>Support services to agriculture, forestry, fishing, animal husbandry:</b> mean- (i) Services relating to cultivation of plants	<b>Nil</b>	-

		<p>and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of—</p> <p>(a) <b>agricultural operations directly related to production</b> of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;</p> <p>(b) <b>supply of farm labour;</b></p> <p>(c) <b>processes carried out at an agricultural farm</b> including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations <b>which do not alter the</b></p>		
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		<p><b>essential characteristics of agricultural produce</b> but make it only marketable for the primary market;</p> <p>(d) <b>renting/leasing of agro machinery or vacant land</b> with or without a structure incidental to its use;</p> <p>(e) <b>loading, unloading, packing, storage or warehousing of agricultural produce;</b></p> <p>(f) <b>agricultural extension services;</b></p> <p>(g) <b>services by any Agricultural Produce Marketing Committee/ Board</b> or services provided <b>by a commission agent</b> for sale or purchase of agricultural produce.</p>		
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		<p>(h) Services by way of <b>pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables</b> which do not change or alter the essential characteristics of the said fruits or vegetables.</p> <p>(i) <b>Carrying out an intermediate production process as job work</b> in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce</p>		
		<b>(ii) Support services to mining, electricity, gas and water distribution.</b>	<b>9</b>	-
<b>25</b>	Heading 9987	<b>Maintenance, repair and installation</b> (except	<b>9</b>	-

		construction) services.		
<b>26</b>	Heading 9988 (Manufacturing services on physical inputs (goods) owned by others)	<p><b>(i) Services by way of job work</b> in relation to-</p> <p>(a) Printing of newspapers;</p> <p>(b) Textiles and textile products falling under Chapter 50 to 63 in the First Schedule to the Customs Tariff Act, 1975;</p> <p>(c) Cut and polished diamonds; precious and semi-precious stones; or plain and studded jewellery of gold and other precious metals, falling under Chapter 71 in the First Schedule to the Customs Tariff Act, 1975;</p> <p>(d) Printing of books (including Braille books), journals and periodicals;</p> <p>(e) Processing of hides, skins and leather falling under Chapter 41 in the First</p>	<b>2.5</b>	

		Schedule to the Customs Tariff Act, 1975.		
		(ii) Services by way of any treatment or process on goods belonging to another person, in relation to- (a) printing of newspapers; (b) printing of books (including Braille books), journals and periodicals.	2.5	-
		(iii) <b>Manufacturing services on physical inputs</b> (goods) <b>owned by others, other than (i) above.</b>	9	-
27	Heading 9989	(i) Services by way of printing of newspapers, books (including Braille books), journals and periodicals, where only content is supplied by the publisher and the physical inputs including paper used for printing belong to the printer.	6	-
		(ii) Other manufacturing services; publishing, printing and	9	-

		reproduction services; materials recovery services, other than (i) above.		
<b>28</b>	Section 9	<b>Community, Social and Personal Services</b> and other miscellaneous services		
<b>29</b>	Heading 9991	<b>Public administration and other services</b> provided to the community as a whole; compulsory social security services.	<b>9</b>	-
<b>30</b>	Heading 9992	<b>Education services.</b>	<b>9</b>	-
<b>31</b>	Heading 9993	<b>Human health and social care services.</b>	<b>9</b>	-
<b>32</b>	Heading 9994	<b>Sewage and waste collection,</b> treatment and disposal and other environmental protection services.	<b>9</b>	-
<b>33</b>	Heading 9995	<b>Services of membership organisations.</b>	<b>9</b>	-
<b>34</b>	Heading 9996 (Recreational , cultural and sporting services)	(i) Services by way of <b>admission or access to circus, Indian classical dance</b> including folk dance, theatrical performance, drama or	<b>9</b>	-

		planetarium.		
		(ii) Services by way of admission <b>exhibition of cinematograph films where price of admission ticket is ₹100 or less.</b>	<b>9</b>	-
		(iii) Services by way of <b>admission to entertainment events or access to amusement facilities</b> including exhibition of cinematograph films, theme parks, water parks, joy rides, merry-go rounds, go-carting, casinos, race-course, ballet, any sporting event such as Indian Premier League and the like.	<b>14</b>	-
		(iv) Services provided <b>by a race club</b> by way of totalisator or a license to bookmaker in such club.	<b>14</b>	-
		(v) <b>Gambling.</b>	<b>14</b>	-
		(vi) Recreational, cultural and sporting services <b>other than (i), (ii), (iii), (iv) and (v) above</b>	<b>9</b>	-

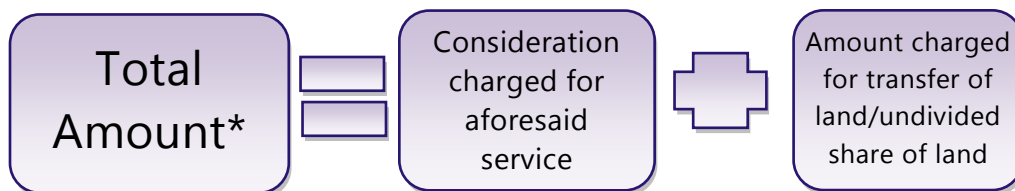
<b>35</b>	Heading 9997	<b>Other services</b> (washing, cleaning and dyeing services; beauty and physical well-being services; and other miscellaneous services including services nowhere else classified).	<b>9</b>	-
<b>36</b>	Heading 9998	<b>Domestic services.</b>	<b>9</b>	-
<b>37</b>	Heading 9999	Services provided <b>by extra-territorial organisations</b> and bodies.	<b>9</b>	-

**Notes:**

1. **Value of supply of service and goods portion in such supply in construction of complex service involving transfer of property in land/undivided share of land:** shall be computed as follows:



<b>Particulars</b>	<b>Amount (₹)</b>
Total amount charged for supply* [see the diagram below]	<b>(A)</b>
Less: Value of land/undivided share of land [1/3 <sup>rd</sup> of the total amount charged]	<b>1/3<sup>rd</sup> of (A)</b>
Value of supply of service and goods portion in supply	<b>(B)</b>



2. **Value of supply of lottery:** shall be computed as follows:



**In case of lottery run by State Government**

100/112 of face value or price notified in the Official Gazette by the Organising State whichever is higher

**In case of lottery authorised by State Government**

100/128 of face value or price notified in the Official Gazette by the Organising State whichever is higher

3. **Explanation - For the purpose of this notification:**

- (i) **Goods:** includes capital goods.
- (ii) **Reference to "Chapter", "Section" or "Heading":** wherever they occur, unless the context otherwise requires, shall mean respectively as "Chapter, "Section" and "Heading" in the Scheme of Classification of Services.
- (iii) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975, the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of heading 9988 [Heading 9988 is for manufacturing services on physical inputs (goods) owned by others].



- (iv) Wherever a rate has been prescribed in this notification subject to the condition that credit of input tax charged on goods or services used in supplying the service has not been taken, it shall mean that,-
- (a) credit of input tax charged on goods or services used exclusively in supplying such service has not been taken; and
  - (b) credit of input tax charged on goods or services used partly for supplying such service and partly for effecting other supplies eligible for input tax credits, is reversed as if supply of such service is an exempt supply and attracts provisions of section 17(2) of the CGST Act, 2017 and the rules made thereunder.
- (v) Information technology software:** means any representation of instructions, data, sound or image, including source code and object code, recorded in a machine readable form, and capable of being manipulated or providing interactivity to a user, by means of a computer or an automatic data processing machine or any other device or equipment.
- (vi) Agricultural extension:** means application of scientific research and knowledge to agricultural practices through farmer education or training.
- (vii) Agricultural produce:** means any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market.
- (viii) Agricultural Produce Marketing Committee or Board:** means any committee or board constituted under a State law for the time being in force for the purpose of regulating the marketing of agricultural produce.



## 8. COMPOSITION LEVY [SECTION 10 OF THE CGST ACT]



### STATUTORY PROVISIONS

<b>Section 10</b>	<b>Composition levy</b>						
<b>Sub-section</b>	<b>Particulars</b>						
<b>(1)</b>	<p>Notwithstanding anything to the contrary contained in this Act but subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, may opt to pay, in lieu of the tax payable by him, an amount calculated at such rate as may be prescribed, but not exceeding,—</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center; width: 5%;">(a)</td> <td>one per cent. of the turnover in State or turnover in Union territory in case of a manufacturer</td> </tr> <tr> <td style="text-align: center;">(b)</td> <td>two and a half per cent. of the turnover in State or turnover in Union territory in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II, and</td> </tr> <tr> <td style="text-align: center;">(c)</td> <td>half per cent. of the turnover in State or turnover in Union territory in case of other suppliers</td> </tr> </table> <p>subject to such conditions and restrictions as may be prescribed.</p> <p>Provided that the Government may, by notification, increase the said limit of fifty lakh rupees to such higher amount, not exceeding one crore rupees, as may be recommended by the Council.</p>	(a)	one per cent. of the turnover in State or turnover in Union territory in case of a manufacturer	(b)	two and a half per cent. of the turnover in State or turnover in Union territory in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II, and	(c)	half per cent. of the turnover in State or turnover in Union territory in case of other suppliers
(a)	one per cent. of the turnover in State or turnover in Union territory in case of a manufacturer						
(b)	two and a half per cent. of the turnover in State or turnover in Union territory in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II, and						
(c)	half per cent. of the turnover in State or turnover in Union territory in case of other suppliers						
<b>(2)</b>	<p>The registered person shall be eligible to opt under sub-section (1), if—</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center; width: 5%;">(a)</td> <td>he is not engaged in the supply of services other than</td> </tr> </table>	(a)	he is not engaged in the supply of services other than				
(a)	he is not engaged in the supply of services other than						

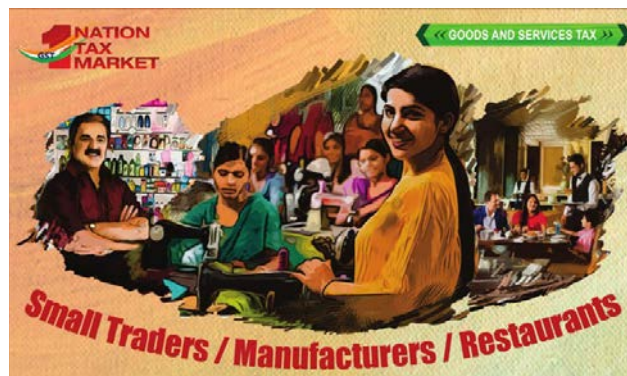
		<i>supplies referred to in clause (b) of paragraph 6 of Schedule II</i>
	(b)	<i>he is not engaged in making any supply of goods which are not leviable to tax under this Act</i>
	(c)	<i>he is not engaged in making any inter-State outward supplies of goods</i>
	(d)	<i>he is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52; and</i>
	(e)	<i>he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council</i>
		<i>Provided that where more than one registered persons are having the same Permanent Account Number (issued under the Income-tax Act, 1961), the registered person shall not be eligible to opt for the scheme under sub-section (1) unless all such registered persons opt to pay tax under that sub-section.</i>
	<b>(3)</b>	<i>The option availed of by a registered person under sub-section (1) shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified under sub-section (1).</i>
	<b>(4)</b>	<i>A taxable person to whom the provisions of sub-section (1) apply shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.</i>
	<b>(5)</b>	<i>If the proper officer has reasons to believe that a taxable person has paid tax under sub-section (1) despite not being eligible, such person shall, in addition to any tax that may be payable by him under any other provisions of this Act, be liable to a penalty and the provisions of section 73 or section 74 shall, mutatis mutandis, apply for determination of tax and penalty.</i>



## ANALYSIS

### Overview of the Scheme

The objective of composition scheme is to bring simplicity and to reduce the compliance cost for the small taxpayers. Small taxpayers with an aggregate turnover in a preceding financial year up to ₹ 75 lakh shall be eligible for composition levy.



Suppliers opting for composition levy need not worry about the classification of their goods or services or both, the rate of GST applicable on the same, etc. They are not required to raise any tax invoice, but simply need to issue a Bill of Supply [Discussed in detail in Chapter-10: Tax Invoice, Credit and Debit Notes] wherein no tax will be charged from the recipient.

At the end of a quarter, the registered person opting for composition levy would pay a certain specified percentage of his turnover of the quarter as tax, without availing the benefit of input tax credit.



Registered persons making inter-State supplies or making supplies through e-commerce operators who are required to collect tax at source shall not be eligible for composition scheme. The provisions relating to composition levy are contained in section 10 of CGST Act, 2017 and Chapter-II [Composition Rules] of Central Goods and Services Tax (CGST) Rules, 2017. The said rules have been incorporated at the relevant places.

### **Turnover limit for Composition Levy [Section 10(1)]**

Section 10 of the CGST Act provides the turnover limit of ₹ 50 lakh for composition levy. However, proviso to section 10(1) empowers the Government to increase the said limit of ₹ 50 lakh upto ₹ 1 crore, on the recommendation of the Council.

# COMPOSITION LEVY

In view of said power of the Government to increase the turnover limit for Composition Levy as granted by proviso to section 10(1), the turnover limit for Composition Levy for CGST and SGST purposes for all eligible registered persons has been increased from ₹ 50 lakh to ₹ 75 lakh vide **Notification No. 8/2017 CT dated 27.06.2017**.

However, the said notification further stipulates that the turnover limit for composition levy shall be ₹ 50 lakh in respect of 9 of the Special Category States namely:

<b>Special Category States</b>	
Arunachal Pradesh	Mizoram
Assam	Nagaland
Manipur	Sikkim
Meghalaya	Tripura
	Himachal Pradesh

\*In case of **Uttarakhand** and **Jammu and Kashmir**, the turnover limit will be ₹ 75 lakh.

While computing the threshold limit of ₹ 75 lakh, inclusions in and exclusions from 'aggregate turnover' are as follows

<b>Includes</b>	<b>Excludes</b>
<p><b>Value of all outward supplies</b></p> <ul style="list-style-type: none"> <li>--Taxable supplies</li> <li>--Exempt supplies</li> <li>--Exports</li> <li>--Inter-State supplies</li> </ul> <p><b>of persons having the same PAN be computed on all India basis.</b></p>	<ul style="list-style-type: none"> <li>--CGST</li> <li>--SGST</li> <li>--UTGST</li> <li>--IGST</li> <li>--Cess</li> <li>--Value of inward supplies on which tax is payable under reverse charge.</li> </ul>



A dealer 'X' has two offices in Delhi. In order to determine whether 'X' is eligible to avail benefit of the composition scheme, turnover of both the offices would be taken into account and if the same does not exceed ₹ 75 lakh, X can opt to avail the composition levy scheme (subject to fulfilment of other prescribed conditions).



**Who can opt for the composition levy scheme? [Section 10(1) read with rule 7]**

A registered person, whose aggregate turnover in the preceding FY does not exceed ₹ 75 lakh, **may opt to pay an amount calculated at the prescribed rates** [mentioned in table below] during the current FY, in lieu of the tax payable by him.

S No.	Category of registered persons	Rate of tax*
1	Manufacturers, other than manufacturers of such goods as may be notified by the Government, i.e. ice cream, pan masala and tobacco.	1 %

<b>2</b>	Suppliers making supplies referred to in clause (b) of paragraph 6 of Schedule II [i.e. supply by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink]	<b>2½ %</b>
<b>3</b>	Any other supplier eligible for composition levy under section 10 of CGST Act and Chapter-II [Composition Rules] of Central Goods and Services Tax (CGST) Rules, 2017	<b>½ %</b>

*\*These are composition rates specified under rule 7 of the CGST Rules, 2017. An equivalent amount of SGST is also payable.*



### **Intimation of opting for composition levy [Rules 3 & 4]**

**(i) Intimation by person applying for registration:** Any person who is not registered and applies for registration may give an option to pay tax under composition levy **in Part B of the registration form, viz., FORM GST REG-01**. The same shall be considered as an intimation to pay tax under Composition Levy. Such intimation shall be considered only after the grant of registration to the applicant and his option to pay tax under composition levy shall be effective from the date from which registration is effective.



**(ii) Intimation by a registered person:** A registered person who opts to pay tax under composition levy scheme shall **electronically file an intimation** in prescribed form on the Common Portal [www.gst.gov.in], **prior to the commencement of the FY** for which said option is exercised.

He shall also furnish the **statement in prescribed form** in accordance with the provisions of rule 44(4) of CGST Rules, 2017 [Discussed in detail in Chapter 8 – Input Tax Credit] **within 60 days** from the commencement of the relevant FY. Any intimation in respect of any place of business in a State/UT shall be deemed to be an intimation in respect of all other places of business registered on the same PAN.

**Details of stock to be furnished:** Any person who files such intimation shall furnish the details of:

- stock, including the inward supply of goods received from unregistered persons,
- held by him on the day preceding the date from which he opts for composition levy,
- electronically, in prescribed form, on the common portal,
- **within a period of 90 days**
- from the date on which the option for composition levy is exercised or within such further period as may be extended by the Commissioner in this behalf.

The option to pay tax under composition levy shall be effective from the beginning of the FY.



#### **Conditions and restrictions for composition levy [Rule 5]**

Person opting for composition levy has to comply with the following conditions:



- he is neither a casual taxable person nor a non-resident taxable person [*Concept of casual taxable person and non-resident taxable person has been discussed in detail in Chapter 9: Registration*].
- the goods held in stock by him have not been purchased from an unregistered supplier and where purchased, he pays the tax under reverse charge under section 9(4).
- he shall pay tax under section 9(3)/9(4) (reverse charge) on inward supply of goods or services or both.
- he was not engaged in the manufacture of goods as notified under section 10(2)(e), during the preceding FY. The following goods have been hereby notified vide **Notification No. 8/2017 CT dated 27.06.2017**:

Tariff item, subheading, heading or Chapter*	Description
2105 00 00	Ice cream and other edible ice, whether or



	not containing cocoa
2106 90 20	Pan masala
24	All goods, i.e. Tobacco and manufactured tobacco substitutes

*\* as specified in the First Schedule to the Customs Tariff Act, 1975*

-  he shall mention the words "composition taxable person, not eligible to collect tax on supplies" at the top of the bill of supply issued by him; and
-  he shall mention the words "composition taxable person" on every notice or signboard displayed at a prominent place at his principal place of business and at every additional place or places of business.

### Who are not eligible to opt for composition scheme? [Section 10(2)]








There is no restriction on Composition Supplier to procure goods from inter-State suppliers.



ABC Industries, a manufacturer in Mumbai, is engaged in supply of goods in Mumbai as well as Chennai (i.e. inter-State supply of goods). Here, ABC Industries cannot enter into the composition scheme as it is effecting inter-State supply of goods i.e. Chennai.

### **Validity of composition levy [Section 10(3) read with rule 6]**

-  The option exercised by a registered person to pay amount under composition levy shall remain valid so long as he satisfies all the conditions mentioned in the said section and these rules.
-  The option to pay tax under composition scheme lapses from the day on which his aggregate turnover during the FY exceeds the specified limit (₹ 75 lakh/₹ 50 lakh).
-  Such person is required to pay normal tax under section 9(1) from the day he ceases to satisfy any of the conditions prescribed for composition levy. He shall issue tax invoice for every taxable supply made thereafter.
-  Further, he is required to file an intimation for withdrawal from the scheme in prescribed form within 7 days of the occurrence of such event.
-  However, such person shall be allowed to avail the input tax credit in respect of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him and on capital goods held by him on the date of withdrawal and furnish a statement, within 30 days of withdrawal of the option, containing the details of such stock held in prescribed form on the common portal.



A person availing composition scheme during a financial year crosses the turnover of ₹ 75 lakh on 9<sup>th</sup> of December. The option availed shall lapse from the day on which his aggregate turnover during the financial year exceeds ₹ 75 lakh, i.e. on 9<sup>th</sup> December in this case.

### **Composition scheme to be adopted uniformly by all the registered persons having the same PAN [Proviso to section 10(2)]**

All registered persons having the same Permanent Account Number (PAN) have to opt for composition scheme. If one such registered person opts for normal scheme, others become ineligible for composition scheme.



composition scheme.

A dealer 'X' has two offices in Delhi and is eligible for composition levy. If 'X' opts for the composition scheme, both the offices would pay taxes under composition scheme and abide by all the conditions as may be prescribed for the




### **Composition scheme supplier cannot collect tax [Section 10(4)]**

Taxable person opting for the composition scheme shall not collect tax from the recipient on supplies made by him. It implies that a composition scheme supplier cannot issue a tax invoice.

### **Composition scheme supplier cannot enter into credit chain [Section 10(4)]**

Taxable person opting for the composition scheme is not entitled to any credit of input tax.

### **Imposition of penalty in case of irregular availment of the composition scheme [Section 10(5) read with rule 6(4) and 6(5)]**

-  If a taxable person has paid tax under the composition scheme though he was not eligible for the scheme, the person would be liable to penalty and the provisions of section 73 or 74 of the CGST Act shall be applicable for determination of tax and penalty.
-  Further, where the proper officer has reasons to believe that the registered person was not eligible to pay tax under composition levy or has contravened the provisions of the Act/provisions of this Chapter, he may issue a show cause notice to such person in prescribed form.
-  Upon receipt of the reply to such show cause notice from the registered person in prescribed form, the proper officer shall issue an order in prescribed form within 30 days of the receipt of such reply, either accepting the reply, or denying the option to pay tax under composition levy from the date of the option or from the date of the event concerning such contravention, as the case may be.

### **Example explaining the computation of amount payable under composition levy by the person eligible for such scheme**

Taxpayer 'A' is a manufacturer having one unit – A1 in UP and another unit – A2 in MP. Total turnover of two units in last FY was ₹ 55 lakh (₹ 25 lakh + ₹ 30 lakh).

Total turnover of two units in the second quarter of this financial year was ₹ 15 lakh (₹ 5 lakh + ₹ 10 lakh).

Unit	Location	Turnover in previous FY	Turnover in 2nd quarter of this FY	Total tax (@2%)
A1	U.P.	₹ 25 lakh	₹ 5 lakh	₹ 10,000
A2	M.P.	₹ 30 lakh	₹ 10 lakh	₹ 20,000
Aggregate turnover		₹ 55 lakh	₹ 15 lakh	



## 9. EXTENT AND COMMENCEMENT OF IGST [SECTION 1 OF IGST ACT]

**Integrated Goods and Services Tax Act, 2017** extends to the whole of India. The term 'India' has already been defined in preceding paras. IGST is levied on the inter-State supply of goods or services or both.



\*It is pertinent to note that the IGST Act applies to the State of Jammu and Kashmir also.



## 10. LEVY & COLLECTION OF IGST [SECTION 5 OF THE IGST ACT]



### STATUTORY PROVISIONS

Section 5	Levy and Collection of Tax
Sub-section	Particulars
(1)	<i>Subject to the provisions of sub-section (2), there shall be levied a tax called the integrated goods and services tax on all inter-State supplies of goods or services or both; except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 of</i>

	<i>the Central Goods and Services Tax Act and at such rates, not exceeding forty per cent, as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.</i>
	<i>Provided that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962.</i>
<b>(2)</b>	<i>The integrated tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.</i>
<b>(3)</b>	<i>The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.</i>
<b>(4)</b>	<i>The integrated tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.</i>
<b>(5)</b>	<i>The Government may, on the recommendations of the Council, by notification, specify categories of services, the tax on inter-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic</i>


commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services.

Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax.

Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.




## ANALYSIS



 A tax called the Integrated Goods and Services Tax (IGST) shall be levied on all inter-State supplies of goods or services or both. The tax shall be collected in such manner as may be prescribed and shall be paid by the taxable person. However, inter-State supply of alcoholic liquor for human consumption is outside the purview of IGST.

**Value for levy:** Transaction value under section 15 of the CGST Act


**Rates of IGST:** IGST is approximately the sum total of CGST and SGST/UTGST. Maximum rate of IGST will be 40%.

**IGST rate = CGST rate + SGST rate (more or less)**

 However, IGST on supply of the following items has not been levied immediately. It shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council:

-  petroleum crude
-  high speed diesel

- + motor spirit (commonly known as petrol)
- + natural gas and
- + aviation turbine fuel


 **Goods imported into India:** All imports are deemed as inter-State supplies and accordingly IGST shall be levied on imported goods in addition to the applicable custom duties.

The integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of customs are levied on the said goods under the Customs Act, 1962.

The integrated tax on goods shall be in addition to the applicable Basic Customs Duty (BCD) which is levied as per the Customs Tariff Act. In addition, GST compensation cess, may also be leviable on certain luxury and demerit goods under the Goods and Services Tax (Compensation to States) Cess Act, 2017.



While IGST on import of services would be leviable under the IGST Act, the levy of the IGST on import of goods would be levied under the Customs Act, 1962 read with the Custom Tariff Act, 1975.

 **Reverse charge - Tax payable by recipient of supply of goods or services or both:** IGST shall be paid by the recipient of goods or services or both, on reverse charge basis, in the following cases:

- ✓ Supply of goods or services or both, notified by the Government on the recommendations of the GST Council.
- ✓ Supply of taxable goods or services or both by an unregistered supplier to a registered person.

All the provisions of the IGST Act shall apply to the recipient in the aforesaid cases as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

**List of services taxable under reverse charge, i.e. the services where tax is payable by the recipient: Notification No. 10/2017 IT (R) dated 28.06.2017** has notified specified categories of supply of services wherein whole of the IGST shall be paid on reverse charge basis by the recipient of services. All the services which have been notified for reverse charge purposes under CGST Act (as given in para 7 of this Chapter) have also been notified for reverse charge under IGST Act. Further, following two services are additionally included for IGST purposes:

S. No.	Category of supply of service	Supplier of service	Recipient of Service
1.	Any service <b>supplied by any person who is located in a non-taxable territory</b> to any person other than non-taxable online recipient.	Any person located in a non-taxable territory	Any person located in the taxable territory other than non-taxable online recipient.
2.	Services <b>supplied by a person located in non-taxable territory by way of transportation of goods by a vessel</b> from a place outside India up to the customs station of clearance in India	A person located in nontaxable territory	Importer, as defined in section 2(26) of the Customs Act, 1962, located in the taxable territory.  <b>Importer,</b> in relation to any goods at any time between their importation and the time when



			they are cleared for home consumption, includes any owner, beneficial owner or any person holding himself out to be the importer [Section 2(26) of the Customs Act, 1962].
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### Tax payable by the electronic commerce operator on notified services

✔ The Government may notify specific categories of services the tax on inter-State supplies of which shall be paid by the **electronic commerce operator (ECO)** if such services are supplied through it. Such services shall be notified on the recommendations of the GST Council.



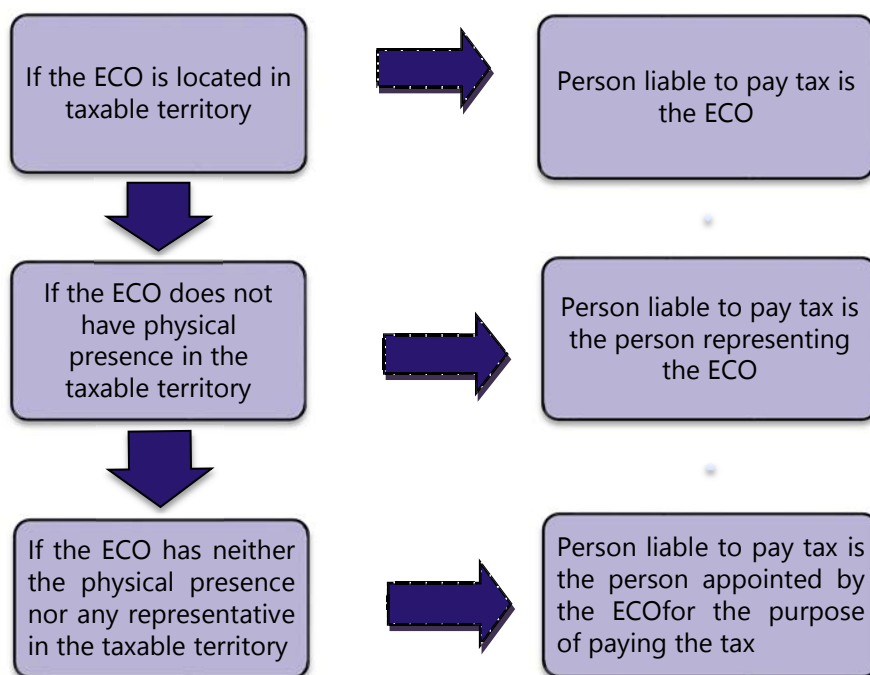
✔ **Notification No. 14/2017 IT (R) dated 28.06.2017** as amended has notified the following categories of services **supplied through ECO** for this purpose –

- (a) services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle;
- (b) services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration under section 20(v) of the IGST Act read with section 22(1) of the CGST Act.
- (iii) services by way of house-keeping, such as plumbing, carpentering etc, except where the person supplying such service through electronic commerce operator is liable for registration under sub-

section (1) of section 22 of the said Central Goods and Services Tax Act

The definitions of the terms radio-taxi, motorcab, maxicab and motor car have already been incorporated in earlier paras.

- ✔ All the provisions of the IGST Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services.



It is important to highlight that the above provision shall apply only in case of supply of services.


- ✎ **IGST Rates prescribed for various goods:** Broadly, six rates of IGST have been notified for goods, viz., 5%, 12%, 18%, 28%, 3% and 0.25%<sup>1</sup>.
- ✎ **IGST Rates prescribed for various services:** Broadly, four rates of IGST have been notified for services, viz., 5%, 12%, 18% and 28%. CGST Rates for

<sup>1</sup> Students may refer the CBEC website for the complete Schedule of IGST Rates for goods for knowledge purposes.

services have already been discussed in earlier paras. IGST rates for such services can be computed on the basis of the same.

For certain specified goods and services, nil rate of IGST has been notified.

## OIDAR Services [Section 14 of the IGST Act]

 <b>STATUTORY PROVISIONS</b>	
<b>Section 14</b>	<b><i>Special provision for payment of tax by a supplier of online information and database access or retrieval services</i></b>
<b>Sub-section</b>	<b><i>Particulars</i></b>
<b>(1)</b>	<p><i>On supply of online information and database access or retrieval services by any person located in a non-taxable territory and received by a non-taxable online recipient, the supplier of services located in a non-taxable territory shall be the person liable for paying integrated tax on such supply of services</i></p> <p><i>Provided that in the case of supply of online information and database access or retrieval services by any person located in a non-taxable territory and received by a non-taxable online recipient, an intermediary located in the non-taxable territory, who arranges or facilitates the supply of such services, shall be deemed to be the recipient of such services from the supplier of services in non-taxable territory and supplying such services to the non-taxable online recipient except when such intermediary satisfies the following conditions, namely :-</i></p> <p><i>(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;</i></p> <p><i>(b) the intermediary involved in the supply does not authorise the charge to the customer or take part in its charge which is that the intermediary neither collects or processes payment in any</i></p>

	<p><i>manner nor is responsible for the payment between the non-taxable online recipient and the supplier of such services;</i></p> <p><i>(c) the intermediary involved in the supply does not authorise delivery; and</i></p> <p><i>(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.</i></p>
(2)	<p><i>The supplier of online information and database access or retrieval services referred to in sub-section (1) shall, for payment of integrated tax, take a single registration under the Simplified Registration Scheme to be notified by the Government.</i></p> <p><i>Provided that any person located in the taxable territory representing such supplier for any purpose in the taxable territory shall get registered and pay integrated tax on behalf of the supplier :</i></p> <p><i>Provided further that if such supplier does not have a physical presence or does not have a representative for any purpose in the taxable territory, he may appoint a person in the taxable territory for the purpose of paying integrated tax and such person shall be liable for payment of such tax</i></p>



## ANALYSIS

Online Information Database Access and Retrieval services (OIDAR) is a category of services provided through the medium of internet and received by the recipient online without having any physical interface with the supplier of such services.



Download of an e-book online for a payment would amount to receipt of OIDAR services by the consumer.

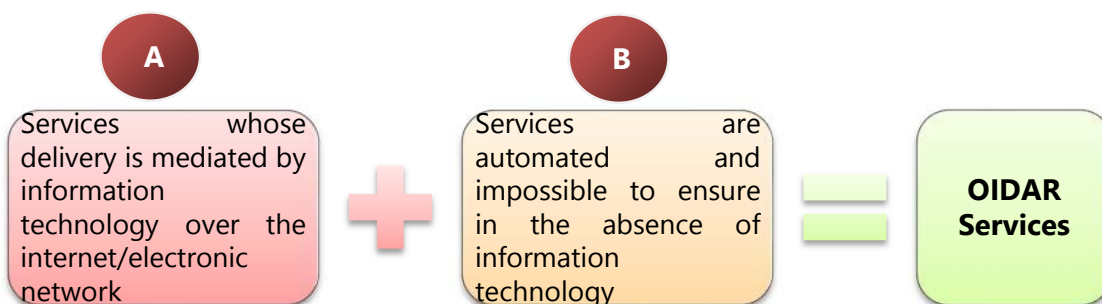
Section 2(17) of the IGST Act defines OIDAR as services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply essentially automated involving minimal human intervention.

These include electronic services such as:

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



The above definition makes it apparent that in order to determine whether a particular service is an OIDAR service, the following tests need to be applied::



Thus, a service qualifies as OIDAR services if above two conditions have been satisfied. The inclusive part of the definition are only indicative and not exhaustive.

**Examples of what could be or could not be OIDAR services**

Service	Whether condition 'A' is fulfilled?	Whether condition 'B' is fulfilled?	Whether it is OIDAR service or not?
PDF document manually emailed by	YES	NO	NO

provider			
PDF document automatically emailed by provider's system	YES	YES	YES
PDF document automatically downloaded from site	YES	YES	YES
Stock photographs available for automatic download	YES	YES	YES
Online course consisting of pre-recorded videos and downloadable PDFs	YES	YES	YES
Online course consisting of pre-recorded videos and downloadable PDFs plus support from a live tutor	YES	NO	NO
Individually commissioned content sent in digital form e.g., photographs, reports, medical results.	YES	NO	NO

### Indicative List of OIDAR Services

#### 1. Website supply, web-hosting, distance maintenance of programmes and equipment

- Website hosting and webpage hosting
- Automated, online and distance maintenance of programmes

- Remote systems administration
- Online data warehousing where specific data is stored and retrieved electronically
- Online supply of on-demand disc space

## 2. Supply of software and updating thereof

- Accessing or downloading software (including procurement/accountancy programmes and anti-virus software) plus updates
- Software to block banner adverts, otherwise known as Banner blockers
- Download drivers, such as software that interfaces computers with peripheral equipment (such as printers)
- Online automated installation of filters on websites
- Online automated installation of firewalls

## 3. Supply of images, text and information and making available of databases

- Accessing or downloading desktop themes
- Accessing or downloading photographic or pictorial images or screensavers
- The digitised content of books and other electronic publications
- Subscription to online newspapers and journals
- Weblogs and website statistics
- Online news, traffic information and weather reports
- Online information generated automatically by software from specific data input by the customer, such as legal and financial data, (in particular, data such as continually updated stock market data, in real time)
- The provision of advertising space including banner ads on a website/web page
- Use of search engines and Internet directories

## 4. 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

- Accessing or downloading of music on to computers and mobile phones

- Accessing or downloading of jingles, excerpts, ringtones, or other sounds
- Accessing or downloading of films
- Downloading of games on to computers and mobile phones
- Accessing automated online games which are dependent on the Internet or other similar electronic networks, where players are geographically remote from one another

**(i) Why OIDAR requires a treatment different from other services?**

OIDAR services can be provided online from a remote location outside the taxable territory. A similar service provided by an Indian Service Provider, from within the taxable territory, to recipients in India are taxable. Further, such services received by a registered entity in India from a location outside the taxable territory are also taxable under reverse charge.

The overseas suppliers of such services would have an unfair tax advantage if the services provided by them had been left out of the tax net. At the same time, since the service provider is located overseas and may not be having a presence in India, the compliance verification mechanism become difficult. In view of the same, that the Government has come out with a simplified scheme of registration for such service providers located outside India [*Discussed in Chapter 9 – Registration*].

**(ii) How would OIDAR services be taxable under GST?**

For any supply to be taxable under GST, the place of supply should be in India. In case, both the supplier of OIDAR Service and the recipient of such service is in India, the place of supply would be the location of the recipient of service [Section 12 of the IGST Act\*].



Further, where the supplier of OIDAR service is located outside India and the recipient is located in India, the place of supply would be India and the transaction would be amenable to tax [Section 13(12) of the IGST Act\*].

*\*Provisions relating to place of supply have been discussed in detail in Chapter 5 – Place of Supply.*



**(ii) Special provision for payment of tax by a supplier of OIDAR services located outside India [Section 14 of the IGST Act]**

In cases where the supplier of OIDAR service is located outside India and the recipient is a business entity (registered person) located in India, the reverse charge mechanism would get triggered and the recipient in India (registered entity under GST) will be liable to pay GST and undertake necessary compliances.

On the other hand where the supplier is located outside India and the recipient in India is an individual consumer, the place of supply would be India and the transaction is amenable to levy of GST. However, the problem arises as to how to collect such tax?

It would be impractical to ask the individual in India to register and undertake the necessary compliances under GST for a one off purchase on the internet. Consequently, special provisions for payment of tax by a supplier of OIDAR services in such cases has been stipulated under section 14 of the IGST Act which have been described as under:

**(A) Who is the person liable to pay tax in respect of OIDAR services received by a non-taxable online recipient [Section 14(1) of the IGST Act]**

On supply of OIDAR services by any person located in a non-taxable territory and received by a non-taxable online recipient, the supplier of services located in a non-taxable territory shall be the person liable for paying integrated tax on such supply of services.

**Non-taxable online recipient** means any Government, local authority, governmental authority, an individual or any other person not registered and receiving OIDAR services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory.

However, 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:

- The invoice or customer's bill or receipt issued by such intermediary taking part in the supply clearly identifies the service in question and its supplier in non-taxable territory.

- ❑ 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.
- ❑ The intermediary involved in the supply does not authorise delivery.
- ❑ The general terms and conditions of the supply are not set by the intermediary involved in the supply but by the supplier of services.

**(B) How would the supplier of OIDAR services located outside India comply with the responsibilities entrusted under GST? [Section 14(2) of the IGST Act read with rule 14 of the CGST Rules, 2017]**

The supplier (or intermediary) of OIDAR services shall, for payment of integrated tax, take a single registration under the Simplified Registration Scheme in prescribed form. *Special provisions relating to registration of supplier of OIDAR services are discussed in Chapter 9 – Registration.*

In case there is a person in the taxable territory (India) representing such overseas supplier in the taxable territory for any purpose, such person (representative in India) shall get registered and pay integrated tax on behalf of the supplier.

In case the overseas supplier neither has a physical presence nor has 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.



## 10. IMPORT OF GOODS/SERVICES [SECTION 2(10) AND 2(11) OF THE IGST ACT]



### STATUTORY PROVISIONS

<b>Section 2</b>	<b>Definitions</b>
<b>Sub-section</b>	<b>Particulars</b>

<b>(10)</b>	<i>import of goods with its grammatical variations and cognate expressions, means bringing goods into India from a place outside India</i>
<b>(11)</b>	<i>import of services means the supply of any service, where— (i) the supplier of service is located outside India; (ii) the recipient of service is located in India; and (iii) the place of supply of service is in India</i>



## ANALYSIS

- Article 269A of the Constitution mandates that the supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce for levy of integrated tax.
- Accordingly, section 7 of the IGST Act stipulates that import of goods/services into the territory of India shall be treated as supply of goods/services in the course of inter-State trade or commerce. Resultantly, import of goods or services will be treated as deemed inter-State supplies and would be subject to integrated tax.
- While IGST on import of services would be leviable under the IGST Act, the levy of the IGST on import of goods would be levied under the Customs Act, 1962 read with the Custom Tariff Act, 1975. We shall now elaborate the provisions relating to import of goods and import of services in detail:



### A. Import of goods

- ☑ The import of goods has been defined in the IGST Act as bringing goods into India from a place outside India. All import of goods shall be deemed as inter-State supplies and accordingly integrated tax shall be levied in addition to the applicable custom duties.

- ❑ Charging section 5 of the IGST Act provides that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of the Customs Tariff Act, 1975.
- ❑ Such tax shall be levied at the point when customs duties are levied on the said goods under the Customs Act, 1962. Further, tax will be levied on the value as determined under the Customs Tariff Act, 1975.
- ❑ The integrated tax on goods shall be in addition to the applicable Basic Customs Duty (BCD) which is levied as per the Customs Tariff Act. In addition, GST compensation cess, may also be leviable on certain luxury and demerit goods under the Goods and Services Tax (Compensation to States) Cess Act, 2017.
- ❑ The Customs Tariff Act, 1975 has accordingly been amended to provide for levy of integrated tax and the compensation cess on imported goods. Accordingly, **goods which are imported into India shall, in addition to the basic customs duty, be liable to integrated tax at such rate as is leviable under the IGST Act on a similar article on its supply in India.**
- ❑ Further, the value of the goods for the purpose of levying integrated tax shall be, assessable value plus basic customs duty levied under the Customs Act and any other duty chargeable on the said goods under any law for the time being in force as an addition to, and in the same manner as, a duty of customs.
- ❑ The value of the imported article for the purpose of levying cess shall be, assessable value plus basic customs duty levied under the Act, and any sum chargeable on the goods under any law for the time being, in force as an addition to, and in the



same manner as, a duty of customs. The integrated tax paid shall not be added to the value for the purpose of calculating cess.



Suppose the assessable value of an article imported into India is ₹100/-. Basic Customs Duty is 10% *ad valorem*. Integrated tax rate is 18%.

The taxes will be calculated as under:

Assessable Value= ₹100/-

Basic Customs Duty (BCD) = ₹10/-

Value for the purpose of levying integrated tax= ₹100/- + ₹10/-= ₹110/-

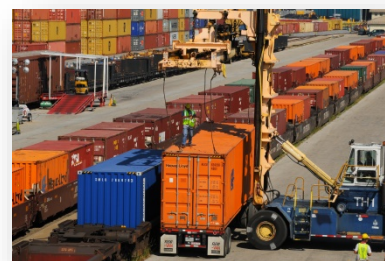
Integrated Tax = 18% of ₹110/- = ₹ 19.80

Total taxes = ₹29.80

Further, in case the goods are also leviable to cess under the Goods and Services Tax (Compensation to States) Cess Act, 2017, the same will be collected on the value taken for levying integrated tax. Thus, in the above example, in case the cess is leviable, the same would be levied on ₹110/-.

#### **Integrated tax on warehoused goods:**

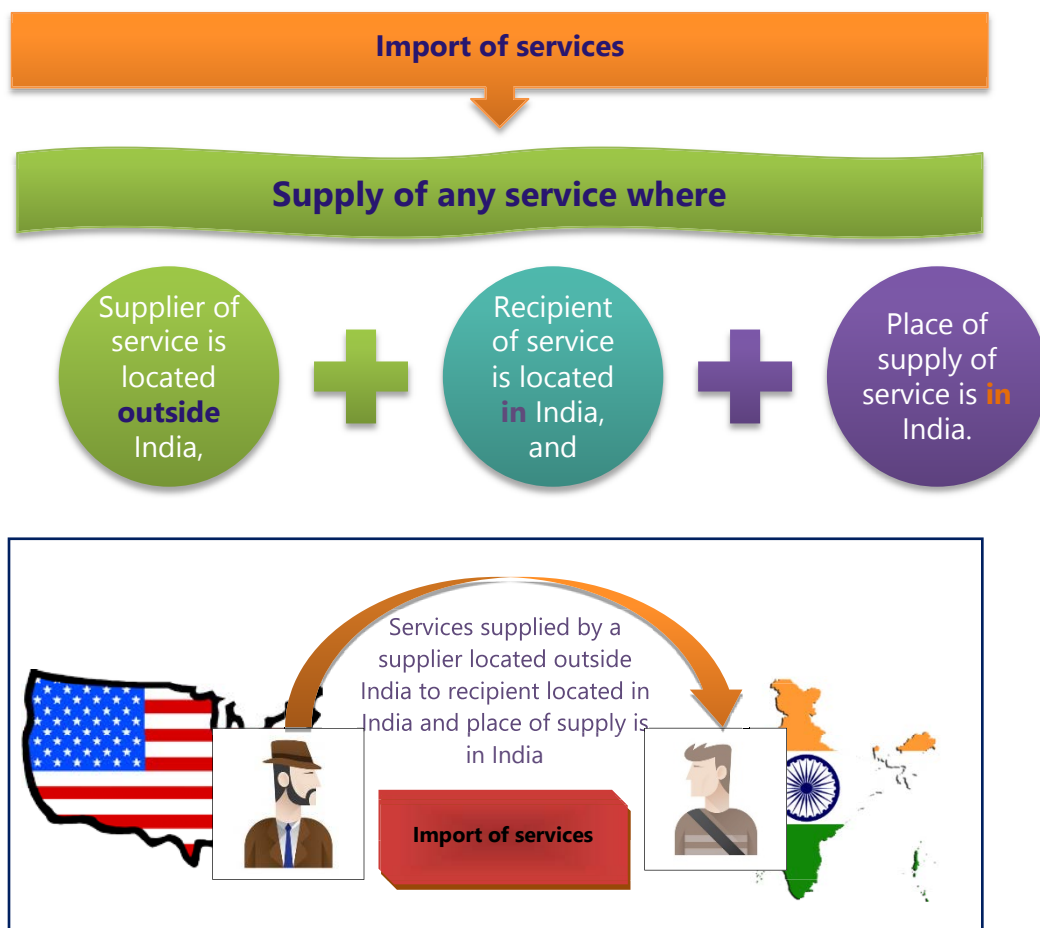
The Customs Act, 1962 provides for removal of goods from a customs station to a warehouse without payment of duty. The said Act has been amended to include 'warehouse' in the definition of "customs area" in order to ensure that an importer would not be required to pay the integrated tax at the time of removal of goods from a customs station to a warehouse.



*The provisions relating to leviability of IGST on imported goods have been discussed in detail in Chapter 2 – Types of Duties of Part-II: Customs and FTP.*







## **B. Import of services**

IGST Act defines import of services as supply of any service where the supplier is located outside India, the recipient is located in India, and the place of supply of service is in India.



The concept discussed above has been explained by way of following examples:


Location of Supplier	Location of Recipient	Place of Supply	Whether qualifies as import of services?
 London	 Delhi	 Delhi	<b>Yes</b>

		<b>Paris</b>	<b>No</b>
London	Paris		
		<b>Delhi</b>	<b>No</b>
Delhi	Paris		
		<b>London</b>	<b>No</b>
London	Delhi		

Thus, only where the location of supplier is outside India but the location of recipient and the place of supply\* is in India, it shall qualify as import of services.

\* The place of supply in cases wherein the location of the supplier of services or the recipient of services is outside India is determined under section 13 of the IGST Act which provides the place of supply in relation to international or cross-border supply of services. Location of supplier of services and location of recipient of services have been defined under sections 2(15) and 2(14) of the IGST Act. *These provisions have been discussed in detail in Chapter 5 – Place of Supply.*

### **Significance of consideration and business test in taxability of importation of services**

-  As per the provisions contained in section 7(1)(b) of the CGST Act, import of services for a consideration whether or not in the course or furtherance of business, shall be considered as a supply. Thus, in general, imports of services without consideration shall not be considered as

supply. However, business test is not required to be fulfilled for import of service to be considered as supply.

- ✓ Furthermore, in view of the provisions contained in Schedule I of the CGST Act, the import of services by a taxable person from a related person or from a distinct person or from his establishment located outside India, as defined in section 25 of the CGST Act, in the course or furtherance of business shall be treated as supply even if it is made without any consideration.
- ✓ A conjoint reading of aforesaid provisions with the provisions of section 14 of the IGST Act, *as discussed in the preceding paras*, import of free services from Google and Facebook by all of us, without any consideration, is not considered as supply. Import (Downloading) of a song for consideration for personal use would be a service, even though the same are not in the course or furtherance of business. Import of some services by an Indian branch from their parent company, in the course or furtherance of business, even if without consideration, will be a supply.
- ✓ Thus, import of services can be considered as supply based on whether there is consideration or not and whether the service is supplied in the course or furtherance of business. The same has been explained in the table below:

Nature of Service	Consideration	Business Test
Import of services	Necessarily Required	Not required
Import of services by a taxable person from a related person or from a distinct person	Not required	Necessarily Required





## 11. EXPORT OF GOODS/SERVICES [SECTION 2(5) AND 2(6) OF THE IGST ACT]



### STATUTORY PROVISIONS

Section 2	Definitions
Sub-section	Particulars
(5)	<i>export of goods with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India</i>
(6)	<i>export of services means the supply of any service when, - (i) the supplier of service is located in India; (ii) the recipient of service is located outside India; (iii) the place of supply of service is outside India; (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange; and (v) 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.</i>



### ANALYSIS

- Section 7(5) of the IGST Act stipulates that supply of goods or services or both when the supplier is located in India and the place of supply is outside India shall be treated as supply of goods/services in the course of inter-State trade or commerce.



- ❑ Thus, location of recipient is not material to qualify as supply in the course of inter-State trade or commerce. However, in order to qualify as export of goods and/or services, such supplies of goods and/or services need to satisfy some additional conditions which have been elaborated in the succeeding paras.
- ❑ Export of goods/services are treated as '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. This will make Indian exports competitive in the international market. *Provisions relating to zero rated supplies are discussed in detail in Chapter 4 – Exemptions from GST.*
- ❑ Provisions relating to export of goods and export of services have been explained in detail as follows:

#### **A. Export of goods**

IGST Act defines export of goods as taking goods out of India to a place outside India. *Impact of GST on exports of goods has been discussed in detail in Part-II: Customs & FTP.* The broad features of the same have been discussed hereunder:

- ☑ The procedures relating to export have been simplified so as to do away with the paper work and intervention of the Department at various stages of export.
- ☑ The salient features of the scheme of export under GST regime are as follows:
  - ✓ The goods and services can be exported either on payment of IGST which can be claimed as refund after the goods have been exported, or under bond or Letter of Undertaking (LUT) without payment of IGST.
  - ✓ In case of goods and services exported under bond or LUT, the exporter can claim refund of accumulated ITC on account of export.
  - ✓ In case of export of goods, the shipping bill is the only document required to be filed with the customs for making exports. Requirement of filing the ARE 1/ARE 2 has been done away with.

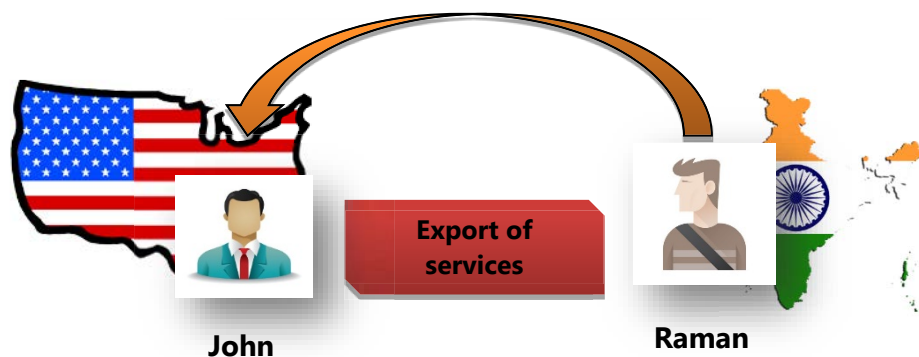
- ✓ The supplies made for export are to be made under self-sealing and self-certification without any intervention of the departmental officer.
- ✓ The shipping bill filed with the customs is treated as an application for refund of IGST and shall be deemed to have been filed after submission of export general manifest and furnishing of a valid return in Form GSTR-3 by the applicant.
- ☑ The Duty credit scrips under the export incentive schemes of FTP (for example, MEIS and SEIS) can be utilised only for payment of customs duties or additional duties of customs, on items not covered by GST, at the time of import. The scrips cannot be utilized for payment of integrated tax and compensation cess. Similarly, scrips cannot be used for payment of CGST, SGST or IGST for domestic procurements.
- ☑ Benefit of exemption under Advance Authorization scheme, EPCG scheme and duty credit scrips such as MEIS and SEIS shall be restricted only to Basic Customs Duty, Safeguard Duty, Transitional Product Specific Safeguard Duty and Anti-dumping Duty in respect of goods leviable to IGST.

#### **B. Export of services**

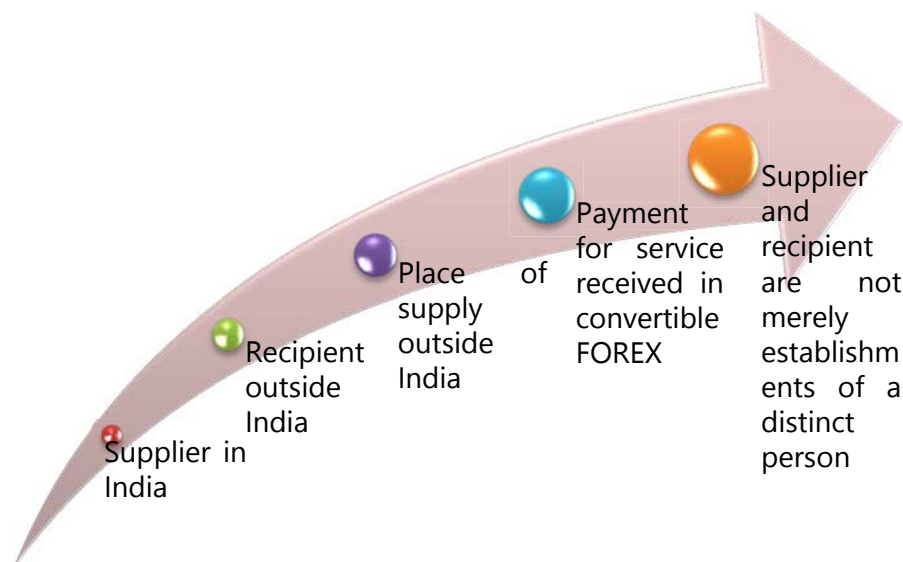
- ☑ As per section 7 of the IGST Act, supply of services when the **supplier of service is located in India** and the **place of supply of service is outside India** is a supply of services in the course of inter-State trade or commerce.
- ☑ In order to qualify as an export of service, apart from the above two conditions, following additional conditions need to be satisfied as per the definition of export of services provided under section 2(6) of the IGST Act:
  - ✓ Recipient of service is located outside India.
  - ✓ Payment for such service has been received by the supplier of service in convertible foreign exchange.

- ✓ Supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8 [discussed earlier in this Chapter]

Let us understand it with the help of an example. In the following example, Raman of Delhi has supplied services to John of USA.



The services provided by Raman to John will qualify as export of services if **All** the following conditions have been fulfilled:



In the given example, supplier of service – Raman – is located in India, recipient of service – John – is located outside India and the place of supply of service is USA. Payment for services provided by Raman has

been received in convertible FOREX and Raman and John are not merely establishments of a distinct person as per explanation to section 8 of IGST. Since all the conditions mentioned in section 2(6) of the OGST Act have been satisfied, such services qualify as export of services.

## LET US RECAPITULATE

### 1. Extent & Commencement of CGST Act/ SGST Act/ UTGST Act/ IGST Act

Applicability	CGST	SGST	UTGST	IGST
	Intra-State supply			Inter-State supply
States of India	✓	✓		✓
Union Territories with State Legislature	✓	✓		✓
Union Territories without State Legislature	✓		✓	✓

### 2. Levy and collection of CGST/IGST

Particulars	CGST	IGST
Levied on	Intra-State supplies of goods/services/both	Inter-State supplies of goods/services/both
Collected and paid by	Taxable person	
Supply outside purview of tax	Alcoholic liquor for human consumption	
Value for levy	Transaction value under section 15 of the CGST Act	
Rates	Rates as notified by	IGST rate= CGST rate + SGST

	Government. <b>Maximum rate of CGST will be 20%.</b>	rate (more or less) <b>Maximum rate of IGST will be 40%.</b>
<b>Supplies on which tax to be levied w.e.f. a notified date</b>	<ul style="list-style-type: none"> <li>+ petroleum crude</li> <li>+ high speed diesel</li> <li>+ motor spirit (commonly known as petrol)</li> <li>+ natural gas and</li> <li>+ aviation turbine fuel</li> </ul>	
<b>Tax payable under reverse charge</b>	<ul style="list-style-type: none"> <li>+ Supply of goods or services or both, notified by the Government on the recommendations of the GST Council.</li> <li>+ Supply of taxable goods or services or both by an unregistered supplier to a registered person</li> </ul>	
<b>Tax payable by the electronic commerce operator</b>	The Government may notify specific categories of services the tax on supplies of which shall be paid by electronic commerce operator (ECO) as if such services are supplied through it.	
	If the ECO is located in taxable territory	Person liable to pay tax is the ECO
	If the ECO does not have physical presence in the taxable territory	Person liable to pay tax is the person representing the ECO
	If the ECO has neither the physical presence nor any representative in the taxable territory	Person liable to pay tax is the person appointed by the ECO for the purpose of paying the tax
<b>Goods imported into India</b>	No CGST and SGST/UTGST payable.	IGST shall be levied and collected on import of goods as per the section 3 of the

		Custom Tariff Act, 1975.
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### 3. Composition levy [Section 10]

#### Composition levy

- An option for specified categories of small taxpayers to pay GST at a very low rate on the basis of turnover.

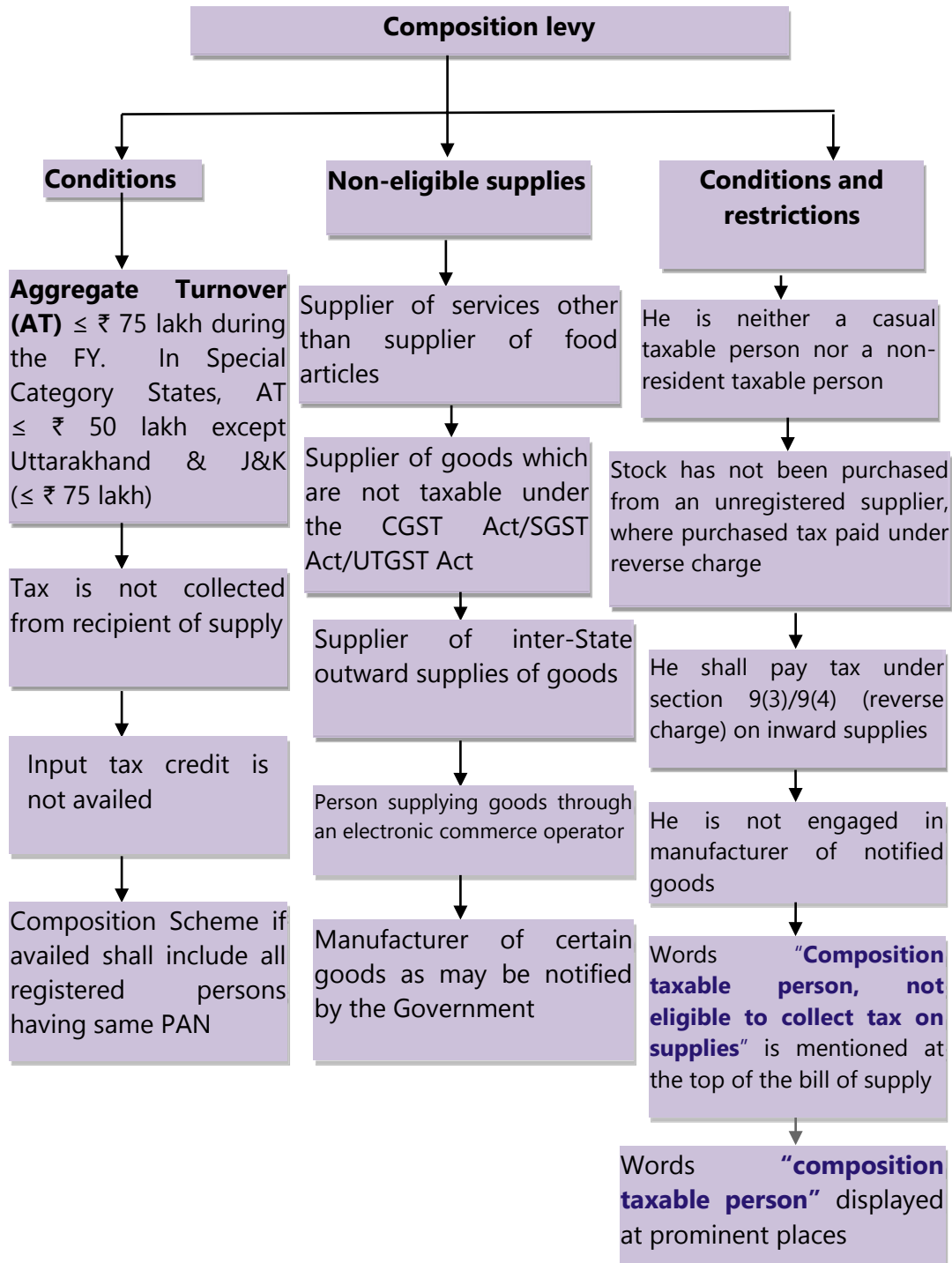
#### Advantages

- Low rate of tax
- Hassel free simple procedures for such taxpayers
- Simple calculation of tax based on turnover
- A very simple quarterly return

#### Composition Rates

Category of registered persons	Rate
Manufacturer	2 %
Supplier of food	5 %
Traders	1 %

<b>1% State tax</b>
1% Central Tax





**Composition Scheme - Procedure**

<b>Category of persons</b>	<b>How to exercise option</b>	<b>Effective date of composition levy</b>
New registration under GST	Intimation in the registration form	From the effective date of registration
Registered person opting for composition levy	Intimation in prescribed form	Beginning of the financial year

**TEST YOUR KNOWLEDGE**

1. State person liable to pay GST in the following independent cases provided recipient is located in the taxable territory:
  - (a) Services provided by an arbitral tribunal to any business entity.
  - (b) Sponsorship services provided by a company to an individual.
  - (c) Renting of immovable property service provided by the Central Government to a business entity.
2. Can any person other than the supplier or recipient be liable to pay tax under GST?
3. A person availing composition scheme in Haryana during a financial year crosses the turnover of ₹ 75 lakh during the course of the year i.e. he crosses the turnover of ₹ 75 lakh in December? Will he be allowed to pay tax under composition scheme for the remainder of the year, i.e. till 31st March?
4. A hotel owner provided accommodation in Haryana, through an electronic commerce operator – Cool Trips. The hotel owner is not liable to get registered as per the provisions of section 22(1) of the CGST Act.

Who is the person liable to pay GST in this case?

Would your answer be different if the Electronic Commerce Operator Cool Trips does not have a physical presence in India?
5. Determine whether the supplier in the following cases are eligible for composition levy provided their turnover in preceding year does not exceed ₹ 75 lakh:
  - (i) Mohan is engaged in providing legal services in Rajasthan and is registered in the same State.
  - (ii) Sugam Manufacturers has registered offices in Punjab and Haryana and supplies goods in neighbouring States.
6. Mohan Enterprises has two registered business verticals in Delhi. Its aggregate turnover for the preceding year for both the business verticals was ₹ 70 lakh. It wishes to pay tax under composition levy for one of the vertical in the current year while under normal levy for other vertical. You are required to advise Mohan Enterprises whether he can do so?

## ANSWERS/HINTS

1. (a) Since GST on services provided or agreed to be provided by an arbitral tribunal to any business entity located in the taxable territory is payable under reverse charge, in the given case, GST is payable by the recipient - business entity.  
  
(b) GST on sponsorship services provided by any person to any body corporate or partnership firm located in the taxable territory is payable under reverse charge. Since in the given case, services have been provided to an individual, reverse charge provisions will not be attracted. GST is payable under forward charge by the supplier – company.  
  
(c) GST on services provided or agreed to be provided by the Central Government, State Government, Union Territory, or local authority to any business entity located in the taxable territory is payable under reverse charge. However, renting of immovable property service is an exception to it. Therefore, in the given case, reverse charge provisions will not be attracted. GST is payable under forward charge by the supplier – Central Government.
2. Yes, the Government can specify categories of services the tax on which shall be paid by the Electronic Commerce Operator, if such services are supplied through it and all the provisions of the GST law shall apply to such electronic commerce operator as if he is the person liable to pay tax in relation to supply of such services.  
  
For this purpose, services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle and services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration, supplied through ECO have been notified.
3. No. The option to pay tax under composition scheme lapses from the day on which the aggregate turnover of the person availing composition scheme during the financial year exceeds the specified limit (₹ 75 lakh). He is required to file an intimation for withdrawal from the scheme in prescribed form within 7 days from the day on which the threshold limit has been crossed.
4. Government may notify [on the recommendations of the GST Council] specific categories of services the tax on intra-State supplies of which shall

be paid by the electronic commerce operator if such services are supplied through it. Services by way of providing accommodation in hotels through electronic commerce operator is a specified service for said purpose.

Thus, person liable to pay GST in this case is the Electronic Commerce Operator Cool Trips. All the provisions of the GST law shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services.

Cool Trips does not have a physical presence in India, person liable to pay tax is the person representing the Electronic Commerce Operator -Cool Trips for any purpose in India.

5. (i) A supplier of services engaged in the supplies other than the supplies referred to in clause (b) of paragraph 6 of Schedule II of CGST Act i.e. supply by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink, is not eligible for composition levy. Since Mohan provides legal services, he is not eligible for composition scheme.
  - (ii) Since supplier of inter-State outward supplies of goods is not eligible for composition levy, Sugam Manufacturers is not eligible for composition levy.
16. A registered person with an aggregate turnover in a preceding financial year up to ₹ 75 lakh is eligible for composition levy in Delhi. Since the aggregate turnover of Mohan Enterprises does not exceed ₹ 75 lakh, it is eligible for composition levy in the current year.

However, all registered persons having the same Permanent Account Number (PAN) have to opt for composition scheme. If one such registered person opts for normal scheme, others become ineligible for composition scheme. Thus, Mohan Enterprises either have to opt for composition levy for both the verticals or under normal levy for both the verticals.