

'Issues' in Place of Supply

32nd Regional Conference

WIRC-Mumbai | ICAI

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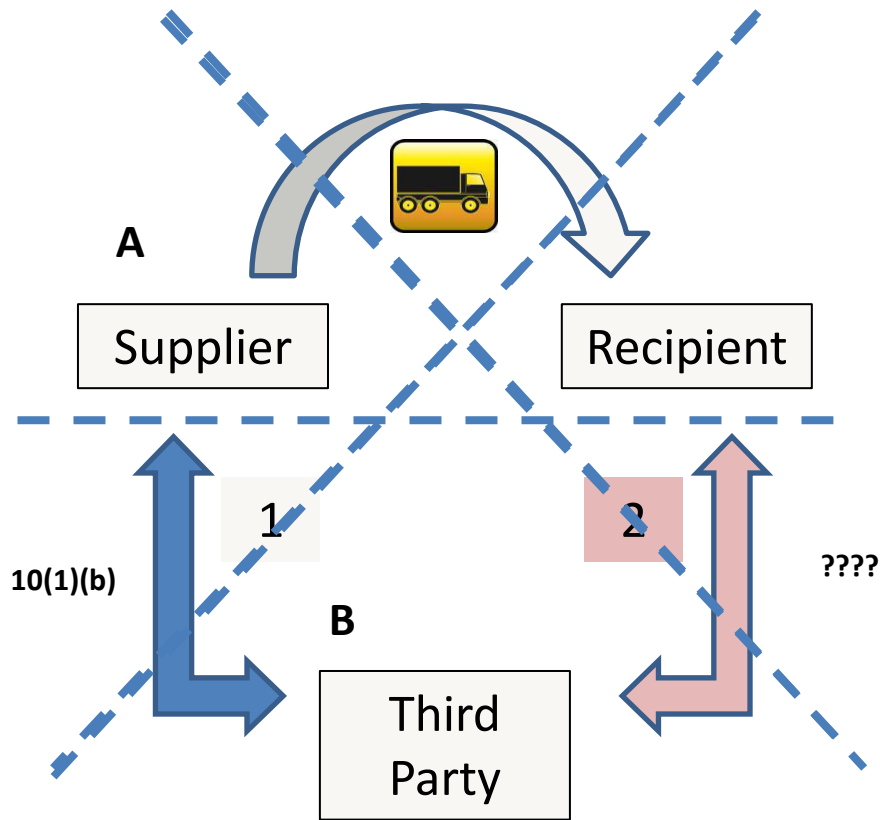
Purpose of Place of Supply

- Destination principle
- Question of fact or law
- Relevance of facts
- Overriding effect
- Contrast with CST
- Anxiety around *situs*
- Object of supply
- Provision selection
- Exclusive domain
- Effect of TDS

Place of Supply of Goods

- ‘Involves movement’:
 - Tests to be applied
 - Person to effect
 - Movement v. Transport
 - Intention v. Ability
- Passing or title or delivery of possession
- Concurrent conditions:
 - Delivery of possession
 - Payment towards supply
- ‘Does not involve’:
 - Does not v. Will not
 - Cannot not v. Should not
- Infinitesimal distance
- Supply by wastage-debit
- Ex-work supplies
- Buyer outside India
- Relevance of LoR
- Relevance for RCM

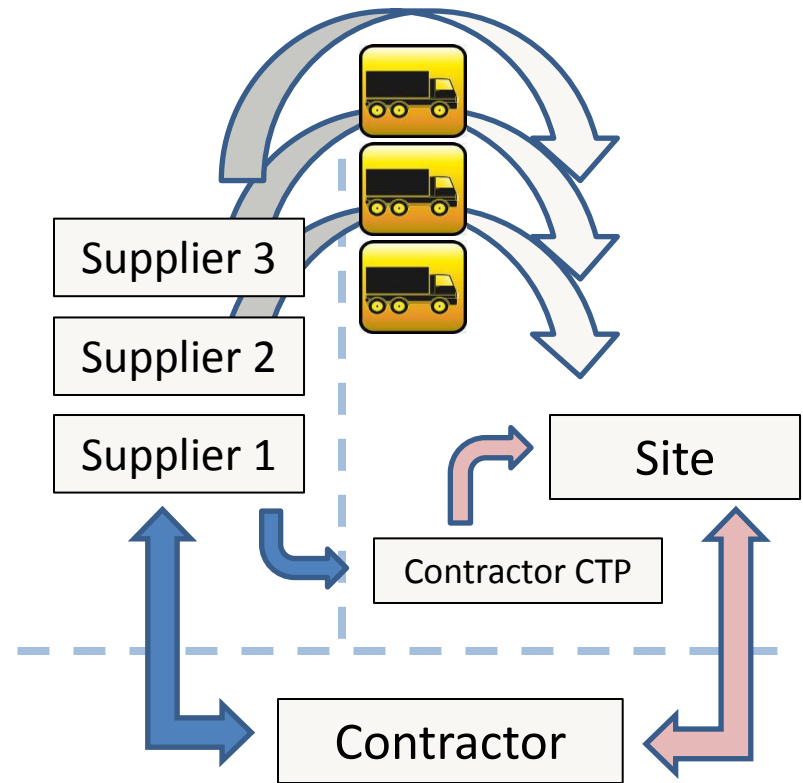
Place of Supply of Goods



- Confidentiality of cost
- Supply involving SEZ:
 - Recipient is SEZ
 - Third Party is SEZ
- Aspects of '2nd supply':
 - Time interval / delay
 - Job-work supply
 - In-transit supply
 - Involves movement
 - Risk of CTP

Place of Supply of Goods

- ‘Assembly or installation’:
 - Works contract or not?
 - Composite supply of?
- Supply in CKD-SKD
- Supply ‘of Parts’ v. supply ‘in Parts’
- Delivery at PoS, then PoB shifts from LoS to LoG



International Supplies – Goods

- International supplies inter-State or IGST?
- No IGST on imports:
 - Purpose of 7(2)?
 - What is point ‘when’ customs duty is levied?
 - Reference to CTA
 - Purpose of PBW
 - EOU changes in 2016
- BCD payment by scrips
- SEZ supply *inter se*
- DTA supplies by SEZ
- In-bond sales (non-EOU)
- Import by EOU
- Debonding by EOU
- DTA supply EOU
- Merchanting trade
- Sale on *high seas*
- Sale to ship stores

Place of Supply of Services

- Legislative appointment
- Recipient determined by *PO-billing-payment*
- Residual rule:
 - PoS (B2B) = PoB (Payer)
 - PoS (B2C_x) = AoR (Payer)
 - PoS (B2C_y) = PoB (Payee)
- ISD undermines PoS
- Rule selection:
 - Underlying supply
 - Immediate supply
- Intermediaries to be resellers, *with caution*:
 - Air travel agents
 - Hotel accommodation
 - Ad agency (PR 23-Aug)
- Local spend on intl. hotel

International Supplies – Services

- Unnatural definitions:
 - Export of services
 - Import of services
- Performance-based supplies not excepted:
 - Contract mfg.
 - Job-work
- Property-linked supplies
- LERMS linked supplies
- International ECOs
- Intermediary services:
 - Contract Law
 - Export-import inversion
- Overseas freight
- OIDAR:
 - Scope for misapplication
 - Extra territorial
 - Role of intermediary
 - Liability of representative
 - Tests for nexus

Thank You

Register at www.idtc.icaai.org for resource material regular updates on GST