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## Subject Coverage

- 1) Exports**
  - a) Meaning under GST Law
  - b) Exports: With Payment of GST- Without Payment of GST (Under LUT)
  - c) Realization of Export Proceeds- Consequences for Non-realization
  - d) Refund stuck due to Common Errors in Shipping Bill & GST Returns- measures for Solution
  - e) Merchant Exporter- Benefit, Obligations & Consequences
  - f) Intermediary Services vs Export of Services; Taxing Intermediary services, whether Constitutional? ([BOM HC Ruling dt 18 Apr 2023](#))
  - g) Refund computation in case of goods exported under LUT- Value of export goods cannot exceed 1.5 times the value of like goods, domestically supplied by the Same or Similarly placed Supplier... Whether Constitutional? ([KAR HC Ruling dt 16 Feb 2023](#))
- 2) Imports**
  - a) Meaning under GST Law
  - b) Reimbursement of Expenses, to Foreign Holding Company, whether liable to GST-RCM?
  - c) ITC of IGST on Imports- Issues
- 3) Statistics about Exports, Imports & GST**

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## “Export of Goods & Services” defined under IGST Act

**Sec. 2(5):** “Export of Goods” means taking goods out of India to a place outside India;

**Sec. 2(6):** “Export of Services” means the supply of any service, when-

- i. the **supplier** is located in India;
- ii. the **recipient** is located **outside India**;
- iii. the **place of supply of service** is outside India;
- iv. the **payment for such service** has been received in CFE (Convertible Foreign Exchange) or in INR wherever permitted by RBI (Reserve Bank of India); **and**
- v. the **supplier & recipient of service** are not merely establishments of a **“distinct person”** in accordance with Explanation 1 in Sec. 8 of IGST Act;

[Note: “Distinct Persons”, “Subsidiary Company” & “Related Persons” are separate terms / concepts, under GST]

**Note: Exports & Deemed Exports are Zero Rated Supplies as provided u/s 16 of IGST Act**

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### Establishment of Distinct Persons as per “Explanation 1” u/s 8 of IGST Act

- **Explanation 1.— For the purposes of this Act, where a person has,—**
  - (i) **an establishment in India and any other establishment outside India;**
  - (ii) **an establishment in a State or UT and any other establishment outside that State or UT; or**
  - (iii) **an establishment in a State or UT and any other establishment being a business-vertical registered within that State or UT,****then such establishments shall be treated as establishments of distinct persons.**
- **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.**

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## “Place of Business” & “Establishment” under CGST Act

- **Sec. 2(85): “place of business” (POB) includes—**
  - (a) **a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or**
  - (b) **a place where a taxable person maintains his books of account; or**
  - (c) **a place where a taxable person is engaged in business through an agent, by whatever name called;**
- **Sec. 2(50): “fixed establishment” means a place (other than the registered POB) which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs;**

## “Distinct Persons” under CGST Act

### “Distinct Persons”: Sec.25: Procedure for Registration:

- **Sec. 25(4): A person who has obtained or is required to obtain more than one registration, whether in one State/UT or more than one State/ UT shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.**
- **Sec. 25(5): Where a person who has obtained or is required to obtain registration in a State/UT in respect of an establishment, has an establishment in another State/UT, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.**

**“Related Persons” under CGST Act (Supply taxable, even without consideration-Sch I)**

**“Related Persons” Sec. 15(5)(a) Explanation under CGST Act:**

**(a) persons shall be deemed to be “related persons” if—**

- (i) such persons are officers or directors of one another’s businesses;
- (ii) such persons are legally recognised partners in business;
- (iii) such persons are employer and employee;
- (iv) any person directly or indirectly owns, controls or holds 25% or more of the outstanding voting stock or shares of both of them;
- (v) one of them directly or indirectly controls the other;
- (vi) both of them are directly or indirectly controlled by a third person;
- (vii) together they directly or indirectly control a third person; or
- (viii) they are members of the same family;

**Sec. 2(49) “family” means,—** (i) the spouse and children of the person, and

(ii) the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person;

(b) the term “person” also includes legal persons;

**(c) persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.**

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**“Place of supply of goods imported into or exported from India” (Sec. 11 of IGST Act)**

**Sec. 11**

*The place of supply of goods:*

*(a) imported into India shall be the location of the importer;*

*(b) Exported from India shall be the location outside India.*

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“Place of supply of services where location of supplier or location of recipient is outside India” (Sec. 13 of IGST Act)

**Sec. 13 (2):  
General Rule:**

*“Place of supply of services **shall be the location of the recipient of services ...**”*

**Sec. 13 (3 to 12):  
Rule for Specific  
Services:**

*“Place of supply of **specific services shall be the location of actual performance** of the specific services ...”*

*Sec. 13(13): “In order to prevent double taxation or non-taxation of the supply of a service, or for the uniform application of rules, the Govt shall have the power to notify any description of services or circumstances in which the place of supply shall be the place of effective use and enjoyment of a service.”*

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## **Export of Goods-With Payment of IGST: Refund of IGST**

- 1) Sending Goods to a place outside India
- 2) Tax Invoice must have an endorsement as “Supply meant for Export on payment of IGST”
- 3) On shipping bill select – “Supply meant for Export on payment of IGST”
- 4) File GSTR-1 reporting exports as such
- 5) Pay Net GST liability (Gross IGST – ITC = Net) & file GSTR-3B, accordingly
- 6) Matching of the GST Portal ‘GSTN’ details with Customs Portal ‘ICEGATE’ details
- 7) No separate refund application to be filed (in Form GST-RFD-01); Refunds are processed automatically; “Shipping Bill” itself is treated as an application for refund (Rule 96(1));
- 8) Refund of IGST paid on Exports-**SOP to verify risky exporters & their suppliers**-Rule 96(4)(C) & (5A)-Instruction # 4-2022-GST dt 28 Nov 2022;

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### **Export of Goods-Without Payment of IGST: Under LUT: Refund of Unutilised ITC**

- 1) Sending Goods to a place outside India
- 2) Submit LUT to GST department prior to export (LUT valid for 1 Financial Year)
- 3) Tax Invoice must have an endorsement as “Supply meant for Export under LUT – without payment of IGST”
- 4) On shipping bill select – “Supply meant for Export under LUT – without payment of IGST”
- 5) File GSTR-1 reporting exports as such
- 6) No IGST payable, so Unutilised ITC, show as Refundable while filing GSTR-3B, accordingly
- 7) Matching of the GST Portal ‘GSTN’ details with Customs Portal ‘ICEGATE’ details
- 8) File refund application in Form GST-RFD-01, within 2 yrs of exports, with all prescribed docs; Application processed by GST Nodal Officer, then refund granted;

**Note: Factors to be considered in selecting the option of IGST payment or LUT: Applicable GST Notification, Working capital involved, quantum of inward & outward supplies, flow of ITC, etc.**

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### **Receipt of Proceeds of Exports of G/S - Conditions & Consequences**

- 1) **Value of supply: CGST Rule 34: Exchange rates: For Goods, as Notified by CBIT & Customs, Fortnightly; For Services, as per GAAP: AS-11/ IND-AS-021: Forex rates notified by RBI, Daily;**
- 2) **Exports proceeds be received in CFE; Inward Remittances recd, are uploaded by Bank at EDPMS (Export and Data Monitoring Systems); Then e-FIRC is uploaded by Bank in EDPMS, as per RBI Guidelines; Physical FIRC stopped from June 2016; FIRS may be issued by Bank giving details of inward remittance received through bank;**
- 3) **Exports proceeds received in INR, where permitted by RBI; INR paid from the balances in the designated Special Vostro Account of the correspondent bank of the partner country;**
- 4) **Export proceeds must be realized and repatriated to India on the due date or within 9 months from the date of shipment of goods / Services supplied, whichever is earlier, as allowed under FEMA, 1999, for all exports including EOUs, Units in SEZs, EHTPs, STPs, BTPs; (CGST Rule 96B);**
- 5) **Extension of time to receive export proceed, can be obtained from RBI under FEMA, 1999.**
- 6) Considering the unprecedented challenges due **COVID-19 pandemic**, Reserve Bank of India has released press release on 1 April 2020 wherein the **time limit for realisation of export proceeds for the exports made on or up to 31 July 2020 has been extended to 15 months** from date of exports;
- 7) **If export proceeds are not recd. fully/ partly, within time or extended time under FEMA, 1999, then to pay back proportionate refund with interest, within 30 days; If applicant produces evidence about such realisation within a period of 3 months from the date of realisation of sale proceeds, the amount so recovered shall be refunded by the proper officer (CGST Rule 96B);**

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## Shipping Bills (SB) Common Errors, Codes & Solutions

Code	Meaning	Solution
SB000	Successfully validated	No Error
SB001	Invalid/ Error in SB details	Report amendments/ corrections at Table-9A of GSTR-1
SB002	EGM not filed	Approach the shipping line/ airline/ carrier to file the EGM
SB003	GSTIN Error in SB	Approach Customs Authority at the Port of Export to amend data at ICEGATE
SB004	Duplicate/ Repeat of SB	1 <sup>st</sup> SB will be validated; To ignore duplication
SB005	Invalid/ Incorrect invoice number	Report amendments/ corrections at Table-9A of GSTR-1 by mentioning correct Invoice number; Or Submit docs to Customs for corrections at ICEGATE
SB006	Gateway EGM not available	Approach shipping line or Gateway Port Customs for filing EGM or Correcting EGM or revalidate EGM

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## Merchant Exporter- Benefit, Obligations & Consequences ...

- 1) Merchant Exporter (ME): For exports, to purchase/ procure taxable goods at concessional rate of GST, from Regd Supplier (SR); **(Comparable with CST "Form-H")**
- 2) CGST Notification # 40/2017 dt 23 Oct 2017: CGST @ 0.05% & SGST @ 0.05%;
- 3) IGST Notification # 41/2017 dt 23 Oct 2017: GST @ 0.10%;
- 4) ME should be registered with Export Promotion Council Or with a Commodity Board recognized by the Department of Commerce;
- 5) Export order may be procured prior/ post to such purchases;
- 6) Export said goods, within 90 days from date of Tax Invoice; **Export under LUT**;
- 7) **ME can't purchase raw materials & manufacture goods for exports**; Definition of 'manufacture' u/s 2(72) of CGST Act: **"manufacture" means** processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term "manufacturer" shall be construed accordingly; **But purchased goods are to be exported i.e. Trading Exports permitted for ME**;
- 8) ME shall raise Purchase Order (PO) on SR & submit its copy to SR's Jurisdictional Tax Officer;

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## ... Merchant Exporter- Benefit, Obligations & Consequences

- 9) **ME shall move the said goods** from SR's place- (a) directly to the Port, Inland Container Depot (ICD), Airport or Land Customs Station from where the said goods are to be exported; or (b) directly to a registered warehouse from where the said goods (alongwith other goods aggregated) shall be move to the Port, ICD, Airport or Land Customs Station from where the said goods are to be exported;
- 10) **ME shall endorse receipt of goods on SR's tax invoice** and also obtain acknowledgement of receipt of goods in the registered warehouse (say Ack on Challan/LR for goods received) & provide it to SR;
- 11) **ME shall mention Supplier's GSTIN & Tax Invoice Number on Shipping Bill or Bill of Export;**
- 12) **ME shall file copy** of PO, endorsed tax invoice of SR, acknowledgement of warehouse keeper for receipt of goods, with SR's Jurisdictional Tax Officer;
- 13) After Exports, **ME shall provide copy** of shipping bill or bill of export containing details of GSTIN & Tax Invoice of SR, along with proof of Export General Manifest (EGM) or Export Report to SR as well as SR's jurisdictional tax officer;
- 14) **For any default/ non-compliance of such conditions** by ME, SR is held liable to pay differential tax & interest for delayed period; **Under GST Law, No safety net provided to SR against ME, for such liability;** SR can recover such amt from ME, as per their contractual arrangements;

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## “Intermediary Services”- GST Issues

- **“intermediary” [u/s 2(13) of 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, (called as Main Supply) between two or more persons, but does not include a person who supplies it on his own account;**  
[Same defn under Rule 2(f) of POPS of Earlier Service Tax Law]
- **“by whatever name called” – Principle of ejusdem generis applies-** It must fall within the genus (viz. broker, agent, or any other person) as held by **Supreme Court** in *CIT, Udaipur Rajasthan v. McDowell & Co. Ltd.* C.A. # 2939 of 2006; Also referred in *Sabre Travel Network I.P. Ltd.* 2019 (27) GSTL 754 (**Appl AAR-Mah-** (Para 36));
- **Place of Supply of Services under IGST Act Sec. 13(8)(b):**  
*The place of supply of the following services shall be the location of the supplier of services, namely:—*  
(a) ... (b) **intermediary services;** (c) ...
- **Effect: “Intermediary services” are deemed as rendered in India & not exports; Liable to GST; HSN 9997, GST @ 18 %;**

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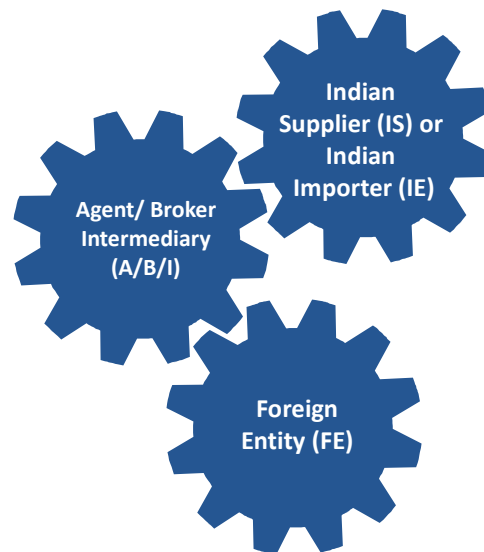
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## “Intermediary/ Agent / Broker”



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## “Agent or Broker” under CGST Act

- **Sec. 2(5): “agent” means a person,** including a factor, broker, commission agent, arhatia, del-credere agent, an auctioneer or any other mercantile agent, **by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another;**
- **Circular # 57/31/2018-GST dt 4 Sep 2018 & 73/47/2018-GST dt 5 Nov 2018: Explains, Scope of Principal-Agent relationship (including del-credere agent) in the context of Sch-I (Para-3) of CGST Act;**
- **Indian Contract Act, 1872: Sec.182: “Agent” and “principal” defined.—An “agent” is a person employed to do any act for another, or to represent another in dealings with third persons.**  
The person for whom such act is done, or who is so represented, is called the “principal”;
- **Sec. 188: Extent of agent’s authority.—An agent, having an authority to do an act, has authority to do every lawful thing which is necessary in order to do such act.** An agent having an authority to carry on a business, has authority to do every lawful thing necessary for the purpose, or usually done in the course, of conducting such business.

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## “Recipient of ... Goods or Services” means

- **Sec. 2(93) of CGST Act: “recipient” of supply of goods or services or both, means—**
  - (a) **where a consideration is payable** for the supply of goods or services or both, **the person who is liable to pay that consideration**;
  - (b) **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
  - (c) **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**;

## “Intermediary Services”- Rulings

- Relevant Advance Rulings
- Relevant Court Rulings

## Intermediary Services, liable to GST, as per AAR/ AAAR ...

- 1) **Marine Consultancy Services (MCS)** provided to Foreign Ship Owners (FSO) to identify charterers is not a composite supply as every service is important and independently possible to perform / engage by FSO. It is an “Intermediary” services, hence not exports. [*Five Star Shipping. 2018 (14) GSTL 443 (AAR-Mah)*]; **Appeal AAR held same that Marine Consultancy Services are composite services where Intermediary Services is principal & other services are ancillary. [2018 (18) GSTL 701 (Appl AAR-Mah)]**;
- 2) **Commission received for procuring orders for foreign principals from Indian importers-** in CFE for rendering services, to German Principals-Exporter, to procure orders from Indian Importers, is a Service as an “Intermediary” & hence Not an Export of services. **It is liable to IGST @ 18% u/s 7(5)(c) under Residuary HSN 9997. [Micro Instruments (Prop. Mrs. Vishakhar Prashant Bhawe) GST AAR Appln # 23 of 2018-19, Order dt 10 Aug 2018 Mah. AAR; Appeal AAR held that ‘POSS’ not in scope & jurisdiction of AAR, so AAR quashed [dt 22 Mar 2019 (31) GSTL 526 (Appl AAR-Mah)]**;
- 3) **Commission received from foreign Universities on admission of students-Held as Intermediary Services particularly when he would not be paid any consideration for services when student is not admitted** in the university; [*Global Reach Education Services Pvt. Ltd. 2018 (12) GSTL 387 (AAR- WB); 2018 (15) GSTL 618 (Appl.AAR-WB)*]; [*Oceanic Consultants Pvt Ltd. 2020 (42) GSTL 226 (Commr. Appl-Chandigarh)*];

## ... Intermediary Services, liable to GST, as per AAR/ AAAR

- 4) **Liaison with buyers & sellers of foreign clients with respect to delivery, transportation of goods and settlement of payment etc.** including Back office administrative and accounting services as per Service Agreement qualify as “intermediary services & hence Not an Export of services. It is liable to GST. [*Vservglobal Pvt. Ltd. 7 July 2018 (19) GSTL 173 (AAR-Mah)*]; **Appeal AAR Confirmed AAR; Para 38: “there does not appear to be any intention of the AAR to tax the back office operation of the Appellant and the Ruling of AAR which is based on a specific agreement can not be generalized. [Vservglobal Pvt. Ltd. Appeal AAR dt 26 Feb 2019 (26) GSTL 127 (Appl. AAR-Mah)]**;
- 5) **BPO services relating to shipping & logistics**, supplied by MCIL LLP India, to MSS Marine Ltd. Hong Kong, w.r.t. Worldwide shipping consultancy & logistics arrangement of cargos; **Held: Reimbursement of exps.** such as salaries, rent, office exps, travelling costs, etc., **liable to GST; Management fees** charged for managing the outsourced job to MCIL LLP India, **liable to GST. [Maansmarine Cargo Internl. LLP- ARA # 04/2019-20 dt 23 Aug 2019 (29) GSTL 508 (AAR-Mah)]**;
- 6) **Finding prospective customers for goods of overseas supplier-** is Intermediary Services- **TERETEX TRADING Pvt Ltd- AAR # 4 of 2021-22 dt 28 Jun 2021-WB**;
- 7) **Flight & Helicopter Operation, repairs maintenance, training, renting** etc are Intermediary Services-HSN 998599- GST @ 18%-**Airbus Group India Pvt Ltd-KAR AAAR dt 9 Nov 2021**;

### Services rendered are Exports & Not intermediary Services, as per AAR/ AAAR

- 1) **Business Support Services are Export of Service:** Promotion & Marketing of GoDaddy US services in India which includes direct Mktg, Branding activities, Offline Mktg; Supervision of quality of 3<sup>rd</sup> party customer care centre services & payment processing services. **Consideration in CFE = Fee = Operating costs + Mark up @ 13%. GoDaddy India Web Services Pvt. Ltd. AAR/ST/08/2016 dt 4 March 2016 (AAR-Delhi);**
- 2) **Sales promotion & marketing support services** provided by Asahi India to Asahi Japan as per Service Agreement, **including back office services. Consideration agreed = Direct costs + Prorated Overhead Exps + GP @ 10%. Asahi India's services are not an Intermediary services, thus exports of services. [Asahi Kasei India P. Ltd. Dt 5 Sept 2018- 2019 (21) GSTL 243 (AAR-Mah)]; **Appeal Order held that said services are "mixed supply" & Determination of Place of supply of services is beyond AAR's jurisdiction so AAR Order modified to that extent. [dt 19 Jun 2019- 2019 (28) GSTL 172 (Appl. AAR- Mah)];****
- 3) **Administrative & Support services rendered by NES India to NES-UAE are exoptrts. [NES Global Specialist Engg. Ser. P. Ltd. dt 19 Dec 2018- 2019 (22) GSTL 541 (AAR-Mah). **Aforesaid AAR is set-aside as determination of POS is outside the purview of AAR. MAH/AAAR/SS-RJ/03/2019-20 dt 2 AUG 2019; 2019 (31) GSTL 650 (Appl. AAR-Mah) [2019] 111 taxmann.com 140];****

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## Advance Rulings under GST Law

- **Advance Ruling u/s 97(2) of CGST Act: (Scope of Advance Ruling):** Classification/ Notification applicability/ Time of Supply/ Value of Supply/ ITC/ Determination of tax liability on any supply/ Registration reqd/ Whether any activity is a supply of goods/services;
- **"Place of Supply" questions, Not within powers/scope of Advance Ruling Provisions**
- **Applicable to Applicant & its Jurisdictional Authority, until law is amended, or fact is changed**  
[Vservglobal Pvt. Ltd. Appeal AAR 26 Feb 2019 (26) GSTL 127 (Appl. AAR-Mah): Para 38 confirms same: **The ruling given by AAR is always applicant specific and based on the records available before the Authority]**
- **Persuasive value for Others**
- Clue from Relevant Rulings under GST Law or Earlier Laws

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## Circulars issued by CBIC

- **GST Circular # 107/26/2019-GST dt. 18 July 2019, Superseded on 20 Sept 2019 which tried to clarify about ITES & other services, rendered by Indian person to foreign person, whether will be as an "Intermediary" or "On one's own account";**
- **Circular # 159-15-2021-GST dt 20 Sep 2021-Intermediary Scope & Clarification;**  
Circular Explains: Scope of Intermediary, Minimum 3 parties, Main supply & ancillary supply, character of agent/broker/any other similar person, supply on own account, sub-contracting is not intermediary, gives 4 Illustrations;
- **Circular # 161-17-2021-GST dt 20 Sep 2021-Clarifies relating to Foreign Company & its Subsidiary Indian Company, that both are two separate legal entities & Not Distinct person or Branch of same Establishment, as covered/ understood u/s Sec 2(6)(v) of IGST Act, defining "export of services";**

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## Services rendered are Exports & Not intermediary Services, as per Tribunal & Court Rulings

- **Engineering & Consultancy Services** provided to Cairn India-Consideration received in CFE from Foreign Entity Wasco-Constitutes export, allows refund. [Ozone Plant Design Ser. Pvt Ltd-TS-51-**Delhi CESTAT-2022-Service Tax**];
- **Sub-contracting Services** provided on 'its own account' -Not Intermediary Services. [Genpact India Pvt Ltd vs UOI dt 11 **Nov 2022-P&H**];
- **Professional Services provided** by EY India to Overseas EY Entities-Not Intermediary Services-Grant refund of GST. [Ernst & Young Ltd vs AC CGST-WP(C) 8600-2022 dt 23 **Mar 2023-Del**];
- **Market research services** provided on own account cannot be considered as 'Intermediary Services'-Refund allowed-Entitled for interest also. [OHMI Industries Asia P Ltd-TS-128-HC-**DEL-2023-GST**];

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**Intermediary Services- IGST Act-Sec 13(8)(b)-Place of Supply of Services shall be the location of the Supplier of services- Why? Is it Constitutional?**

- **Material Recycling Asso of India vs UOI. 24 July 2020 (40) GSTL 289 (Guj):**
- **Facts: Association of recycling industry**, engaged in manufacture of metals and casting etc., in India. **Members of Association also act as an agents for** scrap recycling companies based outside India who facilitate sale of recycled scrap goods **for their foreign principals** in India and other countries (non-taxable territories).  
**Members receive commission in CFE** upon receipt of sale proceeds by its foreign client. According to the petitioner Asso, the transaction entered into by their members is export of services, earning valuable CFE.
- **Petitioner Challenged: Constitutional validity of Section 13(8)(b) of IGST Act** and to hold the same as *ultra vires* under Articles 14, 19, 265 and 286 of the Constitution of India, with a direction to the respondent **to refund of IGST paid** on services provided by the members of the petitioner association and to their clients located outside India.
- **Held: Sec 13(8)(b) of IGST Act is Constitutional & Not-ultravires;**

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**Intermediary Services- IGST Act-Sec 13(8)(b)-Place of Supply of Services shall be the location of the Supplier of services- Why? Is it Constitutional?**

- **Dharmendra M Jani vs UOI. WP # 2031 of 2018:**
- **Facts of the Case: Petitioner is the Proprietor** of Dynatex International, provides marketing services to Foreign Principals, for their products, & receives commission/ consideration in Convertible Foreign currency (CFE). **Petitioner paid CGST & SGST, under protest, from out of its own pocket, without collecting** it from its foreign customers;
- **Petitioner challenged:**
  - 1) Levy of tax on export of service as *ultra vires* Article 269A of the Constitution;
  - 2) **Sec.8(2) & Sec.13(8)(b) of the IGST Act are *ultra vires* the charging sec.9 of CGST Act;**
  - 3) Such levy is violative of Article 14 regarding Equality before the law;
  - 4) **Such levy of CGST & SGST** on export of services, constitute an unreasonable restriction upon the right of the petitioner to carry on trade & business under Article 19(1)(g);

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## Intermediary Services- IGST Act-Sec 13(8)(b)-Place of Supply of Services shall be the location of the Supplier of services- Why? Is it Constitutional?

- **Dharmendra M Jani vs UOI: BHC Justice Ujjal Bhuyan: WP # 2031 of 2018 dt 9 June 2021:**  
**Judge 1<sup>st</sup> : J. Ujjal Bhuyan: Held: Para 65: Section 13(8)(b) of the IGST Act, 2017 is Ultra vires the said Act besides being unconstitutional; Reasons:** Tax leviable only on services provided within the country; law having extra-territorial operation can't be enacted; Parliamentary Standing Committee on Commerce submitted Report # 139 dt 19 Dec 2017 that Intermediary services be treated as exports & it should be made exempt from IGST; Article 246A (levy of GST) & 269A (levy of IGST) do not empower imposition of tax on export of services out of the territory of India by treating the same as a local supply; Question for consideration is whether creation of such a deeming provision is permissible or should receive the imprimatur of a constitutional court? Parliament does not have such power; It not only falls foul of the overall scheme of the CGST Act & the IGST Act but also offends Articles 245, 246A, 269A and 286(1) (b) of the Constitution;
- **Dharmendra M Jani vs UOI: Justice Abhay Ahuja delivers dissenting view dt 16 Jun 2021:**
- **Judge 2<sup>nd</sup> : J. Abhay Ahuja: Held: Section 13(8)(b) of the IGST Act, 2017 is Constitutional; Reasons:** dismisses Assessee's challenge to Article 14 & Article 19(1) (g); Constitution has empowered the Parliament to formulate principles determining the place of supply, particularly in view of Section 7, which designates such supplies to be inter-State supplies"; There would therefore be no question of deeming Petitioner's supply of intermediary services to be intra-State supply"; On the argument of double taxation, Ld. Judge opines that "the principle is well settled that two taxes which are separate and distinct imposts on two different transactions/supplies is permissible as in law there is no overlapping";
- **Matter referred to 3<sup>rd</sup> Judge;**

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## Intermediary Services- IGST Act-Sec 13(8)(b)-Place of Supply of Services shall be the location of the Supplier of services- Why? Is it Constitutional?

- **Dharmendra M Jani & Ors vs UOI: BHC Justice G. S. Kulkarni: WP # 2031 of 2018 dt 18 Apr 2023:**  
**Judge 3<sup>rd</sup> : J. G. S. Kulkarni : Held:** "The provisions of Section 13(8)(b) and Section 8(2) of the IGST Act are **legal, valid and constitutional**; They are **confined in their operation to the provisions of IGST Act only** and the **same cannot be made applicable levy of tax on services under the CGST and MGST Acts**";**Analysis, Observations & Conclusion:**
  - 1) **Article 246-A makes special provisions with respect to Goods and Services Tax.**  
By virtue of **Article 248, the residuary power of the legislation, subject to Article 246A, is conferred on the Parliament ...;**  
**Article 249, ... whereby the Parliament is empowered to make any law with respect to any matter enumerated in the State List and it is lawful for the Parliament to make laws for the whole or any part of the territory of India or in respect of "Goods and Services Tax" provided in Article 246A, and such power has been conferred considering the national interest.**  
**Article 269(A) provides for the levy and collection of goods and services tax in the course of inter-State trade or commerce. (Para 54);**
  - 2) **... by virtue of Article 246-A(2), it is further significant that the State legislature would not have the power to make laws with respect to goods and services tax, where the supply of goods or services, or both takes place in the course of inter-State trade or commerce. (Para 55);**

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**Intermediary Services- IGST Act-Sec 13(8)(b)-Place of Supply of Services shall be the location of the Supplier of services- Why? Is it Constitutional?**

- **Dharmendra M Jani & Ors vs UOI: BHC Justice G. S. Kulkarni: WP # 2031 of 2018 dt 18 Apr 2023:**
- 3) **Article 269-A of the Constitution provides for levy and collection of goods and services tax, in the course of inter-State trade or commerce; ... Article 269-A(5) provides that Parliament may, by law, formulate the principles for determining the place of supply and when a supply of goods, of services, or both takes place in the course of inter-State trade or commerce. (Para 56);**
- 4) **Article 286 provides for "restrictions as to imposition of tax on the sale or purchase of goods": ... Article 286(1) provides that no law of a State shall impose, or authorize the imposition of a tax on the supply of goods or of services or both, where such supply takes place- (a) outside the State; or (b) in the course of the import of the goods or services or both into, or export of the goods or services or both out of, the territory of India (Para 57);**
- 5) **In my opinion, the contention of the petitioners appears to be correct that the transactions in question of the petitioners are in fact a transactions of export of service, as the recipient of service is the foreign principal (Para 60);**

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**Intermediary Services- IGST Act-Sec 13(8)(b)-Place of Supply of Services shall be the location of the Supplier of services- Why? Is it Constitutional?**

- **Dharmendra M Jani & Ors vs UOI: BHC Justice G. S. Kulkarni: WP # 2031 of 2018 dt 18 Apr 2023:**
- 6) **In my opinion, there is certainly some substance in the petitioners contention that there is a polarity which is brought about insofar as taxing export of services provided by the intermediaries are concerned, as a consequence of an interplay of the enactments, namely, the IGST Act on one hand and the CGST and the MGST Acts on the other hand. Also, there appears to be **some internal friction within the provisions of the IGST Act in this regard**, which also needs to be discussed (Para 78);**
- 7) **In my opinion, certainly, the intention of the legislature is not to tax such transaction of export of services, also categorized as an intermediary services both under the IGST Act as also under the CGST and the MGST Acts (Para 82);**
- 8) **... the principles of statutory interpretation the Courts would be guided in considering the validity and constitutionality of legislations. ... a validation- oriented approach becomes the philosophy of the statutory construction recognizing that certain provisions of law construed in one way to be consistent with the Constitution and if another interpretation would render them unconstitutional, the Court would lean in favour of the former Construction (Para 85);**
- 9) **... these provisions under the IGST Act, in my opinion, need to be applied and understood in their applicability only under the IGST Act, even applying the principles of strict construction of the taxing statutes (Para 89);**

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**Intermediary Services- IGST Act-Sec 13(8)(b)-Place of Supply of Services shall be the location of the Supplier of services- Why? Is it Constitutional?**

- **Dharmendra M Jani & Ors vs UOI: BHC Justice G. S. Kulkarni: WP # 2031 of 2018 dt 18 Apr 2023:**

10) Adverting to the above **principles of interpretation of statutes as also the principles of contextual interpretation of statutes** as derived from Section 2 of the CGST and MGST Act(s), in my opinion, by virtue of such opening wordings of Section 2 providing that “In this Act, **unless the context otherwise requires**”, **the provisions of Section 13(8)(b) cannot be applied in a context which is not attracted and/or which is not provided for under the CGST Act and the MGST Act.**

The **CGST Act and the MGST Act both pertain to 'intra-State supply of goods and services'**. **These enactments do not define what is 'export of services.'**; ... it may not be permissible for the respondent to read into the provisions by the CGST and the MGST Act, as to what has been omitted and/or expressly not provided. It clearly appears that the **entire concept of “export of services” which has been specifically stipulated and provided only under the provisions of the IGST Act, to be read into the provisions of the CGST and MGST Acts, in my opinion, would not be a correct reading of the provisions (Para 94);**

11) ... having enacted the IGST, the CGST and the MGST Acts, the **Parliament as also the State Legislature has compartmentalized the levy and collection of the GST into two categories**, firstly, **'inter State supply** of goods and services (IGST Act) and secondly the **intra-State supply** of goods and services (under the CGST and the MGST Acts); .... **Constitutional provisions as noted above also would not permit the State Legislature to legislate on fields that are exclusively reserved and to be legislated by the Parliament. Also the Parliament would not legislate on a field which would decompartmentalize the inter-State and intra-State regimes (Para 95);**

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**Intermediary Services- IGST Act-Sec 13(8)(b)-Place of Supply of Services shall be the location of the Supplier of services- Why? Is it Constitutional?**

- **Dharmendra M Jani & Ors vs UOI: BHC Justice G. S. Kulkarni: WP # 2031 of 2018 dt 18 Apr 2023:**

12) ... in my opinion, insofar as **the provisions of Section 13(8)(b) is concerned, the same are required to be read to confined only to the provisions of the IGST Act ...** Constitutionally and for the reasons as discussed in the forgoing paragraphs, **it is not permissible for such provision to operate under the CGST Act and the MGST Act (Para 103);**

13) **The present case, in my opinion, does not involve any extra-territorial operation of law** made by the Parliament in as much as the subject matter of legislation purely pertains to inter-State trade and commerce in respect of which goods and services tax can be levied in the spheres as covered by the legislation (Para 105);

14) In the light of the above discussion in my opinion **the provisions of Section 13(8)(b) and Section 8(2) are confined in their operation to the provisions of IGST Act only** and the **same cannot be made applicable for levy of tax on services under the CGST Act and MGST Act, on such interpretation, the provisions are intra vires the Constitution, the IGST, the CGST and the MGST Acts (Para 109);**

15) **The provisions of Section 13(8)(b) and Section 8(2) of the IGST Act are legal, valid and constitutional, provided that the provisions of Section 13(8)(b) and Section 8(2) are confined in their operation to the provisions of IGST Act only** and the **same cannot be made applicable for levy of tax on services under the CGST and MGST Acts (Para 113);**

**(Q.25 of FAQs on Banking, Insurance & Stock Brokers Sector dt 27 Dec 2018: To pay CGST & SGST;) (IGST Act Sec. 19 & CGST Act Sec. 77: Pay correct tax, claim refund of wrong tax paid, No Interest;)**

16) **The office to place the matter before the Division Bench (Para 114).**

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Refund computation, in case of goods exported under LUT, the value of export goods cannot exceed 1.5 times the value of **like goods**, domestically supplied by the Same or Similarly placed Supplier ...

- **Clause (c) substituted u/Rule 89(4) of CGST Rules: wef 23 Mar 2020 (Notifn # 16/2020-CT-23 Mar 2020); Circular # 147-03-2021-GST, dt 12 March 2021:**
- **Exports value limitation at 1.5 times the domestic value-Rule 89(4)(c) is Ultra-virus the CGST Act-Violative of Art 14 & 19, so Quashed- Tonbo Imaging India Pvt Ltd-KAR HC dt 16 Feb 2023-Sri V. Raghuraman, Sr. Counsel):**
- **KAR HC Observed at “Para 17: In my considered opinion, the impugned amendment to Rule 89(4)(C) of the CGST Rules is illegal, arbitrary, unreasonable, irrational, unfair, unjust and ultra vires Section 16 of the IGST Act and Section 54 of the CGST Act for the following reasons:**
  - a) **Rule 89(4)(C) is ultra vires Sec. 54 of the CGST Act r/w Sec. 16 of the IGST Act; the very intention of the zero-rating it to make entire supply chain of “exports” tax free, i.e., to fully ‘zero-rate’ the exports by exempting them from both input tax and output tax; .. rule in whittling down such refund is ultra vires in view of the well settled principle of law that Rules cannot override the parent legislation;**
  - b) **Rule 89(4)(C) is violative of Article 14 and 19(1)(g) of the Constitution of India; the quantum of refund of unutilized input tax credit is restricted only in cases falling under Sec. 16(3)(a) of the IGST Act, i.e., in cases where export of goods is made without payment of duty under a Bond/ LUT; however, no such restriction is imposed on cases falling under Sec. 16(3)(b) of the IGST Act, i.e., in cases where export of goods is made after payment of duty; by virtue of the above, there is a hostile discrimination between two class of persons;**

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... Refund computation in case of goods exported under LUT, the value of export goods cannot exceed 1.5 times the value of **like goods**, domestically supplied by the Same or Similarly placed Supplier ...

- **Rule 89(4)(c) of CGST Rules amended wef 23 Mar 2020 is Ultra-virus, so Quashed- Tonbo Imaging-KAR HC-16 Feb 2023-Sri V. Raghuraman, Sr. Counsel) for following reasons: Cont’d:**
- c) *It is trite law that **Article 14 of the Constitution forbids class legislation; Rule 89(4)(C) is arbitrary and unreasonable in as much as it bears no rational nexus with the objective sought to be achieved by Sec. 16 of the IGST Act in that while Sec. 16 of the IGST Act seeks to make exports tax-free by “zero-rating” them, the impugned Rule 89(4)(C) aims to do just exactly the opposite by restricting the quantum of refund of tax available to the expended in making such exports; consequently, including domestic turnover in the definition of zero rated supply which is meant to cover only exports is clearly arbitrary and unreasonable;***
- d) *It is significant to note that **in exports, availability of the rotation of funds is essential for the business to thrive; the entire concept of refund of unutilized input tax credit relating to zero-rated supply would be obliterated in case the respondents are permitted to put any limitation and condition that takes away petitioner’s right to claim refund of all the taxes paid on the domestic purchases used for the purpose of zero-rated supplies; ... exporters would have factored in such incentives in the pricing mechanism when they quote and consequently, the restriction of the same by the impugned amended Rule 89(4)(C) would be highly unreasonable;***
- e) *Rule 89(4)(C) also suffers from the **vice of vagueness** for the reason that the words “**like goods**” and “**similarly placed supplier**” in the impugned Rule 89(4)(C) are **completely open-ended** and are not defined anywhere in the CGST Act/Rules or the IGST Act/Rules; (e.g **Customised goods, Domestic supply is NIL or Negligible, etc.)***

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... Refund computation in case of goods exported under LUT, the value of export goods cannot exceed 1.5 times the value of **like goods**, domestically supplied by the Same or Similarly placed Supplier ...

- Rule 89(4)(c) of CGST Rules amended wef 23 Mar 2020 is Ultra-virus, so Quashed- Tonbo Imaging-KAR HC-16 Feb 2023-Sri V. Raghuraman, Sr. Counsel) for following reasons: Cont'd:
- f) ... **when it is impossible for any exporter to show proof of value of "like goods" domestically supplied** by the "same or, similarly placed, supplier", the refund itself cannot be denied to such exporter and consequently, **Rule 89(4)(C) merely being a machinery provision cannot impose a rigorous condition to take away right to obtain refund which the petitioner is otherwise entitled to in terms of Section 54 of CGST Act read with Sec. 16 of the IGST Act;**
- g) **The amendment to the said rule does have the effect of restricting refunds in actuality as shown in the table at Annexure-N without any adequate defining reason for so doing;**
- h) **The object of zero rating would be lost if exports are made to suffer GST as the exporter would either pass it on to the foreign supplier or would absorb it himself;**
- i) **The impugned amendment is also unreasonable and arbitrary as adequate reasoning is not present; While Sec. 16 of the IGST Act seeks to make exports tax-free by "zero-rating" them, the impugned Rule 89(4)(C), as amended on 23.03.2020 aims to do just the opposite by restricting the quantum of refund of tax available in making such exports;**
- **Para 18: Therefore, I am also of the view that terminology used in the impugned Rule viz., 'like goods and same or similarly placed supplier' does not have any precise meaning in the said Rules and no guideline is present in that respect;**

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... Refund computation in case of goods exported under LUT, the value of export goods cannot exceed 1.5 times the value of **like goods**, domestically supplied by the Same or Similarly placed Supplier

- Rule 89(4)(c) of CGST Rules amended wef 23 Mar 2020 is Ultra-virus, so Quashed- Tonbo Imaging-KAR HC-16 Feb 2023-Sri V. Raghuraman, Sr. Counsel) for following reasons: Cont'd:
- **Para 21: ... entire concept of refund of unutilized input tax credit relating to zero-rated supply would be obliterated in case the respondents are permitted to put any limitation and condition that takes away petitioner's right to claim refund of all the taxes paid ... incentive given to the exporters would lose its meaning and this would cause grave hardship to the exporters, who are earning valuable foreign exchange for the country; objective of the Government that exports should be zero rated and taxes should not be exported;**
- **Para 22: It is also well settled that if the government perceives that there could be a possibility of abuse of a provision, it should adopt measures to keep a check on the same; however, the law cannot be amended on the premise of distrust;**
- **Para 25: In the aforesaid GST Council Meeting (39<sup>th</sup> meeting held on 14.03.2020), it was stated that the FOB value of exports will not be changed, which would mean that there is no doubt about the valuation of the goods; therefore, if there is no doubt about the value of the goods, the artificial restriction of refunds by taking the value of domestic supplies seems irrational. Further, the policy of the Government itself will have to satisfy the test of rationality and must be free from arbitrariness and discrimination. [as held in Pepsi Foods (case) supra (Deputy Commissioner of Income Tax vs. Pepsi Foods Ltd., - (2021) 7 SCC 413) by the Apex Court];**
- **Held: Amended Rule 89(4)(c) is ultra virus & quashed; Grant refund with interest within 3 mths.**

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## “Import of Goods & Services” defined under IGST Act

<b>Sec. 2(10):</b>	<b>“Import of Goods” means bringing goods into India <u>from a place outside India</u>;</b>
<b>Sec. 2(11):</b>	<b>“Import of Services” means the supply of any service, where-</b> <ol style="list-style-type: none"><li><b>the <i>supplier</i> is located <i>outside India</i>;</b></li><li><b>the <i>recipient</i> is located <i>in India</i>; and</b></li><li><b>the <i>place of supply of service</i> is <i>in India</i>;</b></li></ol>

### Reimbursement of Exps by Indian Subsidiary Co. to its Foreign Holding Co.-

Import of services-RCM payable by Indian Co @ 18%;  
ICU MEDICAL INDIA LLP-2020 (43) GSTL 85 (AAR-GST-TN) ...

- **Facts of case: ICU-India engaged in business** of software development for the infusion system manufactured by its Ultimate Holding company ICU-USA;
- **ICU-USA has entered into an agreement with Wells Fargo Bank-USA to provide credit card to certain employees of ICU-USA and its Subsidiaries located globally;**
- **Credit cards are used for incurring business expenses** towards tickets, food and accommodation during their travel for business or for their Official's travel in India;
- **ICU-USA** downloads, shares the monthly statement & **raises Invoice on ICU-India**, for them to book the said expenses in their books;
- **ICU-USA pays to Wells Fargo Bank** for credit card liability & **ICU-India pays to ICU-USA** as reimbursement of expenses, **at actuals**;
- **For said reimbursement, there is no agreement per se** between ICU-USA & ICU-India; Its only internal policy for reimbursement of such exps;

... Reimbursement of Exps by Indian Subsidiary Co. to its Foreign Holding Co.-  
Import of services-RCM payable by Indian Co @ 18%;  
ICU MEDICAL INDIA LLP-2020 (43) GSTL 85 (AAR-GST-TN) ...

- **Contention of ICU-India: Reimbursement of actual expenses-No element of income embedded in it-Merely as a matter of logistic convenience;**
- **Not a transaction of supply-Not a remuneration** as per Sec. 2(78) of Companies Act, 2013, as it is **mere reimbursement of the actual expenses** by the seconder- Reimbursement is different from remuneration; There shall be a supply of "Services" only if the conditions as specified for 'recipient' under Section 2(93) of CGST Act, 2017, relating to 'consideration' u/s 2(31) are satisfied;
- **There shall be "no supply" in the absence of response or inducement of supply of goods or services;** Addition of any amt to the contracted price does not have the authority of law;
- **Relied & referred to many rulings** for same; Also as there is no flow of supply of services in the issue in question, provisions of Schedule I-Para 2, of CGST Act, would also not get attracted in the instant case; Further, Sec. 2(11) of IGST Act implies that to constitute an "import of service" the place of supply of service shall be in India, whereas in the instant case the **place of supply is outside India as the services are supplied by Wells Fargo Bank-USA to ICU-USA;**
- **Credit card is used for exps incurred in India as well as at foreign country;**
- Consideration for services offered by **employee to employer** in course of his employment, **does not attract GST as per Schedule III** of CGST Act, 2017;
- **Expenses already charged with GST-Again taxing on reimbursement will amt to double taxation;**

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... Reimbursement of exps -Import of services-RCM payable by Indian Co @ 18%;  
[ICU MEDICAL INDIA LLP-2020 \(43\) GSTL 85 \(AAR-GST-TN\)](#)

- **Contention of State Department: Said transaction cannot be considered as a pure agent** or intermediary or reimbursement of expenses, as agreements are entered between the USA Bank & ICU-USA, and not ICU-India; Hence, **GST is leviable on the reimbursement of expenses** from the Indian subsidiary company to its Ultimate Holding Company located in a foreign territory; Given transaction is a **"related party transaction"** hence the value of taxable supply will be determined by CGST Rules 28 to 31 & taxed @ 18%;
- **Contention of Central Department: The expenses paid** from Indian subsidiary company to its ultimate company located in a foreign territory outside India, **qualifies as "import of services"** as per Section 2(11) of IGST Act, 2017; Said "import of services" is taxable under Section 7(1)(b), read with **Schedule I-Clause (4)** of CGST Act, which is **taxable even in absence of consideration**; Rate of GST applicable is 18%;
- **Observations of AAR: Credit cards are issued to employees, specifically to meet the business related expenses; Invoice is raised by ICU-USA on ICU-India for collecting same; Said payments are booked as business exps by ICU-India;** As per Classification of Services, said service is appropriately classifiable under **SAC 9971-13** i.e. **"Credit-granting services including stand-by commitment guarantees & securities"**; **RCM Notifn # 10/2017-IGST (Rate) r/w Sl. No.15 of Notifn # 8/2017-IGST (Rate), dt 28-6-2017** notifies categories of supply of services, which **covers said services; Rate of IGST is 18%;**
- **Held: Said amt of reimbursement is as import of services & liable to RCM, at IGST @ 18%;**
- **Reimbursement for loss of tools/equipment used for performing oilfield services, is taxable; Rate depend on goods- Halliburton Offshore- TS-DB-GST-AAR-AP-2020-356;**
- **Secondment-Service Tax-RCB on employees seconded by Overseas group Co-RCB ST Payable based on substance-CCCE&ST vs. Northern Op Sys-SC 19 May 2022;**

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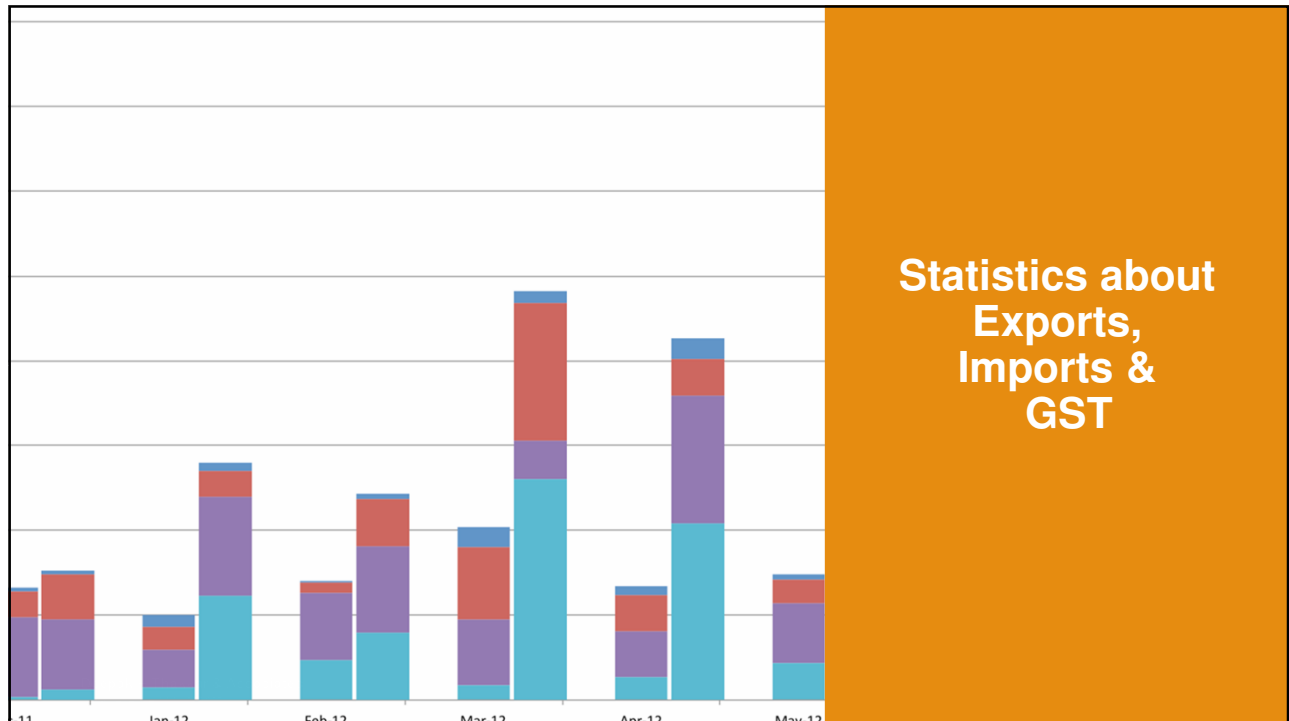
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## ITC of IGST paid on Import of Goods & Services- Issues

- 1) **ITC is available based on Bill of Entry** or any similar document prescribed under the Customs Act, 1962 or rules made thereunder for the assessment of integrated tax on imports (CGST Rule 36(1)(d));
- 2) **Restriction for claim of ITC before 30 Sept / 30 November of Next FY**, does not apply to Bill of Entry, as it applies only to Tax Invoice/ Debit Note (CGST Sec. 16(4));
- 3) **CVD & SAD liable under earlier laws, but paid under GST regime**, to regularise excess import of inputs made under Advance Authorisation Scheme- Time lapsed to claim its credit under Tran-1- CVD & SAD paid on getting intimation from Customs- No allegation of fraud, collusion or suppression of facts with intent to evade payment of duty- Refund claim be granted-ITCO Ind Ltd-TS-285-Chennai CESTAT-2022-EXC;



## GST System Statistics as on 28 Feb 2023

Data	As on 28 Feb 2023	As on 27 Jun 2021
<b>Regd Tax Payers</b>	<b>1.38 Cr</b>	<b>1.28 Cr</b>
<b>Total Invoices uploaded</b>	<b>1580 Cr</b>	<b>1275 Cr</b>
Total Returns Filed	106 Cr	68 Cr
Highest No. of Returns filed in a day	24.85 Lakhs	23.86 Lakhs
Total No. of Payment Transactions	27.74 Cr	19.06 Cr
Highest Payment Transactions in a day	9.55 Lakhs	9.55 Lakhs
Payment through Portal (Excluding IGST for Imports)	55.32 Lakh Cr	34.72 Lakh Cr
<b>E-way Bills generated</b>	<b>344.44 Cr</b>	<b>194.95 Cr</b>

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## Trend of Monthly gross GST Revenue of Govt: INR in Crores

Month	FY 2022-23	FY 2021-22	FY 2020-21	% Rise, mth on mth FY 22-23	% Rise, mth on mth FY 21-22
April	167,540	139,708	32,172	20% (Highest Coll)	334%
May	140,885	97,821	62,151	44%	57%
June	144,616	92,800	90,917	56%	2%
July	148,995	116,393	87,422	28%	33%
Aug	143,612	112,020	86,449	28%	30%
Sept	147,686	117,010	95,480	26%	23%
Oct	1,51,718	130,127	105,155	17% (4 <sup>th</sup> Highest)	24%
Nov	1,45,867	131,526	104,963	11%	25%
Dec	1,49,507	129,780	115,174	15%	13%
Jan	1,55,922	140,986	119,875	11% (3 <sup>rd</sup> Highest)	18%
Feb	1,49,577	133,026	113,143	12%	18%
Mar	1,60,122	142,095	123,902	13% (2 <sup>nd</sup> Highest)	15%
<b>Total INR Cr</b>	<b>18,06,047</b>	<b>14,83,292</b>	<b>11,36,803</b>	<b>22% YoY</b>	<b>24% YoY</b>

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Ministry of Commerce & Industry:  
 PIB: Press Release dt 13 Apr 2023

Goods / Services	Export/ Import	2022-23 (USD Billion)	2021-22 (USD Billion)	2020-21 (USD Billion)
Merchandise (Goods)	Export	447.46	422.00	291.81
	Import	714.24	613.05	394.44
Services	Export	322.72	254.53	206.09
	Import	177.94	147.01	117.52
Total (Goods & Services)	Export	770.18	676.53	497.90
	Import	892.18	760.06	511.96
<b>(USD Billion)</b>	<b>Trade Bal.</b>	<b>-122.00</b>	<b>-83.53</b>	<b>-14.06</b>

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Data of Goods Exports & Imports (in INR Crores)  
 [https://tradestat.commerce.gov.in/eidb/ecom.asp]

Details	FY 2020-21	FY 2021-22	Apr 2022 to Feb 2023
Imports	29,15,958	45,72,774	<b>52,57,277</b>
Exports	21,59,043	31,47,021	<b>32,76,003</b>
<b>Deficit</b>	<b>7,56,915</b>	<b>14,25,753</b>	<b>19,81,274</b>
<b>Apr 2022 to Feb 2023</b>			
<b>Top 5 Goods</b>	<b>Import</b>	<b>Exports</b>	<b>Deficit</b>
Crude, Petroleum	15,51,029	713,364	8,37,665
Coal, Coke, Brqts	3,68,842	(Drugs/I&Steel) 2,36,472	1,32,370
Gold	2,53,332	92,441	1,60,891
Pearls, Diamonds	2,21,481	186,806	34,675
<b>Total (INR Cr)</b>	<b>23,94,684</b>	<b>12,29,083</b>	<b>11,65,601</b>

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