

# Inter and Intra state Supply, Place of Supply, Import & Export

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# Intra-state Supply of Goods and/or Services (Sec. 8 of IGST Act)

# Intra-state Supply of **Goods**

Determination of supply of goods as Intra-state supply:

- Where the location of the supplier and place of supply are in:
  - Same state/Same Union territory.
  
- Following supply **shall not be treated** as intra-state supply:
  - Supply to or by a SEZ developer or a SEZ unit.
  - Import of goods into the territory of India **till they cross the customs frontiers of India.**
    - Sec 2(11) of Customs Act, 1962 "customs area" means the area of a customs station and includes any area in which imported goods or export goods are **ordinarily kept before clearance by Customs Authorities**

# Intra-state Supply of **Goods** (Cont.)

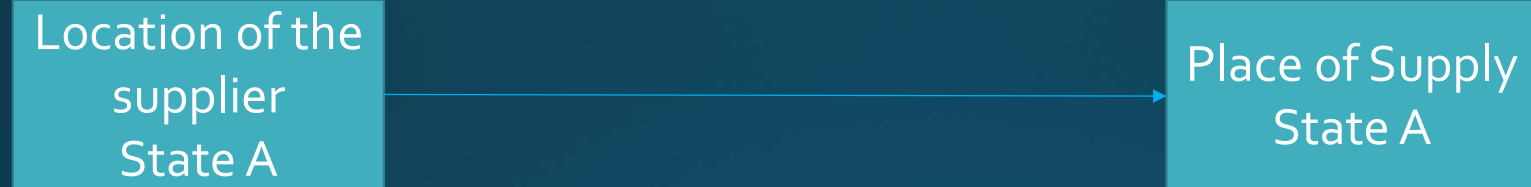
- Supplies made to a tourist as per Sec 15 of IGST.
  - As per Section 15, the term “tourist” means a person who is not normally resident in India, who enters India for a stay of not more than six months for legitimate and non-immigrant purposes.

# Intra-state Supply of **Services**

Determination of supply of services as Intra-state supply:

- Where the location of the supplier and place of supply are in:
  - Same state.
  - Same Union territory.
  
- Intra-state supply of services **shall not include**
  - supply to or by a SEZ developer or a SEZ unit.

# Illustration



- Supply within the same state.
- Intra-state supply of goods and/or services.
- Therefore, SGST+CGST will be levied.

# Interstate Supply of Goods and/or Services (Sec. 7 of IGST Act)

# Interstate Supply of Goods

Determination of supply of goods as Interstate supply:

- Where the location of the supplier and place of supply are in:
  - two different States.
  - two different Union territories.
  - a State and a Union territory.
  
- Import of goods into the territory of India till they cross the customs frontiers of India.



# Interstate Supply of **Services**

Determination of supply of services as Interstate supply:

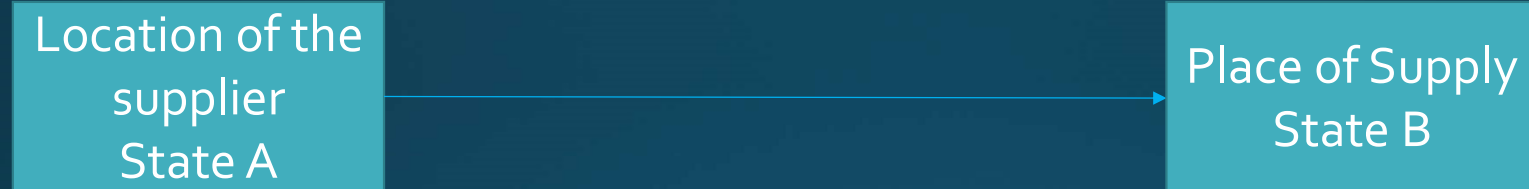
- Where the location of the supplier and place of supply are in:
  - two different States.
  - two different Union territories.
  - a State and a Union territory.
  
- Import of services into the territory of India.

# Interstate Supply of Goods and/or Services

➤ Interstate supply **shall include:**

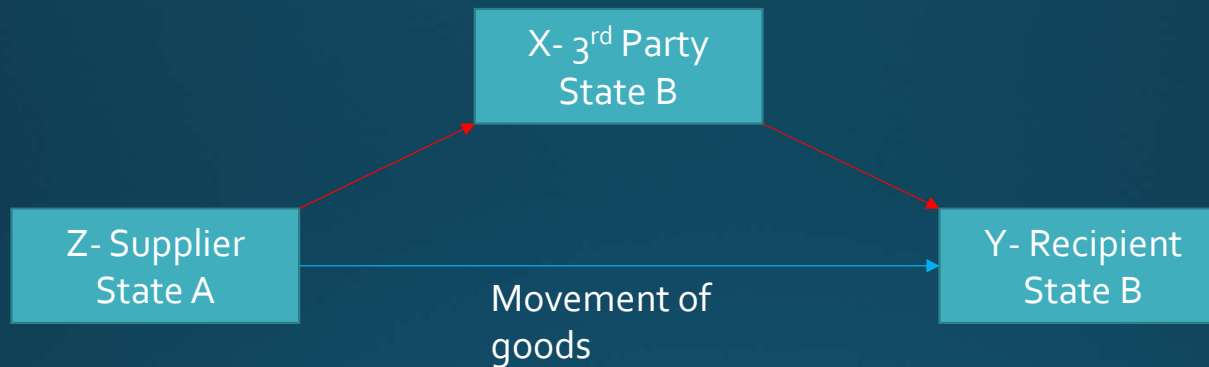
- Supply when the supplier is in India and place of supply is outside India.
- Supply to or by a SEZ developer or a SEZ unit.
- Any supply in the taxable territory and which is not an intra state supply.

# Illustration



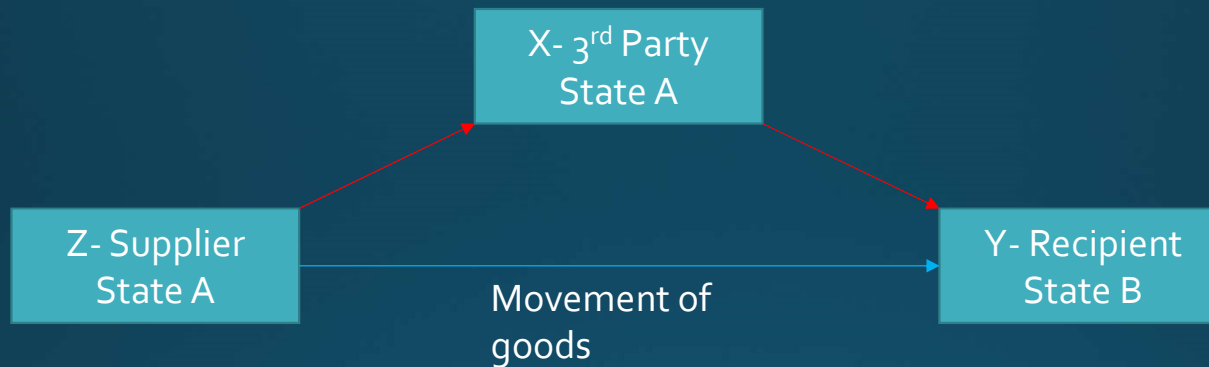
- Supply from State A to State B.
- Interstate supply of goods and/or services.
- Therefore, IGST will be levied.

# X sales to Y --- X places order on Z to dispatch goods to Y



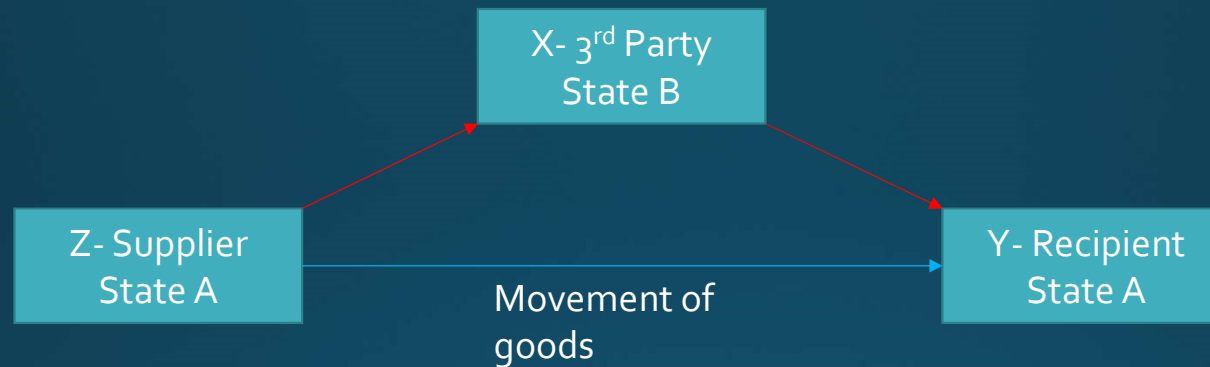
Transaction	Interstate/ Intra-state	Tax leviable
Sales from Z to X	Interstate supply	IGST
Sales from X to Y	Intra-state supply	CGST+SGST

# X sales to Y --- X places order on Z to dispatch goods to Y



Transaction	Interstate/ Intra-state	Tax leviable
Sales from Z to X	Intra-state supply	CGST+SGST
Sales from X to Y	Interstate supply	IGST

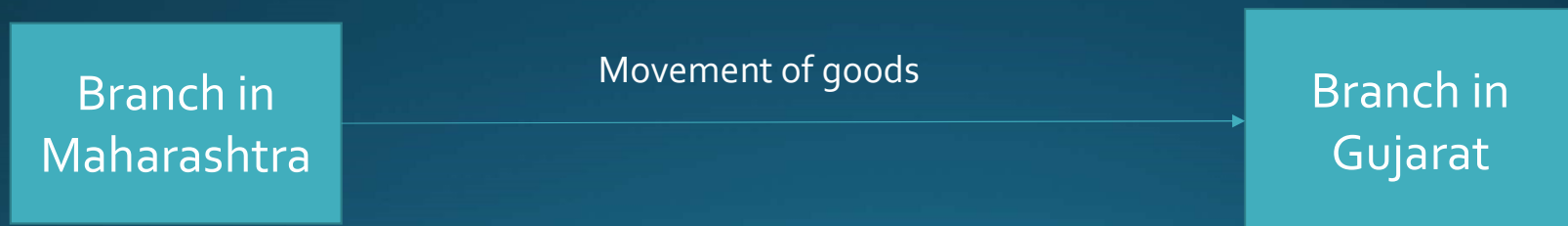
# X sales to Y --- X places order on Z to dispatch goods to Y




Transaction	Interstate/ Intra-state	Tax leviable
Sales from Z to X	Interstate supply	IGST
Sales from X to Y	Interstate supply	IGST

# Branch transfer

- Branch transfers between two branches in different states – 'Supply' r/w Sch 1 entry 2
- IGST will be levied on **interstate** transfer of goods between branches or from HO to branch or from branch to HO.





# Place of Supply of Goods or Services



# Need to determine place of supply

- Required to decide
  - Intra-state or inter-state supply of goods/services or both or
  - Import into India or
  - Export out of India

# Supply of goods – Sec 7 of IGST Act

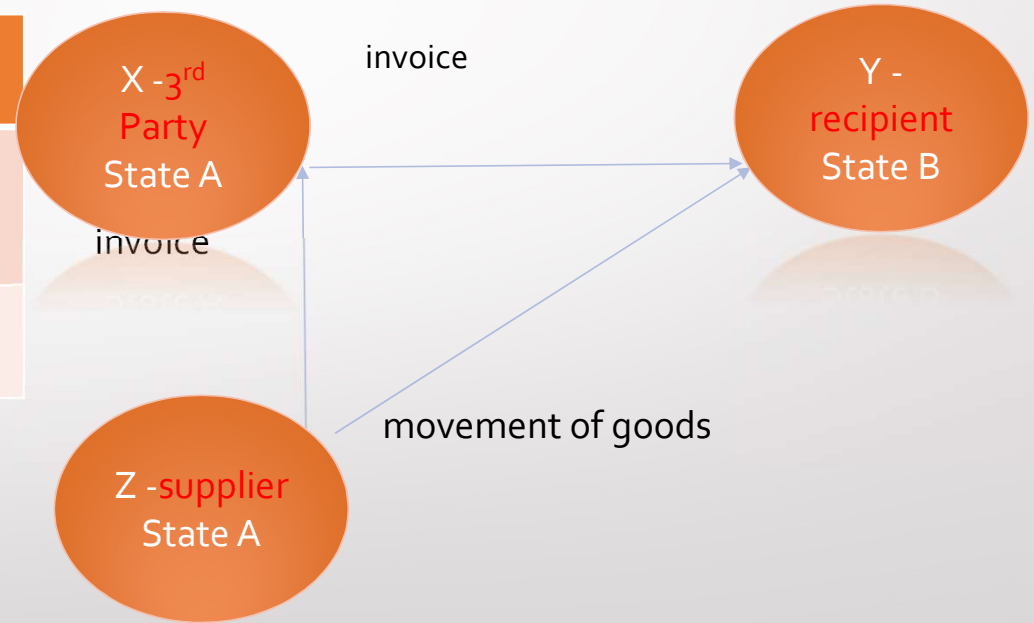
Section – IGST Law	Location of supplier	Place of supply of Goods [sec-10]	SGST + CGST or IGST ?
Sec 7(1)	State A	State B	Inter-state – IGST
Sec 8(1)	State A	State A	Intra-state – CGST + SGST

## Place of supply of goods **other than** supply of goods imported into, or exported from India – Sec. 10

Scenarios	Place of Supply
When movement of goods involved	Location of goods where movement terminates for delivery
Supply are delivered by the supplier to a recipient – on the direction of a 3 <sup>rd</sup> person – before or during the movement of goods either by transfer of documents or otherwise -deemed that 3 <sup>rd</sup> person has received goods (Bill to Ship to Model or E1 –E2 Model)	Principal place of business of third person on whose direction goods were supplied to another person
When movement of goods is not involved	Location of goods at the time of delivery to the recipient
When goods are assembled or installed at site	Place of such installation or assembly
When goods are supplied on board a conveyance (like articles /food supplied by vendor/supplier –not served)	Location at which such goods are taken on board
Where the place of supply of goods cannot be determined as per above principles	Manner to be prescribed

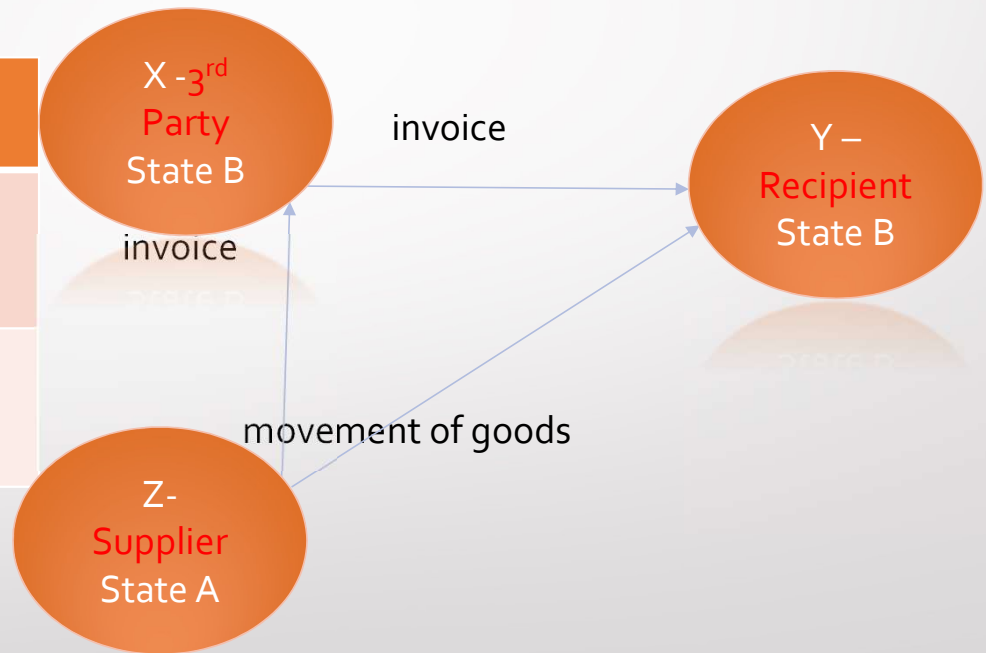
# X sales to Y --- X places order on Z to dispatch goods to Y

SALES BY	SALESTO	LEVY
Z	X	State A → A SGST CGST
X	Y	State A → B IGST



# X sales to Y --- X places order on Z to dispatch goods to Y

SALES BY	SALE TO	LEVY
Z	X	State A → B IGST
X	Y	State B → B SGST CGST



## Place of supply of goods imported into, or exported from India – Sec. 11

Scenarios	Place of Supply
When goods are imported in India	Location of the importer
When goods are exported from India	Location outside India

# Place of supply of **services** where location of supplier of service and location of the recipient of service is in India (Sec- 12)

Sec 2 (14) – location of the recipient of services

Sec 2(15) – location of the supplier of service

## General Provision

Scenarios	Place of Supply
Services made to registered person ( <b>B to B</b> )	Location of recipient
Services made to other than registered person ( <b>B to C</b> )	Location of recipient where address on record exists, In other cases the location of supplier of services

# Place of supply of services where location of supplier of service and location of the recipient of service is in India (Sec- 12)

## Specific provisions

Scenarios	Place of Supply
<p>Services directly in relation to an <b><u>immovable property</u></b></p> <ul style="list-style-type: none"><li>• Including services by architects, interior decorators, engineers and other experts, including estate broker, right to use immovable property, co-ordination of construction work</li><li>• Lodging accommodation by hotel, inn, guest house, home stay, club or campsite, house boat</li><li>• For marriage or reception or official, social, religious, or business function r services provided in relation to such function at such property</li><li>• Any ancillary services to above</li></ul>	<p>Location of immovable property or intended to be located</p> <ul style="list-style-type: none"><li>• Where property/ boat/ vessel located in more than one state- supply made in each of respective state -: proportionate allocation amongst states as per the contract or as may be prescribed</li><li>• Where location of the immovable property/boat/vessel is located or intended to be located outside India -: Place of supply will be the location of the recipient</li></ul>



## Place of supply of services where location of supplier of service and location of the recipient of service is in India (Sec- 12)

Scenarios	Place of supply <span style="color: red;">Contd..</span>
Specific services such as <u>restaurants and catering, personal grooming, fitness, beauty treatment, health services including cosmetic and plastic surgery</u>	Place of actual performance
Services in relation to <b>training and performance appraisal</b>	B to B supply : location of recipient B to C supply : place of performance
<b>Admission</b> to a <u>cultural, artistic, sporting, scientific, educational, entertainment or amusement park or any ancillary services there to</u>	Place where event held or where park or other place located
<b>Organisation</b> of a <u>cultural, artistic, sporting, scientific, educational, entertainment, conference, fair, exhibition, celebration or similar events or services ancillary</u> to organising or assigning <u>sponsorship</u> to such event	B to B supply : location of recipient B to C supply : place of performance <ul style="list-style-type: none"> <li>• Where event is held in more than one state and consolidated amount is charged : actual for each state or proportionate value of services to be considered</li> <li>• Where event is held outside India : place of supply will be location of recipient</li> </ul>

## Place of supply of services where location of supplier of service and location of the recipient of service is in India (Sec- 12)

Scenarios	Place of supply <span style="color: red;">Contd..</span>
<b>Transportation of goods</b> , including mail or courier	B to B supply : location of recipient B to C supply : location at which such goods are handed over for their transportation
<b>Passenger transportation</b> service	B to B supply : location of recipient B to C supply : location where the passenger embarks on the conveyance for a continuous journey ( return journey treated as separate journey) <ul style="list-style-type: none"> <li>• Where point of embarkation is not known at the time of issue of right to passage then place of supply will be determined as per provision of sub section 2 –general provision.</li> </ul>
Services <b>on board a conveyance</b> such as vessel, aircraft, train or motor vehicle- food served on board	Location of the first scheduled point of departure of that conveyance for the journey

## Place of supply of services where location of supplier of service and location of the recipient of service is in India (Sec- 12)

Contd..

Scenarios	Place of supply
<p><b>Telecommunication services including data transfer, broadcasting, cable, and D2H</b></p>	<ul style="list-style-type: none"> <li>• Fixed communication line, leased circuits, internet leased circuits, cable /dish connection - place of installation (where leased circuit installed in more than one state then proportionate value of service to be considered as per contract or as may be prescribed)</li> <li>• Mobile connection on <b>post paid basis</b> - Billing address of recipient of services</li> <li>• Mobile/DTH connection on <b>pre payment basis</b> –               <ul style="list-style-type: none"> <li>• Through a selling agent/ re-seller/distributor: address of the selling agent or re-seller or distributor as per the record of the supplier at the time of supply</li> <li>• By any person to the final subscriber : location where such pre payment is received or such voucher are sold</li> </ul> </li> </ul>

# Place of supply of services where location of supplier of service and location of the recipient of service is in India (Sec- 12)

Contd..

Scenarios	Place of supply
Telecommunication services including data transfer, broadcasting, cable, and D2H ....(Cont..)	<p><b><u>In any other cases</u></b> : Address of the recipient as per record of the supplier</p> <p>Where address of the recipient as per records of the supplier is not available: Place of supply shall be location of the supplier of the service</p> <p>Where prepaid service is availed or the recharges is made through electronic mode : Place of supply shall be location of the recipient as per record of the supplier</p>
<b>Banking</b> and other financial services, stock broking	<p>Location of the recipient of the services as per record of the supplier</p> <p>If such record not available than location of the supplier of the services</p>

# Place of supply of services where location of supplier of service and location of the recipient of service is in India (Sec- 12)

Contd..

Scenarios	Place of supply
Insurance Services	B to B supply : location of recipient B to C Supply : location of the recipient as per the records of the supplier
Advertisement services to Government, local authority meant for the State/union/	Shall be taken in proportion to the amount attributable to services provided by way of dissemination in respective states as per contract or as may be prescribed

## Place of supply of services where location of supplier or location of recipient is **outside India** (Sec- 13)

### General Provision

- Place of supply of services will be location of recipient of service except provided specifically
- The place of supply of services where the location of the recipient of services is not available than place of supply shall be the **location of the supplier of services**

## Place of supply of services where location of supplier or location of recipient is **outside** India (Sec- 13)

### Specific provisions

Scenarios	Place of Supply
<p>a) Services supplied in respect of <b>goods</b> which are required to be <b>made physically available to the supplier</b></p> <ul style="list-style-type: none"> <li>• Services provided from a remote location by way of electronic means</li> </ul> <p><b>Note:</b> Nothing of the above clause shall apply in case where services in respect of goods which are temporarily imported into India for repairs and reexported after repairs</p> <p>b) Services supplied to an <b>individual which required physical presence of the recipient</b></p>	<p>Location where services are actually performed</p> <p>Location where goods are situated at the time of supply</p> <p>Location where services are actually performed</p>

## Place of supply of services where location of supplier or location of recipient is **outside** India (Sec- 13)

Scenarios	Place of Supply
Services directly in relation to an <b>immovable property</b> .....	Place where the immovable property is located or intended to be located
<b>Admission or organisation</b> of a cultural, artistic, sporting, scientific, educational, entertainment, conference, fair , exhibition, celebration or similar events and services in relation to such event and ancillary services	Place where the event is actually held.
Note : In the <b>above three cases</b> where services supplied in more than one location including taxable territory In the above three cases where services supplied more than one state	Location of the taxable territory  Each respective state in proportion of service provided as per contract or reasonable basis



## Place of supply of services where location of supplier or location of recipient is **outside** India (Sec- 13)



Scenarios	Place of Supply
a) Services supplied by <b>Banking</b> company or financial institution or NBFC to A/c holder b) <b>Intermediary</b> services c) <b>Hiring of means of transport</b> , yacht excluding aircraft and vessels, up to a period of one month	Location of the supplier of service
<b>Transportation of goods</b> other than by way of mail or courier	Place of destination of such goods
<b>Passenger transportation</b>	Place where passenger embarks for continuous journey

## Place of supply of services where location of supplier or location of recipient is **outside** India (Sec- 13)

Scenarios	Place of supply
Services provided <b>on board</b> during the course of passenger transport	First scheduled point of departure of that conveyance for the journey
Supply of online information and database access or retrieval services  For the purpose of this clause person receiving such services shall be deemed to be taxable territory subject certain conditions as prescribed	Location of the recipient of services

# Power to notify

- In order to avoid double taxation or no taxation of supply of service, Govt shall have power to notify any description of services or circumstances in which the place of supply shall be the effective use and employment of a service



***Import, High seas Sales,  
Export & Deemed  
Export***



# ***Import & High seas Sales***

# IMPORTS..BASIC PROVISIONS..

## Import of Goods and Services

### ► Definition

- Section 2(10) of IGST Act 2017 defines
  - “import of goods” with its grammatical variations and cognate expressions, means
  - bringing goods into India from a place outside India;
- Section 2(11) of IGST Act defines  
“import of service” means the supply of any service, where
  - the supplier of service is located outside India,
  - the recipient of service is located in India, and
  - the place of supply of service is in India;

# IMPORTS..BASIC PROVISIONS..

- ▶ **Section 7 : Inter state Supply** ..clause (2) reads as under:
  - ▶ Supply of goods imported in to the territory of India, **till they cross the custom frontiers of India**, shall be treated to be a supply of goods in the course of inter state trade or commerce.
  
- ▶ **8(1) of IGST Act defines Intra- state supply of goods .. The proviso reads as under:**
  - ▶ Provided that following supply of goods shall not be treated as intra state supply
  - ▶ (ii) goods imported in to the territory of India **till they cross the custom frontiers of India**

# IMPORTS..BASIC PROVISIONS..

## ► **Place of Supply of goods** Section 11(a)

- (a) Goods imported in to India shall be the location of the importer

## Further proviso to section 5 i.e. **Levy and collection of Integrated Goods and Services Tax states**

- the IGST on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 (51 of 1975),
- on a **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



# BASIC TAXATION

- In the Customs Tariff Act, 1975, in section 3(7) –

Any article which is imported into India shall, in addition, be liable to integrated tax at such rate, not exceeding forty per cent, as is leviable under section 5 of Integrated Goods and Service Tax Act, 2017 on a like article on its supply in India, on the value of the imported article as determined under sub-section (8)

Thus on import BCD and IGST is attracted.

## High Sea Sales

- ▶ Currently under section 5 (2) CST Act - exempts high sea sales.
- ▶ Whether High-Sea Sales is exempt under GST?...
- ❖ M of Mumbai imports from D of Dubai high sea sales made to K of Kolhapur

### **scenario A**

- ❖ Trf of document of title happens when ship is beyond 200 nautical miles from coastline.

### **Scenario B**

- ❖ Trf of document of title happens when ship is beyond 12 nautical miles but within 200 nautical miles

### **Scenario C**

- ❖ Trf of document of title happens when ship is within 12 nautical miles
- ❖ **Status of Taxation.....**

## High Sea Sales (cont..)

Sec 2 (56) "India" means,-

- a) The territory of the Union as referred to in Article 1 of the Constitution;
- b) Its territorial waters, continental shelf, exclusive economic zone or any other maritime zone as defined in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976);
- c) The seabed and the subsoil underlying the territorial waters;
- d) The air space above its territory and territorial waters; and

The installations, structures and vessels located in the continental shelf of India and the exclusive economic zone of India, for the purposes of prospecting or extraction or production of mineral oil and natural gas and supply thereof

# Issues

## Scenario A

Trf of document of title happens when ship is beyond 200 nautical miles from coastline.



- Supply of goods **in the course of import** into the territory of India till they cross the custom frontiers of India shall be deemed to be supply of goods in the course of inter state trade or commerce

**TAXABILITY?...IGST or CGST/SGST**

# Issues

## Scenario B

Trf of document of title happens when ship is beyond 12 nautical miles but within 200 nautical miles



## SECTION 3(2) of Maritime Zone Act

The limit of the territorial waters is the line every point of which is at a distance of twelve nautical miles from the nearest point of the appropriate baseline.

Section 9(b) if IGST

b) Where the place of supply is in the territorial waters, the place of supply shall for the purpose of this Act, be deemed to be in the coastal state or union territory where the nearest point of the appropriate baseline is located

**TAXABILITY? ?...IGST or CGST/SGST**

# Issues

## Scenario C

- ❖ Trf of document of title happens when ship is within 12 nautical miles



## SECTION 9.... of IGST

a) Notwithstanding anything contained in this Act,

Where the location of 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 purpose of this Act, be deemed to be in the coastal state or union territory where the nearest point of the appropriate baseline is located.

**If the goods are sold to G of Gujrat whether the pos will be different.**

**TAXABILITY?...IGST or CGST/SGST**

# Issues

- ❖ **Value on which tax leviable on sales made under High Sea?**
- ❖ M of Mumbai imports for INR 50 lakhs from Dubai . High Sea Sale to K of Kolhapur for Rs 60 lakhs . Whether IGST will be leviable on 60 lakhs only or 60 lakhs +BCD (consideration ....2(31) of CGST, 3<sup>rd</sup> provision to section 20 of IGST). Read sec 5(1) -proviso
- ❖ Presuming M of Mumbai is willing to pay tax whether he can issue Tax -invoice and levy IGST , whether credit of IGST will be available to purchase if the goods have not been custom cleared till the point of time of filing of return.
- ❖ IGST is leviable at 60 lakhs +BCD ... ,custom disputes price levies BCD on 1 crore ....then what?

# Issues

## **IGST of which state :**

- ❖ Say G registered in Delhi brings goods at JNPT Maharashtra and not registered in Maharashtra.
- ❖ Whether he can pay IGST on Delhi Registration?
- ❖ In the above whether he will have to take goods to Delhi compulsory.
- ❖ Whether any change, if delivery given to your job work in Maharashtra.
- ❖ Consequences if he supplies from Maharashtra.
- ❖ If he is registered in Maharashtra and Delhi and address is given of Head Office in Delhi ,on B/E then whether he can book it in Maharashtra and the proceed to supply



# Import Transitional Provision

## ❖ Section 21

- Import of **services** made on or after the appointed Day shall be liable to tax under the provisions of this Act regardless of whether the transactions for such import of services had been initiated before the appointed day.
- No liability if whole of tax paid under existing law
- In case tax has been paid in part under existing law , then the balance part payable under GST.
- Explanation: Invoice relating to such supply or payment in part or full is received or made before appointed day ..transaction deemed to be initiated prior to appointed day.



# ***EXPORTS & DEEMED EXPORTS***

# Exports.. Basic Provisions..

## Export

Export is defined under section 2(5) and 2(6) of the IGST Act 2016 as

- ▶ “export of goods” with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India;
- ▶ “export of services” means the supply of any service when
  - ▶ the supplier of service is located in India,
  - ▶ the recipient of service is located outside India,
  - ▶ the place of supply of service is outside India,
  - ▶ the payment for such service has been received by the supplier of service in convertible foreign exchange, and

The supplier of service and recipient of service are not merely establishments of a distinct person in accordance with explanation 1 of section 5;

# Exports.. Basic Provisions..

## Section 7- Inter State Supply

7(5) (a)-Supply of goods and services or both –

when the supplier is located in INDIA AND THE PLACE OF SUPPLY IS OUTSIDE India it will be treated as Inter State Supply.

## Section 13 - EXPORT –Place of Supply

The provisions of this section shall apply to determine the place of supply of services where the location of the supplier of services or the location of the recipient of services is outside India.

### 13(1) Location of recipient outside India

General rule: POS –place of recipient subject to sub sections (3) to (13)

# Exports.. Basic Provisions..

- ▶ **Section 8 (1) Proviso...clause (iii)**

Supplies made to a tourist referred to in section 15 shall not be treated as an intra state supply

- ▶ **Section 15**

For the purpose of this section, the term tourist means a person not normally resident in India , who enters India for a stay of not more than six months for legitimate non- immigrant purposes.

# Issues

## ► Export

- The supply of goods exported from India shall be location outside India – for this purpose India is defined as

“India” means,-

- a) The territory of the Union as referred to in clauses (2) and (3) of Article 1 of the Constitution;
- b) Its territorial waters, continental shelf, exclusive economic zone or any other maritime zone as defined in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976);
- c) The seabed and the subsoil underlying the territorial waters;
- d) The air space above its territory and territorial waters; and
- e) The installations, structures and vessels located in the continental shelf of India and the exclusive economic zone of India, for the purposes of prospecting or extraction or production of mineral oil and natural gas and supply thereof;

**Whether supply made to ONGC rig at Bombay high will be treated as an export?**

# Issues

- ❖ Export of Services done , money **not** received in convertible Foreign Exchange whether IGST leviable?
- ❖ When will be the IGST leviable? whether interest will be applicable ?(..RBI allows up to 180 days?...)
- ❖ Status if subsequently amount received in convertible Foreign Exchange.

# Invoicing of Export

Sec 16(3) – zero rated supplies –billing – Tax invoice rule 1 (proviso)

Provided further that In case of exports of goods and services , the invoice shall carry an endorsement “**supply meant for export on payment of IGST or supply meant for Export Under bond or letter of undertaking without payment of IGST ,**” as the case may be ,

- ▶ Name and address of the recipient
- ▶ Address of delivery
- ▶ Name of the country of destination and
- ▶ Number and date of application for removal of goods for export



# Bond to Bond & Ex-Bond Supply

- ▶ **Bond to Bond Supply:**
  - ▶ Bond to Bond in transit (from one warehouse to another)
  - ▶ Bond to Bond with Change of Ownership (sale within the same bonded warehouse)
  - ▶ Bond to Bond in transit with Change of Ownership (sale from one bonded warehouse to another)
- ▶ **Ex- Bond Supply:**
  - ▶ Clearance of goods for home consumption
- ▶ Taxability?

# Deemed Export

## ► SECTION 2(39)

Deemed Exports means such supplies of goods as may be notified under the Section 147.

### **Section147**

The government may , on the recommendation of the Council , notify certain supplies of goods as deemed exports , where goods supplied do not leave India , and payment for such supplies is received either in Indian rupees or in convertible foreign exchange, if such goods are manufactured in India.

**THANK  
YOU**