

# **WIRC**

## **REFRESHER COURSE ON GST**

**Date : 15th June 2017.**

**Topic : Place of supply**

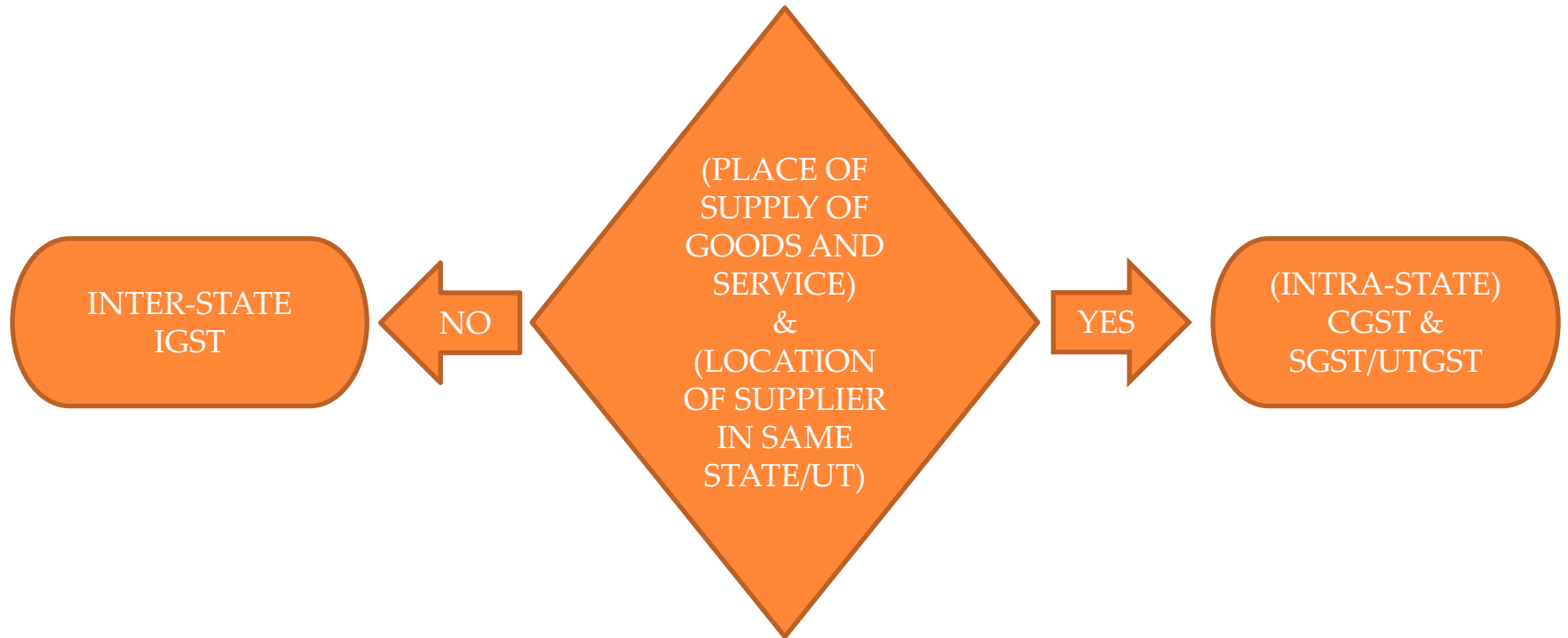
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# PLACE OF SUPPLY

- ❖ Section 10 to 14 of IGST Act makes provision for determining place of supply. The provision made in different section are

Section	Description of heading of Section
10	Goods - Domestic
11	Goods – Import/Export
12	Services - Domestic
13	Services – Import/Export
14	Special provision for online information and database access or retrieval services.

# The Importance of place of supply is to determine whether a transaction is inter-state or intra-state



# SUPPLY INVOLVES MOVEMENT OF GOODS

## ❖ Section 10(1)(a)

Where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of goods shall be the location of the goods at the time at which the **movement of goods terminates** for delivery to the recipient.

## ❖ Examples :

- ❖ Mr. X of Mumbai places an order on Amazon for a Nokia phone. The same is sold and delivered by Mr. Y of Gujarat.
- ❖ Mr. A of Chennai purchases goods from Mr. B of Bangalore for delivery at Chennai.

# DELIVERY ON DIRECTION OF THIRD PERSON

## ❖ Section 10(1)(b)

Where the goods are delivered by the supplier to a recipient or any other person, on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the **principal place of business of such person**.

❖ Example : Mr. X of Mumbai receives order from Mr. Y of Mumbai for certain goods to be delivered to Mr. Z in Gujarat.

Provisions are different as compared to provisions of section 3 of CST Act. It is in order to facilitate smooth flow of credit.

# SUPPLY DOES NOT INVOLVE MOVEMENT OF GOODS

## ❖ Section 10(1)(c)

Where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the **location of such goods** at the time of the delivery to the recipient.

- ❖ Example : Idea Communications having its mobile tower in Mumbai sells it to Reliance Jio located in Delhi.
- ❖ Mobile towers shall be goods as they can be dismantled without any damage. Hence, sale of mobile towers will be supply of goods.
- ❖ Further, supply does not involve movement of goods. Hence, place of supply will be determined as per section 10(1)(c).

# GOODS ASSEMBLED OR INSTALLED AT SITE

## ❖ Section 10(1)(d)

Where the goods are assembled or installed at site, the place of supply shall be the **place of such installation or assembly**.

## ❖ Examples :

- ❖ Mr. A of Noida receives an order from Mr. B of Gurgaon for installation of AC at Mr. B's office.
- ❖ Mr. X of Mumbai receives order from Mr. Y of Mumbai for installation of machinery at his factory in Gujarat.

# GOODS SUPPLIED ON BOARD A CONVEYANCE

## ❖ Section 10(1)(e)

Where the goods are supplied on board a conveyance, such as a vessel, an aircraft, a train or a motor vehicle, the place of supply shall be the **location at which such goods are taken on board.**

❖ Example : Mr. X was flying through Indigo flight from Mumbai to Jammu (with halt at Delhi). He purchased a watch on-board during Delhi to Jammu leg. The watch was taken onboard from Mumbai.



## ❖ Section 11

### Place of supply of goods imported into, or exported from India

- a) The place of supply of goods imported into India shall be the location of the importer.

Issue – If Bill of entry is in the name of HO in Mumbai and goods are going to factory directly in Vapi, then who is importer?

- b) The place of supply of goods exported from India shall be the location outside India.

IGST is payable for imports and exports (if duty paid)

**THE SUMMARY OF PROVISION IN SECTION 12 IN TABULATED FORM ARE GIVEN BELOW :-**

Sr. No.	Description of Service	Sub-section	Place of Supply
1	In relation of immovable property	3	Location of immovable property
2	By restaurant, catering, personal grooming etc.	4	Where services are performed
3	In relation to training and performance appraisal	5	(i) In case of registered person, location of such person (ii) In other case where services are performed
4	Admission to event	6	Where event is held
5	Organization of any event and services ancillary to organization	7	(i) In case of registered person, location of such person (ii) In other case where event is held
6	Transportation of goods including mail or courier	8	(i) In case of registered person, location of such person (ii) In other case where goods are handed over

Sr. No.	Description of Service	Sub-section	Place of Supply
7	Transportation of Passengers	9	(i) In case of registered person, location of such person (ii) In other case where passenger embarks on journey
8	Services on board a conveyance	10	First Schedule point of departure
9	Telecommunication services	11	Refer sub-section (11)
10	Banking Services	12	Location of recipient of service. In case location, not available, location of supplier
11	Insurance Services	13	(i) In case of registered person, location of such person (ii) In other case location of recipient of service
12	Advertisement services to Governments, statutory bodies, etc.	14	Refer sub-section (14)
13	Other than above (i) Registered person (ii) Unregistered person	2 3	Location of registered person (a) Location of recipient (b) If address of recipient not known, location of supplier

## ❖ Section 12

Place of supply of services where the location of supplier of service and the location of the recipient of service is in India

### Default Rule – Sec. 12(2)

2. The place of supply of services, except the services specified in subsections (3) to (14),-
  - a) made to a **registered person** shall be the location of such person;
  - b) made to any person **other than a registered person** shall be:-
    - i) the location of the recipient where the address on record exists, and
    - ii) the location of the supplier of services in other cases.

## PLACE OF SUPPLY IN RELATION TO IMMOVABLE PROPERTY

- ❖ Section 12(3) : The place of supply of services, -
  - a) **directly in relation to an immovable property**, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work, or
  - b) **by way of lodging accommodation by a hotel**, inn, guest house, home stay, club or campsite, by whatever name called and including a house boat or any other vessel, or

c) by way of accommodation in any immovable property for organizing any marriage or reception or matters related therewith, official, social, cultural, religious or business function including services provided in relation to such function at such property, or

d) any services ancillary to the services referred to in clause (a), (b) and (c),

shall be the location at which the immovable property or boat or vessel is located or intended to be located:

PROVIDED that if the location of the immovable property or boat or vessel is located or intended to be located outside India, the place of supply shall be the location of the recipient.

*Explanation:* Where the immovable property or boat or vessel is located in more than one State or Union territory, the supply of service shall be treated as made in each of the respective States or Union Territories, in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

## Examples-

- ❖ Mr. X (architect from Mumbai) providing service to M/s ABC Builders in relation to design of new building to be constructed in Dubai.
- ❖ Mr. A from Delhi stays in Taj hotel in Mumbai.
- ❖ Mr. A (tax consultant) from Mumbai calculates the capital gains on sale of property in Bangalore by M/s Hiranandani Builders (of Mumbai).
- ❖ M/s PQR Ltd. of Mumbai hires banquet hall in a Bangalore hotel for official event. They have not taken accommodation service. Is it covered in this rule?
- An interior decorator is engaged by a retail chain to design a common decor for all its stores in India.

## CBEC Education Guide – 2012

### Para 5.5.5 - Examples of services which are not land-related

(i) Repair and maintenance of machinery which is not permanently installed. This is a service related to goods.

(ii) Advice or information relating to land prices or property markets because they do not relate to specific sites.

(iii) Land or Real Estate Feasibility studies, say in respect of the investment potential of a developing suburb, since this service does not relate to a specific property or site.

(iv) Services of a Tax Return Preparer in simply calculating a tax return from figures provided by a business in respect of rental income from commercial property.

(v) Services of an agent who arranges finance for the purchase of a property.



# PERFORMANCE BASED SERVICES

## ❖ Section 12(4) :

The place of supply of restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery shall be the location where the services are **actually performed**.

## ❖ Examples :

❖ Mr. A from Mumbai goes to a restaurant located on Delhi

❖ M/s Red Chilli Productions (having office in Delhi) enters into contract with Mr. A in Mumbai for make-up and beauty treatment service of actors during film shooting. What happens if part of the shooting takes place outside India?

# TRAINING AND PERFORMANCE APPRAISAL SERVICES

## ❖ Section 12(5) :

The place of supply of services in relation to training and performance appraisal to,-

- a) a **registered person**, shall be the location of such person;
- b) a person **other than a registered person**, shall be the location where the services are **actually performed**.

## ❖ Examples:

❖ Mr. A from Mumbai is hired as the management trainer of M/s ABC, a legal firm of Mumbai (not registered in GST as services fall under reverse charge). The training is held in Goa.

❖ M/s XYZ Ltd. of Mumbai (registered in GST) avails service of Mr. X Chartered accountant of Gujarat to train their staff for filing returns in GST. Such training takes place at all the offices of the company i.e. in Delhi, Bangalore, Mumbai and Kolkata.

# PLACE OF SUPPLY IN RELATION TO ADMISSION TO AN EVENT

## ❖ Section 12(6) :

The place of supply of services provided by way of admission to a cultural, artistic, sporting, scientific, educational, or entertainment event or amusement park or any other place and **services ancillary thereto**, shall be the place where the **event is actually held or where the park or such other place is located.**

## ❖ Examples :

- ❖ Mr. A of Mumbai goes to watch an IPL match held in Bangalore.
- ❖ Mr. X of Gujarat goes to Essel World in Mumbai.

# ORGANISATION OF EVENT AND SERVICES ANCILLARY TO ORGANISATION

- ❖ Section 12 (7) : The place of supply of services provided by way of:
  - a) **organization** of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of service in relation to a conference, fair, exhibition, celebration or similar events, or
  - b) services **ancillary to organization** of any of the events or services referred to in clause (a), or **assigning of sponsorship** of such events,
    - i. to a **registered person**, shall be the location of such person;
    - ii. to a person **other than a registered person, shall be the place where the event is actually held** and if the event is held outside India, the place of supply shall be the location of the recipient.

*Explanation:* Where the event is held in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such event, the place of supply of such services shall be taken as being in the each of the respective States or Union territories in proportion to the value for services separately collected or determined in terms of contract or agreement entered into in this regard or, in absence of such contract or agreement, on such other reasonable basis as may be prescribed.

## Example-

- ❖ M/s X & Co. of Mumbai organises event for Mr. Kapil Sharma (registered in Mumbai) in Australia.
- ❖ Kapil Sharma gets sponsorship for the show in Australia from “Lava” cell phone company of Delhi.
- ❖ M/s X and Co. of Mumbai organizes rock concert for Mr. Honey Singh (registered in Chandigarh). The concert takes place in Goa, Mumbai, Pune and Kolkata.
- ❖ Wedding of Mr. A (from Mumbai) is organised by M/s ABC & Co. in Goa.

# SERVICES BY WAY OF TRANSPORTATION OF GOODS

Section 12 (8) :

The place of supply of services by way of transportation of goods, including by mail or courier to,

- a. a **registered person**, shall be the location of such person;
- b. a person **other than a registered person**, shall be the location at which such **goods are handed over for their transportation**.

- ❖ Example : Mr X (a GST registered businessman) from Mumbai sends a parcel of sweets from Gujarat through a transporter for his brother in Delhi.
- ❖ What if delivery charges are paid by brother who is not registered?

## Example-

- ❖ A cheque is sent through courier by an unregistered person from Mumbai to Delhi.
- ❖ Indian Bank from Mumbai sends a cheque book through courier to its customer in Vapi.

(75) “money” means the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any other instrument recognised by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value;

(52) “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

# PASSENGER TRANSPORTATION SERVICES

Section 12 (9) :

The place of supply of passenger transportation service to

- a) a **registered person**, shall be the location of such person;
- b) a person **other than a registered person**, shall be the place where the **passenger embarks on the conveyance** for a continuous journey:

**PROVIDED** that where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage, the place of supply of such service shall be determined in accordance with the provision of sub-sections (2)

*Explanation:* For the purposes of this sub-section, the **return journey shall be treated as a separate journey** even if the right to passage for onward and return journey is issued at the same time.



## Example-

- ❖ Air India provides passenger transportation service from Delhi to Pune and return to Mr. A, an unregistered person from Mumbai.
- ❖ Mr. X (an unregistered person) purchased frequent flyer miles of Jet Airways for future travel.
- ❖ A ticket is booked by M/s ABC Ltd. (registered in Mumbai) for travel of his employee from Chennai to Delhi. An agent from Chennai charges his commission along with ticket fare to M/s ABC Ltd. Will it fall under this rule?
- ❖ Mr. A travels from UK to New York through Jet Airways and books the ticket online in India. What will happen if he is registered in GST and if he is not registered?
- ❖ If he claims to be unregistered and subsequently department finds that he is registered. What will happen in such case?

Discussion Point – Registration number is required for online and counter bookings. Presently, there is no such details sought by airlines.

# SERVICES ON BOARD A CONVEYANCE

Section 12 (10) :

The place of supply of services on board a conveyance such as vessel, aircraft, train or motor vehicle, shall be the location of the **first scheduled point of departure** of that conveyance for the journey.

❖ Examples :

- ❖ Catering Services provided by Indian railways from Surat in Golden Temple train running from Mumbai to Amritsar. (As per schedule II, catering is a 'service')
- ❖ Onboard Wi-Fi services provided by Air India flight from San Francisco to Delhi to Mr. A of Mumbai.

# TELECOMMUNICATION SERVICES

Section 12 (11) :

The place of supply of telecommunication services including data transfer, broadcasting, cable and direct to home television services to any person shall—

- a) in case of services by way of fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna, be the location **where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services;**
- b) in case of mobile connection for telecommunication and internet services provided on **post-paid basis**, be the location of **billing address of the recipient of services on record** of the supplier of services;

- c) in cases where mobile connection for telecommunication, internet service and direct to home television services are provided on **prepayment through a voucher** or any other means, -
- (i) through selling agent or a re-seller or a distributor of SIM card or re-charge voucher, **shall be address of the selling agent or re-seller or distributor as per the record of the supplier** at the time of supply; or
  - (ii) **by any person to the final subscriber shall be the location where such pre-payment is received or such vouchers are sold;**

d) in other cases, be the address of the recipient as per records of the supplier of services and where such address is not available, the place of services shall be location of the supplier of services :

PROVIDED that where address of the recipient as per records of the supplier of service is not available, the place of supply shall be location of the supplier of service:

PROVIDED FURTHER that if such pre-paid service is availed or the **recharge is made through internet banking** or other electronic mode of payment, the **location of the recipient of services on record of the supplier of services shall be the place of supply of such service.**

*Explanation:* Where the leased circuit is installed in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such circuit, the place of supply of such services shall be taken as being in each of the respective States or union territories in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in absence of such contract or agreement, on such other basis as may be prescribed.

Scenario	Place of Supply
Telecommunication Lines/Dish Antenna etc.	Where the telecommunication line or dish antenna is installed
Postpaid Telecommunication/ Internet services etc.	Billing address of the recipient of services
Prepaid Telecommunication / Internet service etc. through selling agent or re-seller	Address of selling agent or re-seller
Prepaid Telecommunication / Internet service etc. to final subscriber	Location where payment is received
Other Cases	Location of the recipient of services
If location of recipient is not available	Location of supplier of services
Prepaid recharge through Internet banking or other electronic mode	Location of the recipient of services on the record of supplier of services

- ❖ Example : Dish TV provides services to customer in Mumbai by installing dish antenna's at customers place.
- ❖ Mr. A from Ahmedabad does an online recharge in Mumbai for his pre-paid mobile account.
- ❖ Mr. A from Ahmedabad is in Mumbai. He goes to Airtel store in Mumbai for making payment of his mobile bill (post-paid).

# BANKING AND STOCK BROKING SERVICES

## Section 12 (12) :

The place of supply of banking and other financial services including stock broking services to any person shall be the location of the recipient of services on the **records of the supplier of services**:

**PROVIDED** that if the location of the recipient of services is not on the records of the supplier, the place of supply shall be location of the supplier of services.

## Example-

- ❖ A customer walks in Mumbai branch of ICICI bank to issue a Demand draft. The bank charges commission for the services provided.
- ❖ Suppose, a customer from Mumbai branch approaches Chennai branch for issuing a DD.
- ❖ Place of supply for stock broking services to FII is covered?



## INSURANCE SERVICES

Section 12 (13) :

The place of supply of insurance services shall:-

- a) to a **registered person**, be the location of such person;
  - b) to a person **other than a registered person**, be the location of the recipient of services on the **records of the supplier of services**.
- 
- ❖ Example : Mumbai branch of an Insurance company providing Insurance service to M/s X Ltd registered in the state of Madhya Pradesh for an asset in Mumbai.
  
  - ❖ Mr. A got personal insurance policy in Delhi where he was residing earlier. Now, he has permanently shifted to Mumbai but has not informed the insurance company.

# ADVERTISEMENT SERVICES TO GOVERNMENT

Section 12 (14) :

The place of supply of advertisement services to the Central Government, a State Government, a statutory body or a local authority meant for States or Union territories identified in contract or agreement , shall be taken as being in each of such States or Union territories and the value of such supplies specific to each State or Union territories shall be in proportion to amount attributable to service provided by way of dissemination in the respective States or Union territories as may be determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

- ❖ Example:
- ❖ M/s Bright Outdoor an advertising agency providing advertising space to Central Government for Swachh Bharat Mission advertisement in all the states of India.

❖ THE SUMMARY OF PROVISION CONTAINED IN SECTION 13 ARE AS FOLLOWS:

Sr. No.	Description of Service	Sub-section	Place of supply is
1. (i)	Services on goods made physically available by recipient	3(a)	Where services are actually performed
1. (ii)	Services on goods temporally imported	2 <sup>nd</sup> proviso to 3(a)	Recipient of service
1. (iii)	Services provided from remote location by electronic means	1st proviso to 3(a)	Location of goods
1. (iv)	Services requiring physical presence of individual	3(b)	Where services are performed
2	In relation to immovable property	4	Location of immovable property
3	Admission to or organization of event	5	Where event is held
4	Above services performed in multiple location including taxable location	6	Location in taxable territory
5	Above service performed in more than one State or Union territory	7	Each State or Union territory
6. (i)	Services to Account holder by Banking company or financial institution or NBFC	8	Location of supplier

Sr. No.	Description of service	Sub - Section	Place if supply is
6.(ii)	Intermediary services	8	Location of supplier
6.(iii)	Hiring means of transport up to one month	8	Location of supplier
7.	Transportation of goods other than mail or courier.	9	Destination of goods
8.	Transportation of passenger	10	Where passenger embarks on journey
9.	On Board a conveyance	11	First schedule point of departure
10.	Online information and database access or retrieval services	12	Location of recipient also Refer Sub-section (12)
11.	Services other than mentioned above in Sr. Nos. 1 to 10 to registered person	2	(a) Location of recipient (b) If location of recipient not known, location of supplier

## ❖ Section 13

**Place of supply of services where the location of the supplier or the location of the recipient is outside India**

1. The provisions of this section shall apply to determine the place of supply of services where the location of the supplier of service or the location of the recipient of service is outside India.
2. The place of supply of services except the services specified in subsections (3) to (13) shall be the **location of the recipient of service**:

PROVIDED that in case the location of the recipient of service is not available in the ordinary course of business, the place of supply shall be the location of the supplier of service.

3. The place of supply of the following services shall be the location where the **services are actually performed**, namely:-

a) services supplied in **respect of goods that are required to be made physically available by the recipient of service to the supplier of service**, or to a person acting on behalf of the supplier of service in order to provide the service:

PROVIDED that when such services are provided from a remote location by way of electronic means, the place of supply shall be the location where goods are situated at the time of supply of service:

PROVIDED FURTHER that this clause shall not apply in the case of a service supplied in respect of goods that are temporarily imported into India for repairs and are exported after repairs without being put to any use in India, other than that which is required for such repairs;

❖ **Examples –**

❖ **A foreigner travelling to India gives his watch to a repair shop for repair purpose**

❖ **British Airways Flight lands in India and develops a snag. An Indian Engineer works and repairs the plane which flies back to London**

- b) services supplied to an individual, represented either as the recipient of service or a person acting on behalf of the recipient, which require the **physical presence of the receiver** or the person acting on behalf of the recipient, with the supplier for the supply of the service.

**Example – A foreigner visits Taj Mahal and avails the services of a guide while visiting the Monument.**

- 4. The place of supply of services supplied directly in **relation to an immovable property**, including services supplied in this regard by experts and estate agents, supply of hotel accommodation by a hotel, inn, guest house, club or campsite, by whatever name called, grant of rights to use immovable property, services for carrying out or co-ordination of construction work, including architects or interior decorators, shall be the place where the immovable property is located or intended to be located.

**Example - An estate agent gets commission from a foreigner for selling his property in Mumbai.**

5. The place of supply of services supplied by way of admission to, or organization of, a cultural, artistic, sporting, scientific, educational, or entertainment event, or a celebration, conference, fair, exhibition, or similar events, and of services ancillary to such admission, shall be the place where the event is actually held.

Example - M/s. BCCI takes services of a UK based Management Company for organizing IPL in South Africa

6. Where any service referred to in sub-sections (3) or sub-section (4) or sub-section (5) is supplied at more than one location, including a location in the taxable territory, its place of supply shall be the location in the taxable territory.

Example - An Indian Company organizes concert of Justin Bieber in United Kingdom, Singapore and Mumbai



7. Where the services referred to in sub-sections (3) or sub-section (4) or sub-section (5) are supplied in more than one State or union territory, the place of supply of such services shall be taken as being in each of the respective States or Union territories and the value of such supplies specific to each State or Union territory shall be in proportion to value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in absence of such contract or agreement, on such basis as may be prescribed.

❖ Example – M/s. BCCI appoints a foreign physio who travels with the team all over India where the matches are held.

8. The place of supply of following services shall be the location of the supplier of service, namely:-
- a) services supplied by a **banking company**, or a financial institution, or a non-banking financial company, to account holders;
  - b) intermediary services;
  - c) services consisting of hiring of means of transport including yachts but excluding aircrafts and vessels, upto a period of one month.

❖ **Examples –**

❖ **A Commission Agent sells goods for a Foreign Company in India.**

9. The place of supply of services of transportation of goods, other than by way of mail or courier, shall be the **place of destination of the goods**.

**Example - An Indian customer sends parcel of goods for his brother who is staying in USA through Air India**

10. The place of supply in respect of a passenger transportation service shall be the place where the passenger embarks on the conveyance for a continuous journey.

Example – Mr. A of London traveling from United Kingdom to Mumbai through Air India

11. Place of supply of services provided on board a conveyance during the course of a passenger transport operation, including services intended to be wholly or substantially consumed while on board, shall be the first scheduled point of departure of that conveyance for the journey.

Example - Onboard Wi-Fi services provided by Etihad Airways flight from Mumbai to Abu Dhabi to London to Mr. A of London.

12. The place of supply of “online information and database access or retrieval services” services shall be location of recipient of service.

Explanation- For the purposes of this sub-section, person receiving such services shall be deemed to be located in the taxable territory, if any two of the following non-contradictory conditions are satisfied namely:-

- i. the location of address presented by the recipient of service via internet is in taxable territory;
- ii. the credit card or debit card or store value card or charge card or smart card or any other card by which the recipient of service settles payment has been issued in the taxable territory;
- iii. the billing address of recipient of service is in the taxable territory;
- iv. the internet protocol address of the device used by the recipient of service is in the taxable territory;
- v. the bank of recipient of service in which the account used for payment is maintained is in the taxable territory;
- vi. the country code of the subscriber identity module (SIM) card used by the recipient of service is of taxable territory;
- vii. the location of the fixed land line through which the service is received by the recipient is in taxable territory.

**Example – Google US providing cloud service to a company in India**

## ❖ Section 14

### Special provision for payment of tax by a supplier of online information and database access or retrieval services.

- 1) On supply of online information and database access or retrieval service by any person located in a non-taxable territory and received by a non-taxable online recipient, the supplier of service located in a non-taxable territory shall be the person liable for paying integrated tax on such supply of services:

Provided that in the case of supply of online information and database access or retrieval services by any person 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: -

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

- b) The intermediary involved in the supply does not authorize the charge to the customer or take part in its charge which is that the intermediary neither collects or processed payments in any manner nor is responsible for the payment between the non-taxable online recipient and the supplier of such services;
  - c) The intermediate involved in the supply does not authorized delivery: and
  - d) The general terms and conditions of the supply are not set by the intermediary involved in the supply but by the supplier of services.
- 2) 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:

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:

Provided further that if such supplier does not have a physical presence or does not have 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 if such tax.

**Example – Purchase of any app from online App Store.**

## ❖ Section 15 – Refund of Integrated Tax to International Tourist.

The **integrated tax paid by tourist** leaving India on any supply of goods taken out of India by him **shall be refunded** in such manner and subject to such conditions and safeguards as may be prescribed.

*Explanation.-* For the purpose of the 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.**

Proviso to section 8(1) reads as follows:

Provided that the following supply of goods **shall not be treated as intra-State supply**, namely:—

(iii) supplies made to a tourist referred to in section 15.

**Issue – How will the mechanism of refund work?**

## Supplies to SEZ

In GST, supplies to SEZ unit/ developer will be considered as zero-rated supplies and accordingly, the assessee has the option to supply goods or service to SEZ unit/ developer either under:

- Bond/LUT
- Payment of IGST

The supplies to SEZ shall be considered as an Interstate Supply. Accordingly, **IGST shall be payable on such supplies even in case if the location of the supplier and SEZ unit/developer is in the same State.**



**THANK YOU**

**PRESENTED BY**

**CA ARCHIT AGARWAL**