

UT without
legislation.

Chapter 3

Charge of GST

Extent of CGST Act, SGST Act, UTGST Act and IGST Act, 2017

CGST Act, 2017: Central Goods and Services Tax Act, 2017 extends to the whole of India. **"Central tax"** means the central goods and services tax levied under section 9. [Section 2(21)]

State GST Act, 2017: State GST law of the respective State/Union Territory with State Legislature [Delhi, Jammu & Kashmir and Puducherry] extends to **whole of that State/Union Territory**. For example, Gujarat GST Act, 2017 extends to whole of the State of Gujarat.

- "State" includes a Union territory with Legislature. [Section 2(103)]
- "State tax" means the tax levied under any State Goods and Services Tax Act. [Sec. 2(104)]

UTGST Act, 2017: Union Territory Goods and Services Tax Act, 2017 extends to the Union territories of the Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli and Daman and Diu, Ladakh, Chandigarh and other territory, i.e. the Union Territories without State Legislature.

"Union territory tax" means the Union territory goods and services tax levied under the Union Territory Goods and Services Tax Act. [Section 2(115)]

"Integrated Goods and Services Tax Act" means the IGST Act, 2017. [Section 2(57)]

"Integrated tax" means the integrated goods and services tax levied under the IGST Act. [Section 2(58)]

↳ tax for interstate transaction

Concept of Levy and Collection of CGST

Levy and collection of CGST: [Sec. 9(1)]

There shall be levied a tax -

- called the Central Goods and Services Tax (CGST);
- on all intra-State supplies of -
 - goods; or
 - services; or
 - both,

except on the supply of alcoholic liquor for human consumption,

- on the value determined under Section 15; and
- at such rates, not exceeding 20%, as may be notified by the Government on the recommendations of the Council; and

- collected in such manner as may be prescribed; and
- shall be paid by the taxable person.

The rates would be determined by the Government based on the recommendation of the GST Council. At present notified rates are 0%, 0.05%, 0.125%, 1.5%, 2.5%, 6%, 9% and 14%.

Levy of CGST on petroleum products to be effective from notified date: [Sec. 9(2)]

CGST on the supply of -

- petroleum crude,
- high speed diesel,
- motor spirit (commonly known as petrol),
- natural gas, and
- aviation turbine fuel

जितने GST लागू था वही
बाद में लागू
Notification के
बाद

shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.

CGST to be paid on reverse charge basis on notified goods/services or both: [Sec. 9(3)]

The Government may -

- on the recommendations of the Council,
- by notification,
- specify categories of supply of goods or services or both,
- the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both, and
- all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

जब Recipient ही अपना
GST charges Govt को पुर
वेगा मतलब Reverse
charge

"Reverse charge" means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under Section 9(3)/(4) of CGST Act, 2017 or under Section 5(3)/(4) of the IGST Act, 2017. [Section 2(98)]

Persons required to pay tax under reverse charge are required to obtain registration under the GST whether or not they make any outward supplies, and without having regard to the threshold limits for registration - in case of notified goods and services.

अगर outward supply नहीं है
तो भी registration लेना पड़ेगा reverse
charge के लिए।

CGST to be paid on reverse charge basis by notified persons on notified goods/services when received from unregistered supplier: [Sec. 9(4)]

The Government may -

- on the recommendations of the Council,
- by notification,
- specify a class of registered persons who shall,
- in respect of supply of specified categories of goods or services or both received from an unregistered supplier,
- pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and
- all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.

Reverse charges mechanism में supplier जो unregistered था बहुत
small supplier होता है तो वह tax नहीं भरता है। उसके अलावा
Recipients tax भरता है।

Thus, tax under reverse charge is payable by the **NOTIFIED class of registered persons on NOTIFIED categories** of intra-State supplies of goods and/or services received by such registered persons from any unregistered supplier.

Goods/Services on which GST is payable under RCM

Goods on which GST is payable under RCM:

Goods like cashew nuts (not shelled/peeled), bidi wrapper leaves, tobacco leaves, supply of lottery, silk yarn, used vehicles, seized and confiscated goods, old and used goods, waste and scrap, raw cotton, etc. are taxable under reverse charge, i.e. recipient is liable to pay tax.

Services on which GST is payable under RCM:

The Central Government has notified the following categories of supply of services wherein the whole of central tax leviable under Section 9 of the said CGST Act, shall be paid on reverse charge basis by recipient of such services:

[**Notification No. 13/2017-CT (Rate) dated 28-06-2017 w.e.f. 01-07-2017**]

Sl. No.	Supply of Services	Supplier of service	Recipient of Service
1.	<p>Supply of Services by a <u>Goods Transport Agency (GTA)</u> in respect of transportation of goods by road to –</p> <p>(a) any factory registered under or governed by the Factories Act, 1948; or</p> <p>(b) any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or</p> <p>(c) any co-operative society established by or under any law; or</p> <p>(d) any person registered under the CGST Act or the IGST Act or the SGST Act or the UTGST Act; or</p> <p>(e) any body corporate established, by or under any law; or</p> <p>(f) any partnership firm whether registered or not under any law including association of persons; or</p> <p>(g) any casual taxable person.</p>	<p><u>Goods Transport Agency (GTA)</u></p>	<p>(a) any factory registered under or governed by the Factories Act, 1948; or</p> <p>(b) any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or</p> <p>(c) any co-operative society established by or under any law; or</p> <p>(d) any person registered under the CGST Act or the IGST Act or the SGST Act or the UTGST Act; or</p> <p>(e) any body corporate established, by or under any law; or</p> <p>(f) any partnership firm whether registered or not under any law including association of persons; or</p> <p>(g) any casual taxable person located in the taxable territory.</p>

with ITC → 12%

without ITC → 5%

Charge of GST

RCM not applicable if recipient registered only for TDS:

However, nothing contained in this entry shall apply to services provided by a goods transport agency, by way of transport of goods in a goods carriage by road, to, -

- (a) a Department or Establishment of the Central Government or State Government or Union Territory; or
- (b) Local Authority; or
- (c) Governmental Agencies,

} Specified Recipients

which has taken registration under the CGST Act, 2017 only for the purpose of deducting tax u/s 51 and not for making a taxable supply of goods or services.

RCM not applicable if GTA is a registered person exercising the option to pay tax under forward charge:

No RCM in case of GTA i.e. tax shall be paid by GTA under forward charge where -

- (i) the supplier has taken registration under the CGST Act, 2017 and exercised the option to pay tax on the services of GTA in relation to transport of goods supplied by him under forward charge; and
- (ii) the supplier has issued a tax invoice to the recipient charging Central Tax at the applicable rates and has made a declaration stating the fact of exercising of the option to pay tax under forward charge on such invoice issued by him.

Person liable to pay freight is Service Recipient: The person who pays or is liable to pay freight for the transportation of goods by road in goods carriage, located in the taxable territory shall be treated as the person who receives the service for the purpose of this notification.

2.	Services provided by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly. <u>to Business.</u>	An individual advocate including a senior advocate or firm of advocates.	Any business entity located in the taxable territory. Business pay GST under RCM
3.	Services supplied by an arbitral tribunal to a business entity.	An arbitral tribunal	Any business entity located in the taxable territory.
4.	Services provided by way of sponsorship to any body corporate or partnership firm.	Any person unacademy IPL	Any body corporate or partnership firm located in the taxable territory. unacademy will pay
5.	Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding (1) <u>renting of immovable property,</u> and (2) services specified below - (i) services by the <u>Department of Posts;</u> (ii) services in relation to an	Central Government, State Government, Union territory or local authority	Any business entity located in the taxable territory. Business entity will pay GST under RCM.

o Arme RCM new tagta.

Those who pays are Recipients.

	aircraft or a vessel, inside or outside the precincts of a port or an airport; and <u>ministry of railways.</u> (iii) <u>transport of goods or passengers.</u>		
5A.	Services supplied by the Central Government, State Government, Union territory or local authority by way of renting of immovable property to a person registered under the CGST Act, 2017. <u>Excluding railways.</u>	Central Government, State Government, Union territory or local authority	Any registered person.
5AA.	Service by way of renting of residential dwelling to a registered person.	Any Person	Any registered person.
5B.	Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter.	Any person	Promoter
5C.	Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter.	Any person	Promoter
6.	Services supplied by a director of a company or a body corporate to the said company or the body corporate. <u>under capacity of director.</u>	A director of a company or a body corporate	The company or a body corporate located in the taxable territory.
7.	Services supplied by an insurance agent to any person carrying on insurance business.	An insurance agent	Any person carrying on insurance business, located in the taxable territory.
8.	Services supplied by a recovery agent to a banking company or a financial institution or a non-banking financial company.	A recovery agent	A banking company or a financial institution or a non-banking financial company, located in the taxable territory.
9.	Supply of services by a music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered u/s 13(1)(a) of	Music composer, photographer, artist, or the like	Music company, producer or the like, located in the taxable territory.

forward charges

if under person capacity

than company should pay GST under PCM

insurance company

Bank will pay.

music company will pay

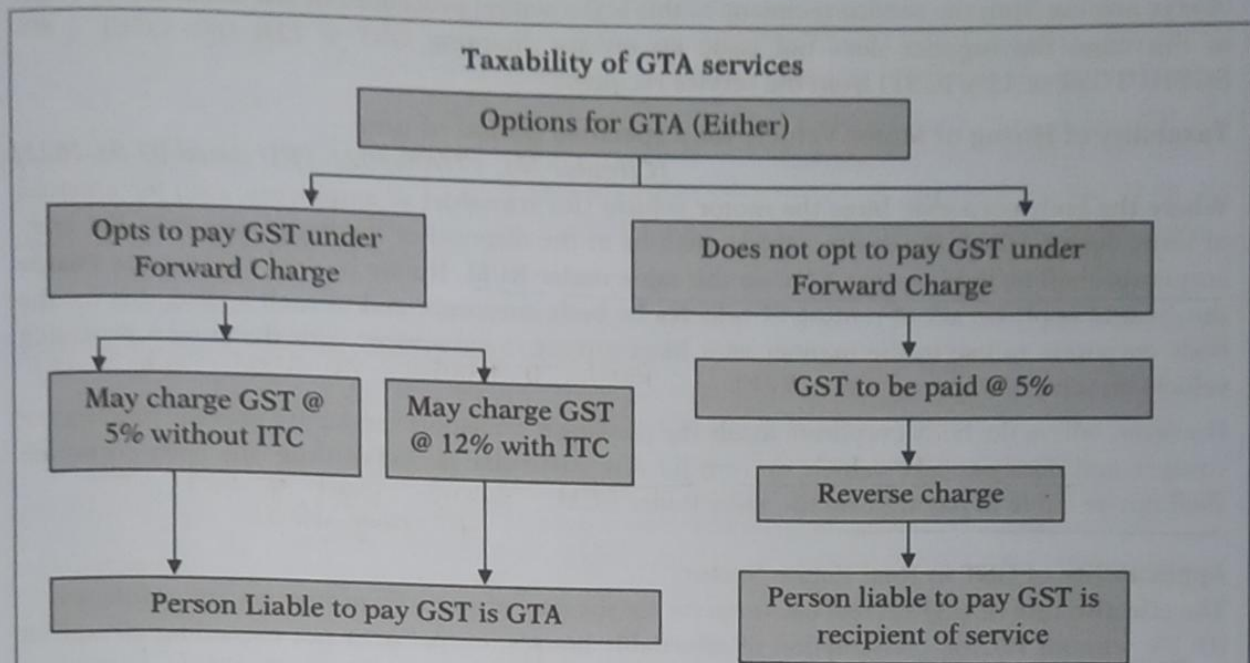
GST

	the Copyright Act 1957 relating to original dramatic, musical or artistic works to a music company, producer or the like.		
9A.	Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under Section 13(1) (a) of the Copyright Act, 1957 relating to original literary works to a publisher.	Author	<u>Publisher</u> located in the taxable territory. publishing co. will pay GST under <u>Rem.</u>
However, nothing contained in this entry shall apply where, -			
(i) the author has taken registration under the CGST Act, 2017, and filed a declaration in the specified form before the commencement of financial year with the jurisdictional CGST or SGST commissioner, as the case may be, that he exercises the option to pay central tax on such services in accordance with Section 9(1) of the CGST Act, 2017 under forward charge, and to comply with all the provisions of CGST Act, 2017 as they apply to a person liable for paying the tax in relation to the supply of any goods or services or both and that he shall not withdraw the said option within a period of 1 year from the date of exercising such option;			
(ii) the author makes a declaration regarding payment of tax on forward charge on the invoice issued by him in Form GST Inv-I to the publisher.			
10.	Supply of services by the members of <u>Overseeing Committee to RBI.</u>	Members of Overseeing Committee constituted by the RBI	<u>RBI</u> Need to pay GST under <u>RCM</u>
11.	Services supplied by individual <u>Direct Selling Agents (DSAs)</u> other than a body corporate, partnership or limited liability partnership firm to bank or non-banking financial company (NBFCs). They create awareness about particularly Bank	Individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm.	A <u>banking company</u> or a non-banking financial company, located in the taxable territory. Bank will pay GST under <u>Rem.</u>
12.	Services provided by <u>business facilitator</u> to a banking company.	Business facilitator	A <u>banking company</u> , located in the taxable territory.
13.	Services provided by an <u>agent of business correspondent</u> to business correspondent.	An agent of business correspondent	A <u>business correspondent</u> , located in the taxable territory.
14.	Security services (services provided by way of supply of security personnel) provided to a registered person. <u>security services.</u>	Any person other than body corporate	A <u>registered person</u> , located in the taxable territory. Registered person pay GST

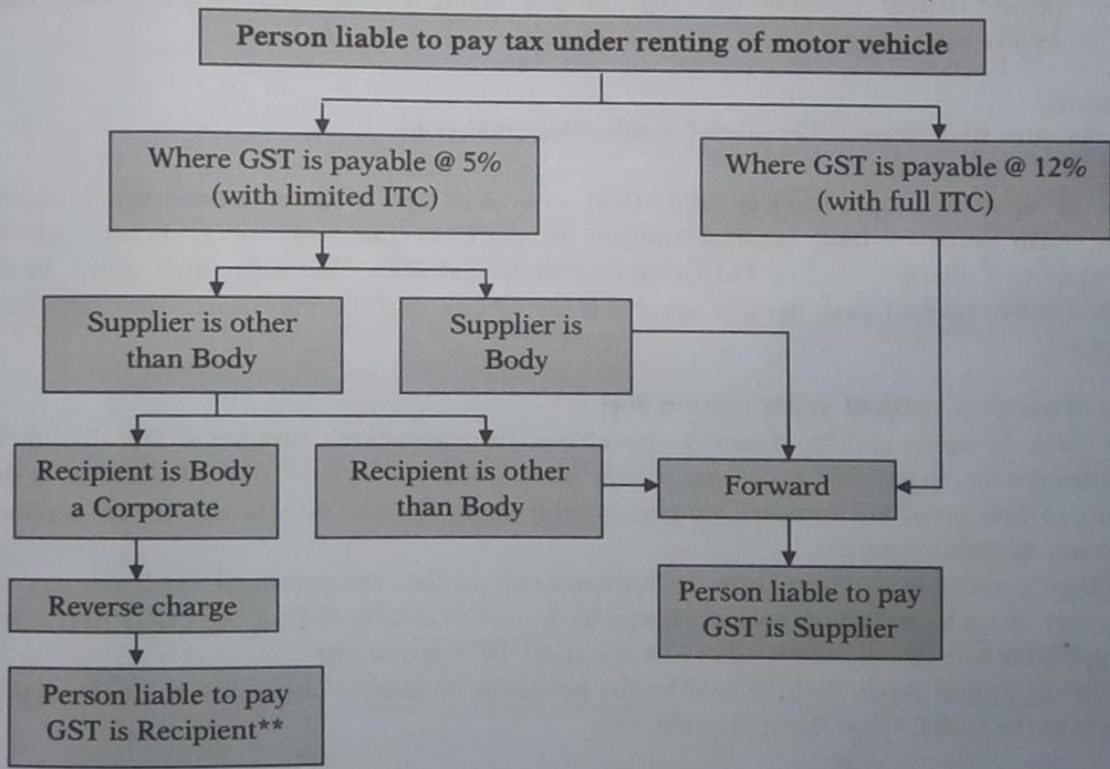
	RCM not applicable if recipient registered only for TDS and in case composition suppliers: However, nothing contained in this entry shall apply to -	
	(i) (a) a Department or Establishment of the Central Government or State Government or UT; or (b) local authority; or (c) Governmental agencies, which has taken registration under the CGST Act, 2017 only for the purpose deducting tax u/s 51 of the said Act and not for making a taxable supply of goods or services; or (ii) a registered person paying tax under section 10 of the said Act.	
15.	Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the recipient of service, provided to a body corporate. limited ITC 5% fuel ITC → 12% same as GTA	Any person, other than Body corporate who supplies the service to a body corporate and does not issue an invoice charging CGST @ 6% to the service recipient.
		Any body corporate located in the taxable body territory. मिलने (ent) के सिया है वह करेगा
16.	Services of lending of securities under Securities Lending Scheme, 1997 ("Scheme") of SEBI as amended.	Lender
		Borrower i.e. a person who borrows the securities under the Scheme through an approved intermediary of SEBI.

Explanation: For purpose of this notification -

- (a) A "Limited Liability Partnership" formed and registered under the provisions of the Limited Liability Partnership Act, 2008 shall also be considered as a partnership firm or a firm.
- (b) Provisions of this notification, in so far as they apply to the Central Government and State Governments, shall also apply to the Parliament, State Legislatures, Courts and Tribunals.



Reverse Charge Mechanism (RCM) on renting of motor vehicles designed to carry passengers:
 Suppliers of service provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the recipient of service have an option to pay GST either @ 5% with limited ITC (i.e. of input services in the same line of business) or 12% with full ITC.



**It is important to note here that when any service is placed under RCM, the supplier shall not

charge any tax from the service recipient as this is the settled procedure in law under RCM. Thus, in this case, the supplier does not issue an invoice charging GST @ 12% (6% CGST + 6% SGST/UTGST or 12% IGST) from the service recipient.

Taxability of Hiring of Motor Vehicle for a specified period of time -

[Circular No. 177/09/2022-TRU dated 03-08-2022]

Where the body corporate hires the motor vehicle (for transport of employees, etc.) for a period of time, during which the motor vehicle shall be at the disposal of the body corporate, the body corporate shall be liable to pay GST on the same under RCM. It may be seen that reverse charge thus would apply on act of renting of vehicles by body corporate and in such a case, it is for the body corporate to use in the manner as it likes subject to agreement with the person providing vehicle on rent.

अगर कोई vehicle rent पे दिया है तो जिसे rent पे दिया है वो pay करेगा और rent लेती दिया है तो GST

However, where the body corporate avails the passenger transport service for specific journeys or voyages and does not take vehicle on rent for any particular period of time, the body corporate shall not be liable to pay GST on the same under RCM.

जिसने rent पे दिया है वो pay करेगा

Applicability of GST in Real Estate Sector:

The effective rate of GST on real estate sector for the new projects by promoters are as follows:

- (i) 1% without ITC on construction of affordable houses (carpet area not exceeding 60 sqm in metros/90 sqm in non-metros and value upto ₹45 lakh). 1% on affordable houses
- (ii) 5% without ITC is applicable on construction of:
 - (a) all houses other than affordable houses, and 5% on other forms
 - (b) commercial apartments such as shops, offices etc. in a residential real estate project (RREP) in which the carpet area of commercial apartments is not more than 15% of total carpet area of all apartments.

Conditions:

Above tax rates shall be available subject to following conditions:

- (a) ITC shall not be available.
- (b) 80% of inputs and input services [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges, etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas], used in supplying the service shall be purchased from registered persons.

Supply of services notified under section 9(4) -

- (i) If value of inputs and input services purchased from registered supplier is less than 80%, promoter has to pay GST on reverse charge basis, under section 9(4) of the CGST Act, at the rate of 18% on all such inward supplies (to the extent short of 80% of the inward supplies from registered supplier).
- (ii) Where cement is received from an unregistered person, the promoter shall pay tax on supply of such cement on reverse charge basis, under section 9(4) of the CGST Act, at the applicable rate which is 28% (CGST 14% + SGST 14%) at present.
- (iii) GST on capital goods shall be paid by the promoter on reverse charge basis, under section 9(4) of the CGST Act at the applicable rates.

Supply of services by Director of a company in his personal capacity to the company*[Circular No. 201/13/2023 GST dated 01-08-2023]*

Services supplied by a director of a company or body corporate to the company or body corporate in his private or personal capacity such as services supplied by way of renting of immovable property to the company or body corporate are not taxable under RCM. Only those services supplied by director of company or body corporate, which are supplied by him as or in the capacity of director of that company or body corporate shall be taxable under RCM in the hands of the company or body corporate.

Practical Question 1:

Mr. Viral Singh, an unregistered famous author, received ₹ 7 Lakh of consideration from Shakti Shah Publications (SSP) located in Vadodara for supply of service by way of temporary transfer of a copyright covered under section 13(1) of the Copyright Act, 1957 dating to original literary works of his new book. He finished his work & made available the book to the publisher, but has yet not raised the invoice.

Mr. Viral Singh is of the view that SPP is liable to pay tax under reverse charge on services provided by him. SPP does not concur with his view and is not ready to deposit the tax under any circumstances.

Examine whether the view of Mr. Viral Singh is correct. Further, if the view of Mr. Viral Singh is correct, what is the recourse available with Mr. Viral Singh to comply with the requirements of GST law as SPP has completely refused to deposit the tax.

*(Similar 5 Marks, Jan. 2021)***Solution:**

Yes, the view of Mr. Viral Singh is correct. GST is payable under reverse charge in case of supply of services by an author by way of transfer/permitting the use or enjoyment of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original literary work to a publisher located in the taxable territory. Therefore, in the given case, person liable to pay tax is the publisher – SPP.

However, since SPP has completely refused to deposit the tax on the given transaction, Mr. Viral Singh has an option to pay tax under forward charge on the same. For the purpose, he needs to fulfill the following conditions:

- (i) since he is unregistered, he has to first take registration under the CGST Act, 2017.
- (ii) he needs to file a declaration, in the prescribed form, that he exercises the option to pay CGST on the said service under forward charge in accordance with section 9(1) of the CGST Act and to comply with all the provisions as they apply to a person liable for paying the tax in relation to the supply of any goods and/or services and that he shall not withdraw the said option within a period of 1 year from the date of exercising such option;
- (iii) he has to make a declaration on the invoice, which he would issue to SPP, in prescribed form.

Practical Question 2:

Decide which person is liable to pay GST in the following independent cases, where the recipient is located in the taxable territory. Ignore the Aggregate Turnover and Exemption available.

- (i) Mr. Raghu provided sponsorship services to WE-WIN Cricket Academy, an LLP.
- (ii) Safe Trans, a Goods Transport Agency, transported goods of Kapil & Co, a partnership firm which is not registered under GST.

*(3 Marks, Nov. 2018) (Similar MTP May 2019)***Solution:**

- (i) As per Notification No. 13/2017-CT (Rate), services provided by way of sponsorship to any body corporate or partnership firm shall be liable to be taxed under reverse charge mechanism and the recipient of service shall be liable to pay GST. Further, the term partnership firm shall also include a Limited Liability Partnership. Thus, WE-WIN Cricket Academy shall be liable to pay GST.
- (ii) As per Notification No. 13/2017-CT (Rate), supply of services by a goods transport agency (GTA) in

respect of transportation of goods by road to any partnership firm whether registered or not under any law shall be liable to be taxed under reverse charge mechanism and the recipient of service shall be liable to pay GST. Thus, Kapil and Co., shall be liable to pay GST under reverse charge mechanism. However, if GTA is a registered person and has exercised option to pay tax under forward charge and issues a tax invoice charging GST at the applicable rate, then Goods transport agency is liable to pay tax under forward charge mechanism.

Practical Question 3:

State with reason, person liable to pay GST in each of following independent Cases. Assume recipient is located in taxable territory.

- (1) Rental income received by Rajasthan State Government from renting an immovable property to Shree Shyam Pvt. Ltd. (Turnover of the company was ₹ 47 lakh in the preceding F.Y.)
- (2) Legal Fees received by Mr. Hardik, a senior advocate, from M/s Rajhans Trading Company having turnover of ₹ 53.5 lakh in preceding FY.
- (3) Suresh & Co., a partnership firm provides security services to Ramesh Ltd. registered under GST.

Solution:

- (1) In case of services supplied by the Central Government, State Government, Union territory or local authority by way of renting of immovable property to a person registered under the CGST Act, 2017, the recipient registered under the CGST Act, 2017 will be liable to pay GST Hence, Shree Shyam Pvt. Ltd. will be liable to pay GST under reverse charge mechanism.
- (2) Services provided by a senior advocate by way of legal services, directly or indirectly to any business entity located in the taxable territory, reverse charge mechanism is applicable and business entity is liable to pay GST. In this case M/s Rajhans Trading Company will be liable to pay GST.
- (3) Security services (services provided by way of supply of security personnel) provided by any person other than a body corporate to a registered person is liable to be taxed under reverse charge basis. Hence, Ramesh Ltd. registered under GST shall be liable to pay tax on the same.

Practical Question 4:

In the following independent cases, decide, who is liable to pay GST, if any.

You may assume that recipient is located in the taxable territory. Ignore the aggregate turnover and exemption available.

- (i) Veer Transport, a registered Goods Transport Agency (GTA) paying IGST @ 12%, transported goods by road of Dilip & Company, a sole proprietary firm (other than specified person) which is not registered under GST or any other Law.
- (ii) Mr. Kamal Jain, an unregistered famous author, received ₹ 20 lakh of consideration from PQR Publications Ltd for supply of services by way of temporary transfer of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original literary works of his new book.

(4 Marks, Nov. 2020)

Solution:

- (i) In case of a GTA service, where the recipient is one of the specified persons, tax is payable by the recipient of service under reverse charge.

However, if GTA is a registered person and has exercised option to pay tax under forward charge and issues a tax invoice charging GST at the applicable rate, then Goods transport agency is liable to pay tax under forward charge mechanism. In the given case, the recipient, Dilip & Company, is an unregistered person and is therefore not a specified person covered under RCM. Further, it is given that the GTA pays IGST @ 12%. Thus, it is assumed that the GTA has exercised the option to pay GST under forward charge and has charged GST in the invoice. Therefore, in the given case, tax is payable under forward charge by "Veer Transport", a registered GTA.

Note: In the given case, since the recipient of service is other than specified recipient, i.e., unregistered

sole proprietorship firm. GTA service is exempt from GST. However, in the above answer, the said exemption has been ignored since the question specifically requires the students to ignore the exemptions, if any, available.

- (ii) Supply of services by an author by way of transfer of a copyright covered under section 13(1)(a) of the Copyright Act 1957 relating to original literary works to a publisher located in the taxable territory is taxable under reverse charge mechanism.

Thus, in the given case, the recipient of service, i.e. PQR Publications Ltd. is liable to pay GST. The tax can be paid by the author under forward charge if the author is a registered person. Since in the given case, the author is an unregistered person, the said option is not available to him.

Practical Question 5:

Under the GST law, taxes on taxable services supplied by the Central Government or the State Government to a business entity in India are payable by recipient of services". State the exceptions of the above statement. (5 Marks, May 2022)

Solution:

Tax on following services supplied by the Central Government or State Government to a business entity in India is payable by the supplier of services:

- (1) Services of renting of immovable property provided to an unregistered business entity.
- (2) Services by the Department of Posts.
- (3) Services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport.
- (4) Services of transport of goods or passengers.

Practical Question 6:

Mr. Rambo sponsored a dance competition organized by "Nach Academy", a dance school run by an individual. The dance competition was named as 'Mr. Rambo's Dance Show' by 'Nach Academy'. Who is liable to pay GST in this case? Will your answer be different if 'Nach Academy' is run by a partnership firm?

Solution:

In case of taxable service provided or agreed to be provided by way of sponsorship to any body corporate or partnership firm located in the taxable territory, person liable to pay GST is the recipient of such service. However, since in the given case sponsorship service is provided to an individual, the person liable to pay GST will be supplier of service i.e., 'Nach Academy'.

Further, since the status of recipient of service is relevant for determining as to who would pay GST, status of service supplier is immaterial. Therefore, as long as sponsorship service is rendered to an individual, GST will be payable by supplier of service i.e., "Nach Academy" irrespective of whether the same is run by an individual or a partnership firm.

Practical Question 7:

From the following information for the month of March 2024, determine the person liable to pay GST and extent of GST payable (applicable GST rate is 18%), if all sums are exclusive of GST and both service supplier and service recipient are located in India -

- (1) Services supplied by a director of a company (not in capacity of employee) to the company : ₹ 5 lakh;
- (2) Business support services supplied by Government to a business entity : ₹ 4 lakh;
- (3) Renting of immovable property services supplied by Government to Poly Ltd. registered under CGST Act, 2017: ₹ 9 lakh.

Solution:

As per Notification No. 13/2017-CT (R), the GST shall be payable as follows -

Particulars	Value	GST Rate @ 18%	Amount payable by supplier of service		Amount payable by recipient of service	
	₹	₹	%	₹	%	₹
(1) Services provided by Director to the company [GST payable by company under reverse charge mechanism]	5,00,000	90,000	-	-	100%	90,000
(2) Business support services by Government to Business entity [Person liable to pay GST is business entity]	4,00,000	72,000	-	-	100%	72,000
(3) Renting of immovable property by Government to Poly Ltd. [Person liable to pay GST is recipient of service i.e. Poly Ltd.] [Entry 5A]	9,00,000	1,62,000	-	-	100%	1,62,000

collected by ECO and paid by him.

Liability of E-commerce operator to pay tax on notified Services: [Sec. 9(5)]

The Government may -

- on the recommendations of the Council, by notification,
- specify categories of SERVICES,
- the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and
- all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services.

Representative liable to pay GST where No physical presence of e-commerce operator in the taxable territory: Where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax. *अगर कोई physical existance नहीं है तो uska representative दोगा*

No representative in Taxable Territory: Where an electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax. *अगर कोई नहीं है तो appoint करे।*

"Electronic commerce" means the supply of goods or services or both, including digital products over digital or electronic network. [Sec. 2(44)]

"Electronic commerce operator" (ECO) means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce. [Sec. 2(45)]

Services notified under section 9(5) -

- (i) Services by way of transportation of passengers by a radio-taxi, motorcab, maxicab, motor cycle, omnibus or any other motor vehicle.
 "Radio Taxi" is a taxi which is in two-way communication with a central control office and is enabled for tracking using GPS or GPRS.
 "Motorcab" means seating capacity, excluding driver, is not more than 6 passengers.

olq uber

फोटो का case of electronic commerce operator pay कर का charge of GST of supplier.

"Maxicab" means seating capacity, excluding driver, is more than 6 passengers but not more than 12 passengers.

"Motor Cycle" means a two-wheeled motor vehicle.

"Omnibus" means any motor vehicle constructed or adapted to carry more than six persons excluding the driver.

(ii) Services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, **except where the person supplying such service through electronic commerce operator is liable for registration under section 22(1) of the CGST Act.** 040 room make my trip का यह भी नहीं है A

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

(iv) Supply of restaurant services other than the services supplied by restaurant, eating joints, etc. located at **specified premises.** under land is

"Specified premises" means premises providing hotel accommodation service having declared tariff of any unit of accommodation above ₹ 7,500 per unit per day.

tomato swiggy.

Practical Question 8:

Kavya Technologies is in the business of development of e-commerce platforms for various customers. Manu Creations obtained the ownership rights of an e-commerce platform developed by Kavya Technologies by paying a specified amount against ownership rights of said portal. Manu Creations also entered into an annual maintenance contract with Kavya Technologies for technical maintenance of the said portal. Manu Creations supplies its own goods and services through the said portal to ultimate customers. Examine who is the e-commerce operator in the given case as per the provisions of the GST law.

Solution:

Electronic commerce means the supply of goods or services or both, including digital products over digital or electronic network. Electronic commerce operator means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce. In the given transaction, the e-commerce platform is developed by Kavya Technologies. However, the ownership of the electronic platform is sold by Kavya Technologies to Manu Creations. Thus, Manu Creations is the owner of the e-commerce platform and is also operating/managing the said platform for supply of its own goods and services. In view of the definition of e-commerce operator, it is Manu Creations which owns, operates or manages digital or electronic facility or platform for electronic commerce. Kavya Technologies is merely providing the annual management services for the electronic platform, but the ownership rights lie with Manu Creations. Thus, Kavya Technologies cannot be termed as electronic commerce operator in the given case and Manu Creations is the e-commerce operator.

Practical Question 9:

A hotel owner provided accommodation in Gujarat, through an electronic commerce operator - Rangila Trips. The hotel owner is not liable to get registered as per the provisions of Section 22(1) of the CGST Act. Who is the person liable to pay GST in this case? Would your answer be different if the Electronic Commerce Operator Rangila Trips does not have a physical presence in India?

Solution:

As per Section 9(5) of the CGST Act, 2017, Government may notify specific categories of services the tax on intra State supplies of which shall be paid by the electronic commerce operator if such services are

supplied through it. Services by way of providing accommodation in hotels through electronic commerce operator is a specified service for said purpose.

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

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

Practical Question 10:

Mr. Sanjay of New Delhi made a request for a Motor cab to "Super ride" for travelling from New Delhi to Gurgaon (Haryana). After Mr. Sanjay pays the cab charges using his debit card, he gets details of the driver Mr. Jorawar Singh and the cab's registration number.

"Super ride" is a mobile application owned and managed by D.T. Ltd. located in India. The application "Super ride" facilitates a potential customer to connect with the persons providing cab service under the brand name of "Super ride".

D.T. Ltd. claims that cab service is provided by Mr. Jorawar Singh and hence, he is liable to pay GST under the provisions of Goods and Services tax laws.

With reference to the provisions of IGST Act, 2017, determine who is liable to pay GST in this case?

Would your answer be different, if D.T. Ltd. is located in New York (USA)? Also briefly state the statutory provisions involved. (5 Marks, Nov. 2018)

Solution:

As per Section 5(5) of the IGST Act, 2017, the Government may, on the recommendations of the Council, by notification, specify categories of services, the tax on inter-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services.

As per Section 2(45) of the CGST Act, 2017, "Electronic commerce operator" (ECO) means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce.

The Central Government has notified services by way of transportation of passengers by a radio-taxi, motorcab, maxicab, motor cycle, omnibus or any other motor vehicle; the tax on inter-State supplies shall be paid by the electronic commerce operator.

Thus, in the above case D.T. Ltd. is liable to pay GST in respect of supply of the said service. Thus, the contention of D.T. Ltd. that Mr. Jorawar Singh should pay GST on the same as he is provider of service is not correct.

Further proviso to Section 5(5) of the IGST Act provides that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax.

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

Thus, even if D.T. Ltd. is located in non taxable territory, its liability to pay GST will not be extinguished. The representative of D.T. Ltd. or the person appointed by D.T. Ltd. will be required to discharge the GST liability on behalf of D.T. Ltd.

Concept of Levy and Collection of IGST: [Sec. 5 of IGST Act, 2017]

- **IGST on all inter-State supplies of goods or services or both: [Sec. 5(1)]**

There shall be levied a tax

- called the integrated goods and services tax [IGST]
- on all inter-State supplies of
 - goods, or
 - services, or
 - both,
 except on the supply of alcoholic liquor for human consumption,
- on the value determined under Section 15 of the CGST Act, and
- at such rates, not exceeding 40%, as may be notified by the Government on the recommendations of the Council, and
- collected in such manner as may be prescribed, and
- shall be paid by the taxable person.

IGST rates prescribed for various goods: Broadly, 0%, 0.1%, 0.25%, 3%, 5%, 12%, 18% and 28% rates of IGST have been notified for goods

IGST rates prescribed for various services: Broadly, four rates of IGST have been notified for services, viz., 5%, 12%, 18% and 28%.

IGST on import of goods:

As per proviso to Section 5(1), the integrated tax on goods imported into India shall be levied and collected -

- in accordance with the provisions of Section 3 of the Customs Tariff Act, 1975
- on the value as determined under the Customs Tariff Act, 1975
- at the point when duties of customs are levied on the said goods u/s 12 of the Customs Act, 1962.

All imports are deemed as inter-State supplies and accordingly IGST shall be levied on imported goods in addition to the applicable custom duties on reverse charge basis.

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

However, the credit of such levy be allowed under GST law and thus, it is inherently embedded in the GST mechanism.

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

- **Levy of IGST on petroleum products - To be effective from Notified Date: [Sec. 5(2)]** The integrated tax on the supply of -
 - petroleum crude,
 - high speed diesel.
 - motor spirit (commonly known as petrol),
 - natural gas and
 - aviation turbine fuel

shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council. Levy u/s 5(1) is subject to provisions of Section 5(2).

• **IGST to be paid on reverse charge basis by recipient on Notified Goods/Services or Both; [Sec. 5(3)]**

The Government may,

- on the recommendations of the Council,
- by notification,
- specify categories of supply of goods or services or both,
- or services or both and
- the tax on which shall be paid on reverse charge basis by the recipient of such goods
- all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

List of services taxable under reverse charge, i.e., the services where tax is payable by the recipient - Notification No. 10/2017-IT (R) dated 28-06-2017 has notified specified categories of supply of services wherein whole of the IGST shall be paid on reverse charge basis by the recipient of services. All the services which have been notified for reverse charge purposes under CGST Act vide Notification No. 13/2017-CT (R) dated 28-06-2017 w.e.f. 01-07-2017 have also been notified for reverse charge under IGST Act.

Additional services notified under RCM for IGST -

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
1.	Any service supplied by any person who is located in a non-taxable territory to any person other than non-taxable online recipient.	Any person located in a non-taxable territory.	Any person located in the taxable territory other than non-taxable online recipient. <i>Non-taxable online recipient means any unregistered person receiving online information and database access or retrieval (OIDAR) services located in taxable territory.</i> <i>Explanation - For the purposes of this clause, the expression "unregistered person" includes a person registered solely in terms of clause (vi) of section 24 of the Central Goods and Services Tax Act, 2017 (i.e. persons who are required to deduct tax under section 51). [Substituted by Finance Act, 2023 w.e.f. 01.10.2023]</i>
2.	Services supplied by a person located in non-taxable territory by way of	A person located in non-taxable territory.	Importer, located in the taxable territory. Importer, in relation to any goods

	transportation of goods by a vessel from a place outside India up to the customs station of clearance in India.		at any time between their importation and the time when they are cleared for home consumption, includes any owner, beneficial owner or any person holding himself out to be the importer [Section 2(26) of the Customs Act, 1962].
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- **IGST to be paid on reverse charge basis by notified persons on notified goods/services when received from unregistered supplier: [Sec. 5(4)]**

The Government may

- on the recommendations of the Council,
- by notification
- specify a class of registered persons who shall in respect of supply of specified categories of goods or services or both received from an unregistered supplier,
- pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and
- all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.

- **E-Commerce operator liable to pay tax on notified services: [Sec. 5(5)]**

The Government may

- on the recommendations of the Council.
- by notification, specify categories of services,
- the tax on inter-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and
- all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services.

No physical presence of e-commerce operator in the taxable territory - Representative liable to pay GST: Where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax.

No representative in taxable territory: Where an electronic commerce operator does not have a physical presence in the taxable territory and also does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

Notified services for IGST Act are same as notified under CGST Act: Services which are notified under CGST Act have also been notified under IGST Act vide Notification No. 14/2017-IT (R) dated 28-06-2017.

Need and System of Classification of Goods and Services under GST

- **Need of classification:** In order to determine the rate applicable on a particular supply of goods or services, classification of goods and services assumes significance.
- **"Classification of goods"** means identification of the chapter, heading, sub-heading and tariff item in which a particular product will be classified.

Chapter, heading, sub-heading and tariff item referred in the Schedules of rate notification for goods under GST are the chapter, heading, sub-heading and tariff item of the First Schedule to the Customs Tariff Act, 1975.

- **Harmonised System of nomenclature:** Indian Customs Tariff is based on Harmonized System of Nomenclature (HSN). It is a multipurpose international product nomenclature developed by the World Customs Organization (WCO) for the purpose of classifying goods across the world in a systematic manner. It comprises of about 5,000 commodity groups; each identified by a 6 digit code (code can be extended), arranged in a legal and logical structure and is supported by well-defined rules to achieve uniform classification. India has developed an 8-digit code of HSN.
- **Rules for interpretation of tariff:** Along the lines of HSN, the Indian Customs Tariff has a set of Rules of Interpretation of the First Schedule and General Explanatory notes. These rules and the general explanatory notes give clear direction as to how the nomenclature in the schedule is to be interpreted. These Rules for Interpretation including section and chapter notes and the General Explanatory Notes of the First Schedule apply to the interpretation of the rate notification for goods under GST also.
- **Classification of services:** A new Scheme of Classification of Services has been devised under GST. It is a modified version of the United Nations Central Product Classification. Under this scheme, the services of various descriptions have been classified under various sections, headings and groups. Chapter 99 has been assigned for services which has following sections.
 - **Section 5:** Construction Services
 - **Section 6:** Distributive Trade Services: Accommodation, Food and Beverage Service, Transport Services, Gas and rental and leasing services and Electricity Distribution Services.
 - **Section 7:** Financial and related services; Real estate services
 - **Section 8:** Business and Production Services
 - **Section 9:** Community, social and personal services and other miscellaneous services.

Each section is divided into various headings which is further divided into Groups. Its further division is made in the form of 'Tariff item'/ Service Codes.

Rate of tax is determined in accordance with the Service Code in which the service is classified.

Rates of GST prescribed for various goods

Broadly, six rates of CGST have been notified in six Schedules of rate notification for goods, viz., 0.125%, 1.5%, 2.5%, 6%, 9% and 14%. SGST/ UTGST at the equivalent rate is also leviable. With regard to IGST, broadly six rates have been notified in six Schedules of rate notification for goods, viz., 0.25%, 3%, 5%, 12%, 18% and 28%. **Certain specified goods have been exempted from tax.**

Rates of GST prescribed for various services

Broadly, four rates of CGST have been notified for services, viz., 2.5%, 6%, 9% and 14%. Equivalent rate of SGST/UTGST will also be levied. A new Scheme of Classification of Services has been devised wherein the services of various descriptions have been classified under various sections, headings and groups. Each group consists of various Service Codes (Tariff). Chapters referred are the Chapters of the First Schedule to the Customs Tariff Act, 1975. **Services not covered under any specific heading are taxed at the rate of 18% (CGST @ 9% and SGST @ 9%).**