

4.5 Mnemonic to Remember GST Levy Rules:

PIRE

- P - Petroleum products excluded until notified
- I - Inter state supply attracts IGST
($IGST = GST + SGST$)
- R - Reverse charge mechanism (RCM) for specified goods / services.
- E - E-commerce Operators (ECOs) are liable for GST on certain services.

5.1 What is Reverse Charge Mechanism (RCM)?

Scenario	Who pays GST?
Normal GST	Supplier collects GST & deposits it to the government.
Reverse charge	The recipient of G/s deposits GST instead of the Supplier.

5.2 Types of RCM :

RCM applies in two cases :

5.2.1 Reverse charge on Notified Goods & Services [Section 9(3) of CGST Act, Section 5(3) of IGST Act]

- The government notifies certain goods & services where the recipient must pay GST under RCM.
- Applies irrespective of whether the supplier is registered or not.

5.2.2 Reverse charge on Supplies from Unregistered Persons [Sec 9(4) of CGST Act, Sec 5(4) of IGST Act]

- If a registered person receives goods / services from an unregistered supplier, they must pay GST under RCM.
- This provision applies only to specific categories of registered persons as notified by the government.

5.3 List of Goods & Services under RCM:

The government has notified specific goods & services that are covered under RCM.

Below is the detailed list along with who pays GST.

5.3.1 Reverse charge on Goods [Section 9(3) of CGST Act, Section 5(3) of IGST Act]

Goods	Supplier	who pays GST?
Cashew nuts (not shelled / peeled)	Agriculturist	Registered buyer
Bidi wrapper leaves (tendu leaves)	Agriculturist	Registered buyer
Tobacco leaves	Agriculturist	Registered buyer
Raw Cotton	Agriculturist	Registered buyer

Silk Yarn	Manufacturer	Registered buyer
Lottery tickets	State Govt. / UT / LA	Lottery distributor or selling agent
Used vehicles, old & used goods, waste & scrap	Government	Registered buyer

Example :

A cotton mill (registered under GST) purchases raw cotton from an unregistered farmer. Since raw cotton is under RCM, the cotton mill must pay GST instead of the farmer.

5.3.2 Reverse charge on Services [Sec 3(3) of CGST Act sec 5(3) of IGST Act]

1. Services by Goods Transport Agency (GTA) :

* Nature of Services :

- Transportation of goods by road by a GTA.

- The GTA issues a consignment ~~note~~ note as proof of transportation.

* Recipient liable to pay GST (under RCM):

- The following entities must pay GST under Reverse charge when receiving GTA Services :

a) Factory registered under the Factories Act, 1948.

b) Society registered under Societies Registration Act, 1860.

c) Cooperative Society established under any law.

d) Registered business entity under CGST, SGST, UTGST or IGST Act.

e) Body Corporate established under any law.

f) Partnership firm (whether registered or not)

g) Casual taxable Person.

* Exception :

- Reverse charge does not apply if the recipient is :

a) Government department / local Authority registered only for TDS purposes.

b) An individual consumer.

* Tax Rate Options for GTA :

GTA Tax Rate	Who Pays GST?	Conditions
5% (RCM applies)	Recipient	GTA does not take ITC.
12% (forward charge)	GTA itself	GTA can claim ITC.

* Example :

- ABC Ltd. (a registered co) hires a GTA for transporting goods.

The GTA charges ₹ 50,000 for transport services.

Since ABC Ltd. is a registered company, it must pay GST under RCM.

2. Legal Services :

* Nature of Services :

- Any legal service provided by :

→ An individual advocate (including a senior advocate)

→ A firm of advocates.

* Recipient Liable to Pay GST (Under RCM):

- Any business entity located in the taxable territory.

* Example :

- X Y Z Pvt. Ltd. (a company) hires a law firm for legal consultancy.
- The company must pay GST under RCM instead of the law firm.

2. Sponsorship

3. Arbitral Tribunal Services :

* Nature of Service :

- Services provided by an arbitral tribunal (panel of arbitrators).

* Recipient Liable to Pay GST :

- Any business entity located in India.

* Example :

- A manufacturing company hires an arbitral tribunal for dispute resolution.
- The company must pay GST under RCM.

4. Sponsorship Services :

* Nature of Services :

- Sponsorship of events, campaigns, or business promotions.

* Recipient Liable to Pay GST (under RCM) :

- A body corporate or a partnership firm located in the taxable territory.

* Example :

- A partnership firm sponsors a cricket tournament.

The firm must pay GST under RCM.

5. Government Services to Business Entities :

* Nature of Services :

- Services provided by the CG, SG, UT or LA to business entity.

* Exceptions (Not Covered Under RCM) :

- Renting of immovable property.
- Services related to :
 - a) Postal services
 - b) Aircrafts & Vessels.
 - c) Transportation of goods or passengers.

* Recipient Liable to Pay GST (Under RCM) :

- A business entity located in India.

* Example :

- A private company gives a licensing service from the government.
- The company must pay GST under RCM.

5A Renting of Immovable Property to Registered Persons [Section 5A] :

* Nature of Service :

- Renting of immovable property provided by the CG, SG, UT or LA to a reg person.

* Recipient Liable to Pay GST (Under RCM) :

- The registered person receiving the rental services.

* Example :

- A private company rents an office space from the Government.

SAA Renting of Residential Dwelling to a Registered Person :

* Nature of Services :

- Renting of residential dwelling (a house or apartment) to a registered person.

* Recipient Liable to Pay GST (Under RCM)

- The registered recipient of the service.

* Example :

- A registered CA firm rents a residential flat for its EEs.
- The CA firm must pay GST under RCM instead of the landlord.

SAB Renting of Immovable Property other than Residential Dwelling (Sec SAB) :

* Nature of Service :

- Renting of immovable property, other than residential dwelling, by an unregistered person.

* Recipient Liable to Pay GST (Under RCM) :

- The registered recipient of the service.

* Example :

- A company rents a warehouse from an unregistered individual.
- The company must pay GST under RCM.

6. Director's Services :

* Nature of Services :

- Services provided by a director of a company to the same company.

* Recipient Liable to Pay GST (Under RCM) :

- The company or BC.

* Example :

- ABC Pvt Ltd. pays sitting fees to its directors.
- The Company must pay GST under RCM.

7. Insurance Agent Services :

* Nature of Services :

- Services provided by an insurance agent.

* Recipient Liable to Pay GST (Under RCM) :

- Insurance companies receiving the service.

* Example :

- LIC receives business from an individual insurance agent.
- LIC must pay GST under RCM.

8. Recovery Agent Services :

* Nature of Service :

- Debt recovery services provided by an agent to financial institutions.

* Recipient Liable to Pay GST (Under RCM) :

- Banks, financial institutions, & NBFCs.

* Examples :

- A bank hires a recovery agent for loan collections.
- The bank must pay GST under RCM.

9. Services by Music Composers, Photographs, and Artists :

* Nature of Service :

- Transfer or permitting use of copyrights u/s 13(1)(a) of the Copyright Act, 1957.

* Recipient Liable to pay GST (Under RCM) :

- Music companies, producers, or distributors.

* Example :

- A music composer transfers copyright of a song to a record label.
- The record label must pay GST under RCM.

9A. Services by Authors to Publishers :

* Nature of Services :

- Transfer or permitting use of Copyrights for literary works.

* Recipient liable to pay GST (Under RCM):

- Publishers receiving the service.

* Example :

- A book author sells Copyright to a publishing house.
- The publishing house must pay GST under RCM.

* Exception :

- If the author opts to pay GST under forward charge, the publisher is not liable under RCM.

10. Services by Members of Overseasing Committee to RBI :

* Nature of Services :

- Services provided by Overseeing Committee members to the Reserve Bank of India (RBI).

* Recipient Liable to Pay GST :

- RBI

11. Services by Direct Selling Agents (DSAs) :

* Nature of Services :

- DSAs promote financial products like loans and credit cards.

* Recipient Liable to pay GST : (Under RCM)

- Banks and NBFCs.

12. Services by Business Facilitators to Bank :

* Nature of Service :

- Services of business facilitators who help in loan processing and banking transactions.

* Recipient liable to pay GST (Under RCM) :

- Banks

13. Services Provided by an Agent of Business Correspondent :

* Nature of Services :

- Agent who facilitate banking transactions for business correspondents.

* Recipient liable to pay GST (Under RCM) :

- The business correspondent receiving the service.

* Example :

- An agent helps a bank correspondent with transactions.
- The business correspondent must pay GST under RCM.

14. Security Services :

* Nature of Service :

- Providing security personnel for guarding businesses.

* Recipient liable to pay GST (Under RCM) :

- Registered business entities.

15. Renting of Motor Vehicles :

* Recipient liable to pay GST (Under RCM) :

- Body Corporates.

16. Services of Lending of Securities :

* Recipient liable to pay GST (Under ^{RCM} ~~CGST~~) :

- The borrowers of securities.

* Additional service under IGST (not covered under CGST RCM list) :

- Import of Services - Reverse charge liability

→ Any service supplied by a person located in a non-taxable territory to any person located in the taxable territory (India) (except in cases where the recipient is a non-taxable online recipient).

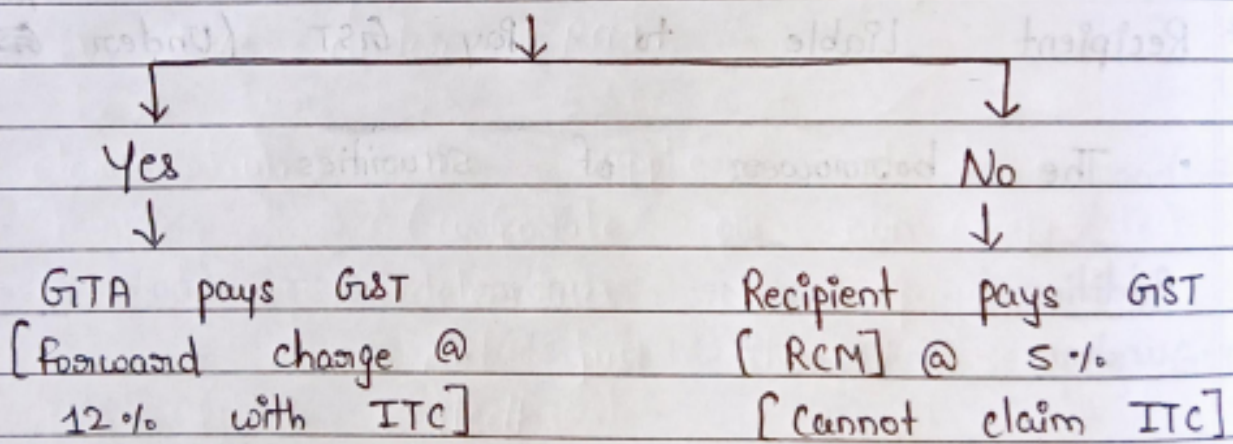
→ This means that if an Indian business imports services from abroad, it must pay GST under reverse charge.

★ Person liable to pay GST on GTA Services :

○ GST on GTA services can be paid by either :

- The GTA itself (Forward charge) or
- The Recipient under RCM (Reverse charge)

Does the GTA charge GST on the invoice ?



○ GST Rates and Liability on GTA Services :

GST Tax Rate	Who Pays GST?	ITC ?	Conditions
5% (RCM applies)	Recipient	(X) No ITC	Recipient pays GST
12% (forward charge)	GTA	✓ Can claim ITC	GTA must charge GST on invoice

Example :

- ABC Ltd. (a registered business) hires GTA services for goods transportation.
- GTA does not charge GST in the invoice.
- ABC Ltd. must pay GST @ 5% under RCM.
- ABC Ltd. cannot claim ITC on this tax.

★ Person liable to pay GST on renting of Motor vehicle services :

Q. Who pays GST - Supplier or Recipient?

- If the Supplier is a body corporate (company or LLP)

↓
the Supplier charges 12% GST
(forward charge)

- If the Supplier is not a BC (individual, partnership, or proprietorship)

↓
the recipient (BC) must pay GST @ 5% under RCM.

Classification : The supplier's structure (corporate or non-corporate) determines who pays GST, not just the service itself.

Q. Can the Recipient claim ITC under RCM?

- If the recipient pays 5% GST under RCM → ITC is not available.

- If the supplier charges 12% GST under forward charge $\rightarrow$ ITC is available.

Classification :

Under RCM, ITC is blocked for selling of motor vehicles, but under forward charge @ 12%, ITC can be claimed.

Q. What happens if the supplier is a Small Business (Unregistered) ?

- GST applies only if the supplier is registered.
- If the supplier is unregistered and Tlo is below ₹ 20 lakh (₹ 10 lakh for special category states), GST does not apply.

Classification :

RCM applies only when the supplier is registered and meets conditions.

Q. What if the supplier charges @ 5% GST

- A supplier cannot charge 5% GST; it must be either :

→ 5% GST under RCM (paid by the recipient).

→ 12% GST under forward charge (paid by the supplier).

Classification :

A Supplier cannot opt to charge 5% GST directly to the recipient.

Q. Common mistakes to Avoid :

1. Paying GST on fuel expenses separately.
— X

If fuel is incorrect in invoice, charge 12% or 18% GST. — ✓

2. Thinking 5% GST applies to both mentoring & transport services. — X

5% applies only under RCM for mentoring or Eco for passenger transport — ✓

3. Claiming ITC on 5% GST (RCM on Eco Services) — X

ITC is available only if GST is charged @ 12% or 18%. — ✓

★ Taxability of remuneration paid to the directors :

The taxability of remuneration paid to directors is based on the nature of their relationship with the company :

Nature of Remuneration	GST Applicability	Tax Payment
Remuneration as salary [EE-ER Relationship]	Not sub to GST (covered under sch III)	Covered under Income tax as salary
Remuneration as Professional fees or Service (Independent Capacity)	GST Applicable under RCM @ 18 %	Not treated as salary (company pays GST under RCM)

• Key Takeaways :

Q. When GST is not Applicable?

→ when directors is not EE.

→ when the payment is treated as salary under the IT Act.

Q. When is GST @ 18% Applicable under RCM?

- When the director is not an EE.
- When remuneration is paid as professional fees, sitting fees, or commission.
- When TDS is deducted u/s 194J (Professional fees) instead of sec 192 (Salary).

★ Tax Payable by ECO on notified services:

• Definition :

An ECO is a person who owns / operates / manages an electronic platform for the SOG / S, either directly or by facilitating transactions between the actual supplier and the consumer.

• Key Features of ECO's Role :

Role	ECO's Responsibility
Direct Supplier	ECO supplies goods / services directly through the platform.

Intermediary	ECO collects the payment from the consumer and transfers it to the actual supplier after deducting its commission.
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- Services on which GST is paid by ECO
[Sec 9(s)] :

Service Type	Description	GST Liability
Transportation	Passenger transport by radio-taxi, motorcab, maxicab, motorcycle, or any other motor vehicle (except omnibus).	Paid by ECO
Accommodation	Hotel, inns, guests, houses, etc. (except when the supplier is liable for reg ⁿ)	Paid by ECO

Housekeeping	Services such as plumbing, carpentering, etc.	Paid by Eco
Restaurant Services	Services provided by restaurants through the platform (except those located at specified premises).	Paid by Eco

Note : The tax on passenger transportation by omnibus is payable by the company supplying the service, not the Eco.

• GST Implications for Eco :

Aspect	Details
TCS Requirement	Eco does not need to collect TCS from restaurant services.

Separate Reg ⁿ	No Separate registration is required for paying GST on restaurant services.
Invoice for Restaurant Services	Eco raises the invoice for restaurant services supplied through the platform
ITC	Eco cannot use ITC to pay GST on restaurant services but can claim ITC for its own services.

• Key Takeaways :

- Eco facilitates transactions between suppliers and consumers but may not always be the direct supplier.
- GST is payable by Eco on specified services like transport, accommodation, house keeping, and restaurant services.
- Eco is not required to collect TCS for restaurant services and can claim ITC for its services but not for restaurant services.

★ Classifications under GST :

• Determining Tax Rate :

The classification of goods and services is essential for determining the applicable GST rate.

Different states are prescribed for different types of G & S under GST.

• HSN & Services Goods :

Goods are classified using HSN (Harmonized System of Nomenclature), while services are classified based on a scheme developed by the United Nations Central Product Classification, with specific Service Code for each.

• Classification of Goods :

Steps	Description
Chapter, Heading, Sub-heading, Tariff item	Goods are classified using the chapter, heading, sub-heading and tariff item from the first Sch of the Customs Tariff Act, 1975.

HSN (Harmonized System of Nomenclature)

HSN is an international product classification system developed by the World Customs Organizations (WCO). India has extended HSN codes upto 8 digits.

Rules of Interpretation

The classification is determined according to the Rules for Interpretation from the Customs Tariff, which applies to GST as well.

• Classifications of Services :

Scheme	Description
United Nations Central Product Classifications	Services are classified based on this Scheme, modified for GST.
Chapter 99	Services are classified under chapter 99, which is further divided into sections and Service codes.
Sections	Key sections under chp 99 include :